

## No. VI.

### SCAB IN SHEEP. An Act for the Prevention and Cure of Scab in Sheep. [18th January, 1864.]

**Preamble.**

WHEREAS it is expedient to provide for the prevention and cure of Scab in Sheep 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:—

**Commencement and short title.**

1. This Act shall commence and take effect except as hereinafter provided on and from the first day of March next And shall be styled and may be cited as the "Scab in Sheep Act of 1863."

**Repeal of 24 Vic. No. 9 and part of 17 V. No. 27 18 V. No. 26 &c.**

2. The Act twenty-fourth Victoria number nine and so much of the Acts seventeenth Victoria number twenty-seven—eighteenth Victoria number twenty-six—and of any other Act—as relates to the disease called Scab or to sheep infected therewith shall remain in force until the first day of March next and no longer.

**Interpretation.**

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

"Run"—Any station farm paddock yard or other place where sheep are kept or depastured.

"Sheep"—Any ram ewe wether or lamb.

"Owner"—Any proprietor lessee licensee overseer superintendent or person in possession or charge of any sheep.

"Chief Inspector"—The Chief Inspector of sheep to be appointed under this Act.

"Inspector"—

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“ Inspector ”—The Chief Inspector or any other Inspector of sheep or other person authorized by virtue of this Act to examine and report whether any sheep are or not infected sheep as hereinafter defined.

“ Infected Sheep ”—Any sheep actually infected with the disease called Scab—or any sheep which have formed part of a flock containing any sheep so infected or which have been in contact with such within the next preceding six months and all infected sheep within the aforesaid definitions until declared clean.

“ Clean ”—Free from Scab under the certificate of an Inspector or of any Directors on appeal.

“ Brand ”—To brand on the rump with pitch tar or black or red paint.

“ Public Way ”—Any proclaimed road or any road or way dedicated to the public or which has been ordinarily used by the public for three years at the least.

“ Travelling Sheep ”—Any sheep driven or carried by land or water—or which have within one month next preceding been so driven or carried—along or over any place whatsoever other than the Run on which they are ordinarily kept or depastured.

“ Destroy ”—To destroy by entirely consuming by fire—or entirely burying at a depth of three feet at least under ground—or boiling down.

“ Justice ”—Any Justice of the Peace.

4. The Governor with the advice of the Executive Council may <sup>Scab Districts.</sup> from time to time as may be deemed expedient by proclamation in the *Gazette* establish and fix the boundaries or limits of “ Scab districts ” in such parts of the Colony and comprising such areas respectively as may be considered most convenient for the purposes of this Act. Provided that all that portion of the Colony which lies along the coast and extends to a line measuring at all points thereof thirty miles from such coast shall be and be deemed one Scab district and shall be called and known for the purposes of this Act as the “ Coast Scab District.”

5. The Governor with the advice aforesaid shall appoint a Chief <sup>Chief Inspector—his powers and duties.</sup> Inspector of Sheep for the purposes of this Act. And the said Chief Inspector shall for the said purposes possess and exercise besides his powers and duties as such over the whole Colony all the powers and duties within the Coast Scab District which are hereby conferred and imposed upon Directors or a specified number of them in the other Scab Districts.

6. At the first meeting in each Scab district of owners liable <sup>Sheep Directors.</sup> to contribute as hereinafter provided—except as aforesaid—which meeting shall be held on as early a day as convenient to be fixed by notice in the *Gazette* under the hand of the Chief Inspector and at each annual meeting thereafter to be held on the corresponding day in each succeeding year the owners present shall by open vote of the majority elect five of their own number to be “ Sheep Directors ” for the ensuing year—any such Director being capable of re-election if willing to accept the office—and shall fill up vacancies during any year in like manner at special meetings held on like notice. Provided that the fact of any vacancy existing shall not affect the powers of the remaining Directors.

