

No. IX.**An Act for the prevention of Scab in Sheep.** SCAB IN SHEEP.
[26th March, 1861.]

WHEREAS it is necessary to renew the measures heretofore Preamble. adopted for checking the spread among sheep of the disease called the Scab and to extend such measures Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows:—

1. The following terms in inverted commas shall for the Interpretation purposes of this Act bear the meanings set against them respectively unless the context otherwise indicate—

“ Run ”—Any run station or other place where sheep are kept and depastured

“ Owner ”—Any owner proprietor lessee licensee overseer superintendent or person in possession or charge

“ Sheep ”—Any ram ewe wether or lamb

“ Infected sheep ”—{ Any sheep infected with a disease called Scab or sheep that shall form part of a flock so infected

“ Public road ”—Any road or other way ordinarily used by the public for six years at least without successful opposition from the owner of the land or any way over which sheep cattle horses or drays have been usually or commonly driven by the public

“ Travelling sheep ”—{ Sheep driven or carried along or over any place other than the run on which they are ordinarily kept and depastured

“ Destroy ”—Entirely to consume by fire or entirely to bury three feet at least under ground.

2. All sheep infected with the disease called the Scab shall be destroyed within one month after the owner shall have become aware that such sheep have become so infected And such owner shall be liable to a penalty not exceeding two shillings and sixpence for every such sheep not destroyed within that period And three days at least before such sheep shall be destroyed a notice in writing shall be left at each of the adjoining runs at the residence of the owner thereof stating the day hour and place at which it is intended to destroy such sheep and the number intended to be destroyed Provided that sheep so infected may upon the station of their owner but not elsewhere be shorn or boiled down within one month and their skins fellmongered and the wool or skins securely packed in bags or bales and thereupon and so packed but not otherwise conveyed to their destination for sale or exportation Provided also that every such bag or bale shall besides other usual marks be marked in red with the letter S.

3. Upon application made by any owner whose sheep shall have been destroyed under the last section at any time within one month thereafter any two Justices in Petty Sessions shall either at once or on some future appointed day not later than fourteen days after such application make inquiry in open Court touching the infection and destruction of such sheep and the compliance of the applicant with all the provisions of this Act And if satisfied that the required notices have been given and that any such infected sheep

Compensation for destroyed sheep.

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sheep have been destroyed pursuant to the last section and that all other the provisions of this Act in this behalf have been complied with they shall thereupon but not otherwise sign and deliver to the applicant a certificate in the form of the Schedule hereto marked A and on the presentation or transmission of such certificate to the Colonial Treasurer there shall be paid by him to the owner or his order under warrant of the Governor in Council out of the funds hereinafter mentioned a sum at the rate of four shillings for every sheep and two shillings for every lamb so destroyed Provided that no such certificate shall be given for any sheep which shall have been boiled down or the wool or skins thereof made use of as aforesaid nor for any sheep which shall have crossed the boundary from the Colony of Victoria within six months next previously to the day of their destruction.

Warrant to examine suspected sheep.

4. If it shall be made to appear to any Justice upon information on oath or affirmation or upon the view of himself or any other Justice that there is reasonable cause to believe than any sheep infected with the Scab are on any run or elsewhere contrary to this Act such Justice may issue a warrant in the form of the Schedule hereto marked B directed to some fit person therein named authorizing him to examine such sheep and if necessary to cause the same to be driven to the nearest pen where they are ordinarily kept or to some other convenient place for examination And every owner of such sheep who shall refuse to allow such person to enter on any of his lands or to allow such sheep to be examined or who shall refuse or neglect when so required to cause them to be driven to the nearest pen or other convenient place for examination shall for every such offence be liable to a penalty not exceeding twenty pounds.

Special Inspector appointed in case of suspicion of infection.

5. Any Bench of Magistrates summoned for the purpose assisted by a jury of not less than four sheep farmers or sheep managers two to be appointed by such Bench and two by any party owning sheep arrested under this Act may inquire into the matter And may appoint if deemed necessary some fit person within their special jurisdiction to be Inspector for the purpose of examining the sheep of such suspected party and to assist generally in carrying into effect the provisions of this Act And upon a certificate under the hands of any two Justices of such Bench being produced or transmitted to the Colonial Treasurer there shall be paid by him out of the fund hereinafter mentioned to Inspectors appointed under this and the preceding clause or their orders a sum at the rate one pound by the day for their services together with such further reasonable sum for travelling expenses as the Bench may determine and as may be mentioned in such certificates.

Proceedings after examination of sheep.

6. Any two Justices in Petty Sessions near to the place at which such sheep shall have been examined on receiving from any person so appointed to examine them a certificate under his hand in the form of the Schedule hereto marked C indorsed on the before-mentioned warrant stating that such sheep are so infected may cause a true copy of such certificate and warrant attested under their hands with a memorandum indorsed thereon stating that unless such certificate be disputed within fourteen days the said sheep will be destroyed to be served on their owner by leaving the same at his residence And if within fourteen days after such service no objection be made as hereinafter provided such Justices or any other two Justices sitting in the same Petty Sessions may issue a warrant in the form of the Schedule hereto marked D directed to any person signing such certificate authorizing him forthwith to destroy such infected sheep And every person who shall resist or attempt to resist the execution of any such warrant shall be liable to a penalty not exceeding fifty pounds

Provided

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Provided that if any owner on whom any such copy certificate and warrant shall have been served shall within fourteen days after such service serve on the Justices attesting such copy a notice in writing stating that he disputes the correctness of such certificate it shall be lawful for such Justices to appoint a time to inquire into the correctness of such certificate and such inquiry shall be held in open Court in Petty Sessions And if the same or any other two Justices after making such inquiry shall be of opinion that such certificate is incorrect and that such sheep are not infected as alleged therein they shall sign and deliver to their owner a certificate to that effect But otherwise they shall issue such warrant and proceed in all respects as if no such notice of objection had been served upon them within the time limited for that purpose.

7. On the destruction of any infected sheep pursuant to any such warrant any two Justices may ascertain and fix in open Court in Petty Sessions whether any and what remuneration shall be paid to the person destroying such sheep and may give to any such person a certificate in the form of the Schedule hereto marked E And on the presentation or transmission of such certificate to the Colonial Treasurer the amount therein specified shall be paid by him to such person or his order out of the fund hereinafter mentioned Provided that before granting any such certificate the Justices shall be satisfied by sufficient evidence of the destruction of such sheep and of the cost incurred in their destruction.

8. Every person appointed by any Justice to examine sheep who shall wilfully make any false report or false certificate to any Justice respecting such sheep shall be guilty of a misdemeanor and on conviction shall be imprisoned for any period not exceeding two years with or without hard labor.

9. Every person who shall wilfully communicate or cause to be communicated to any sheep the disease called the Scab shall be guilty of a misdemeanor and on conviction shall be imprisoned for any period not exceeding two years with or without hard labor.

10. The owner of any sheep which shall become infected with the Scab shall immediately on such infection becoming known affix at each point of entrance of any public road which may intersect the run a notice signed by him and written in distinct legible characters not less than one inch in length stating that the Scab has broken out upon such run And every such notice shall be dated on the day on which it shall be so affixed and shall be kept so affixed for six months after the destruction of the sheep so infected And every owner of sheep which shall become so infected who shall neglect or refuse to cause such notices to be so affixed and kept affixed shall be liable to a penalty not exceeding fifty pounds.

11. Every person who shall knowingly depasture or cause or permit to be depastured any sheep upon any run on which any infected sheep shall have been destroyed under this Act within three months after such destruction shall for such offence be liable to a penalty not exceeding one hundred pounds and a further penalty of ten pounds for every day of such sheep being so depastured on such run after the first offence.

12. All travelling sheep shall be legibly branded with pitch tar or paint in a letter or letters not less than three inches in length And every owner of sheep which shall be so travelling without being at the time so branded shall for every one of such sheep be liable to a penalty not exceeding sixpence Provided that sheep driven from one run to any other run of the same owner not being more than forty miles apart shall not be deemed travelling sheep within this Act.

13. The person in charge of any sheep imported into any sea-port either coastwise or from parts beyond the seas shall report in writing Imported sheep to be reported immediately to Inspector

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and not to be removed without his certificate.

writing the fact of such importation as soon as practicable after their arrival to some Inspector appointed as hereinafter mentioned at or nearest to such seaport and shall not remove such sheep from such seaport until they shall have been dressed with such medicaments as shall be directed or approved by such Inspector at least three times at intervals of two days nor until a certificate to that effect and also to the effect that such sheep are not infected with the Scab shall have been delivered to the person so in charge by such Inspector and it is hereby declared to be the duty of such Inspector to make the necessary inquiry and examination and to grant such certificate in all cases where the same shall be in accordance with the facts And every person who shall remove or cause to be removed any sheep so imported without having first obtained such certificate shall for every sheep so removed be liable to a penalty not exceeding thirty pounds. Provided that such imported sheep although so infected if and so long as they are kept in a secure stable or shed approved by such Inspector shall not be liable to destruction under this Act on account of such infection until the expiration of three months after their importation.

Sheep not to be brought across the boundaries from Victoria or Queensland until certificate obtained from Inspector.

14. No sheep shall be brought across the boundary lines into New South Wales from the Colonies of Victoria or Queensland respectively until the owner or person in charge thereof shall have first procured from some such Inspector a certificate stating that such sheep are not infected with the Scab And it shall be the duty of the Inspector at or nearest to the place at which it is intended that any sheep shall be brought across the said boundary lines respectively to examine such sheep and to give such certificate in all cases where the same shall be in accordance with the facts And every person who shall bring or cause to be brought across the said boundary lines respectively any sheep without having obtained such certificate shall for every sheep so brought be liable to a penalty not exceeding five shillings Provided that all such sheep shall before passing such boundary from the Colony of Victoria be legibly branded with pitch tar or paint with the letter V and before passing such boundary of Queensland with the letter Q not less than three inches in length respectively and that such brand shall be continued or if necessary from time to time renewed during the whole period of six months after they shall have so passed the boundary in default whereof the owner shall be liable for every omission to the penalty of sixpence for each sheep Provided also that no owner of any such sheep shall be entitled to any compensation for the destruction therof under this Act at any time within such period of six months.

Proviso as to Victoria and Queensland sheep.

Inspectors to be appointed.

Inspectors to enter upon suspected runs and examine sheep.

15. The Governor with the advice of the Executive Council may appoint fit persons in such seaports towns or other places as may be deemed expedient to be Inspectors for the purpose of examining sheep and assisting generally in carrying into effect the provisions of this Act And such Inspectors shall be paid out of the fund hereinafter mentioned such reasonable salary or other remuneration as the Governor with the advice of the Executive Council may direct.

16. If such Inspector shall have reasonable grounds to suspect that any sheep are kept upon any run contrary to the provisions of this Act he may enter thereupon and examine the sheep depastured there Provided that such Inspector shall have first left a notice in writing at the residence of the owner at least twenty-four hours before such entry stating his intention so to enter and examine And in the event of such Inspector finding on such run any sheep infected with the Scab he shall without delay depose to the same on oath before the nearest Justice who may thereupon proceed in the matter as directed in the fifth section And every owner or other person who shall remove any

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any sheep so that they cannot be viewed by such Inspector or in any way obstruct such Inspector in the discharge of his duty shall for every such offence be liable to a penalty not exceeding twenty pounds.

17. Any Inspector either within or without the seaport town or other place for which he is appointed may stop and examine all travelling sheep and in case he shall find any such sheep infected with the Scab may cause their immediate removal to some appropriate place in the vicinity where they can be conveniently kept until destroyed. And such sheep may be destroyed accordingly upon the issuing by any two Justices of a certificate as provided by the sixth section and subject to all the provisions of the same section. And every shepherd or other person in charge of travelling sheep who shall refuse to allow any such sheep to be examined or destroyed by any Inspector or in any way obstruct any Inspector in the discharge of his duty shall for every such offence be liable to a penalty not exceeding five pounds. And every shepherd or other person who shall remove or attempt to remove any sheep detained by any Inspector for the purpose of being destroyed shall be guilty of a misdemeanor and on conviction shall be imprisoned for any period not exceeding one year with or without hard labor.

18. Every Inspector who shall refuse or wilfully neglect or unreasonably delay to perform any of the duties hereby imposed upon him or which he may be appointed to discharge under this Act or who shall be guilty of any misconduct in the performance thereof or who shall wilfully abuse the powers and authority hereby intrusted to him shall for every such offence be liable to a penalty not exceeding twenty pounds.

19. For the purpose of carrying this Act into effect and paying all compensation money salaries remunerations and travelling expenses hereinbefore mentioned such and so much of the moneys paid raised or levied under the Acts of Council eighteenth Victoria number twenty-six and nineteenth Victoria number twenty-seven or either of them for the purposes thereof as still remain unapplied to such purposes or which would if the said last-mentioned Act remained in force be applicable to the purposes thereof shall be a fund out of which under warrant of the Governor which the Governor is hereby authorized to grant the Colonial Treasurer may and shall make all payments authorized to be made by this Act but no claim shall be made for any such payment after such fund shall have been exhausted.

20. All penalties under this Act may be recovered before two Justices and the payment thereof enforced by distress and sale as by Justices in other cases. And if any penalty be not paid or sufficient goods levied upon and sold to meet the amount thereof the party convicted may by order of the same or other two Justices be imprisoned for any time not longer than six months unless the penalty and costs be sooner paid.

21. This Act shall continue in force until the thirty-first day of December one thousand eight hundred and sixty-three and shall be styled and may be cited as "The Scab in Sheep Act of 1861."

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SCHEDULE A.

Certificate of Destruction of Sheep.

We the undersigned A. B. and C. D. Justices of the Peace for New South Wales do hereby certify that it has been duly proved before us that [here state number] sheep above the age of six months and [here state number] lambs the property of E. F. lately depasturing at [state name of run] were on the _____ day of _____ instant [or last] duly destroyed. And we certify that also it was further proved to our satisfaction that such sheep were at the time of their destruction infected with the disease called the Seab and that previous to their destruction the notices required by law were duly served and the provisions of the Seab in Sheep Act of 1861 duly complied with by the said E. F.*

A. B. J.P.
C. D. J.P.

* NOTE.—If the sheep destroyed had been Victoria or Queensland sheep there must be added to this Certificate the following passage—And we further certify that it has also been duly proved before us that the said sheep (or of the said sheep) passed across the boundary from the Colony of Victoria or Queensland as the case may be more than six months before the day on which they were so destroyed.

SCHEDULE B.

Warrant to examine Sheep.

THESE are to authorize you and your assistants at any time within twenty-one days from the date hereof to enter (by force if necessary) on the lands on which the sheep specified below are now running and to cause them to be driven to the most convenient part or parts of such lands for the purpose of examining them and to thereupon examine them in order to ascertain if they are infected with the disease called the Seab.

| General description of sheep and number. | Lambs and number. | Where now running or being. | Name of person in ostensible possession. | Name of supposed owner. |
|--|-------------------------|-----------------------------------|--|----------------------------|
| | | | | |

Dated at in New South Wales this
day A.D. 186 .

A. B. J.P.

To Mr.
and his Assistants.

SCHEDULE C.

Certificate of Sheep being infected.

(To be indorsed on preceding Warrant.)

SCHEDULE

Fire Inquests.

SCHEDULE D.

Warrant to destroy Sheep.

WHEREAS it has been duly proved before us A. B. and C. D. Esquires Justices of the Peace for the Colony of New South Wales that the sheep and lambs specified below are infected with the disease called the Scab. Now these are to authorize you and your assistants at any time within twenty-one days from the date hereof to enter (by force if necessary) on the lands on which the said sheep and lambs are running and to destroy them and every part of them.

| General description of sheep and number. | Lambs and number. | Where now running or being. | Name of person in ostensible possession. | Name of supposed owner. |
|--|-------------------|-----------------------------|--|-------------------------|
| | | | | |

Given under our hands and seals at in New South Wales this
day of A.D. 186

A. B. J.P.
C. D. J.P.

To Mr. and his Assistants.

SCHEDULE E.

Certificate of Costs of destroying Sheep.

WE the undersigned A. B. and C. D. Justices of the Peace for the Colony of New South Wales do hereby certify that pursuant to a Warrant directed by us to E. F. [or to E. F. and G. H. as the case may be] the said E. F. [or E. F. and G. H.] with his [or their] assistants did on the day of instant [or last] duly destroy [here insert number] sheep and lambs at in the said Colony. And we further certify that we have fixed the remuneration to be paid for the destruction of such sheep and lambs at the sum of

Given under our hands at in New South Wales this day of
A.D. 186

A. B. J.P.
C. D. J.P.