7. The Directors for each Scab District or any two of them shall <sup>Directors to appoint Inspectors.</sup> from time to time nominate and subject to the approval of the Governor with the advice aforesaid appoint by notice in the *Gazette* an Inspector or Inspectors who shall act under the instructions and control of the Chief Inspector. And every such Director shall by virtue of his office be also an Inspector. Provided that no Director shall receive any salary or emolument

*Scab in Sheep.***Earlier commencement of Act.****Inspectors removable.****False report to be a misdemeanor.****Powers and duties of Inspector.****Penalty for obstructing him.****Notice of Scab breaking out.****Immediate notice of infection to Inspector and Director.****Inspectors to grant license for cleansing infected sheep.****Penalty on unlicensed owners of infected sheep.**

ment for acting as an Inspector. And provided further that it shall not be lawful for any Director who shall have performed any act or duty as an Inspector to act in any manner as a Director in relation to the same matter.

8. Provided that for the purposes of the next preceding four sections this Act shall commence on the day of its passing.

9. The Directors shall have full power to remove from his office any Inspector except the Chief Inspector upon satisfactory proof of unfitness.

10. Whosoever shall wilfully make any false report or sign any false certificate respecting any sheep shall be deemed guilty of a misdemeanor.

11. Every Inspector may at any time inspect and examine any sheep in his own Scab district or wherever else in the Colony they may be kept or depastured and may exercise and discharge all the powers and duties conferred upon him by or under this Act in any and every part of the Colony. And whosoever shall refuse to allow any Inspector to enter upon any run or to examine any sheep or shall attempt to hinder any Inspector from or to impede him in examining any sheep or if owner of such sheep shall not when required by an Inspector forthwith drive or assist in driving them into some convenient place for examination shall incur a penalty not exceeding one hundred pounds.

12. Every owner shall within three days after he shall have become aware of any of his sheep being infected affix at each point of entrance of any public way intersecting his 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 shall also insert a copy of such notice in some newspaper circulating in the District once at least in each of three successive weeks. And every such notice shall be dated on the day on which it shall be so first affixed and shall be kept so affixed until such sheep shall be duly declared clean. And every owner of infected sheep who shall fail or delay to cause such notices to be so affixed or kept affixed or inserted shall incur a penalty not exceeding twenty pounds for every day of such failure or delay.

13. Every owner shall within three days after he shall have become aware of any of his sheep being infected send in writing by messenger or by registered letter through the post to the nearest Inspector of his district and also to the nearest resident Director a notice of such infection with a correct account of the infected sheep stating the number thereof and describing their several marks or brands and precisely defining the localities in which they are respectively kept or depastured. And every such owner neglecting to comply with any of the provisions of this section shall incur a penalty of twenty pounds for every day during which such neglect shall continue. And such Inspector shall on receipt of such notice forthwith proceed to examine such infected sheep and being satisfied that the same are infected sheep shall on demand and without fee give to such owner a license to keep any infected sheep for six months for the purpose of cleansing the same and shall also in like manner give a fresh like license for every additional number of sheep becoming from time to time infected sheep. Provided that any Inspector may from time to time renew any such license for a period of three months upon payment of a license fee of sixpence for every sheep so infected for a first renewal and one shilling for a second and every subsequent renewal.

14. Every person who without a license as hereinbefore provided shall own any infected sheep shall incur a penalty of not less than one shilling nor exceeding five shillings in respect of every sheep so infected and if within one month after the imposition of such penalty such person shall not have obtained such license he shall incur a penalty of five shillings

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shillings for every such sheep. And so again if such person shall continue to own such infected sheep for a like period of one month after the imposition of such second or any subsequent penalty without having such license he shall incur a further penalty of five shillings for every such sheep. Provided that if any such owner shall at the expiration of a first or any subsequent license desire to destroy the said sheep he shall have one month for so destroying them and shall not be liable for any penalty in respect of such sheep during that period.

15. Every such license may be declared by any Inspector in writing <sup>Inspector may void license.</sup> to be and shall thereupon be absolutely void if during the continuance thereof the owner to whom the same is granted shall not take measures for the effectual cleansing of the sheep mentioned therein to the satisfaction of such Inspector. Provided that any refusal by an Inspector to renew a license—or any such declaration of avoidance by an Inspector shall be subject to an appeal to the Directors or any three of them. And any owner whose license shall not have been so renewed or shall have been so declared void may be dealt with under the next preceding section.

16. Every owner of infected sheep shall cause the same to be <sup>Owners of sheep to cause them to be followed during the day and kept securely folded during the night.</sup> followed and kept in sight when depasturing throughout the day and to be kept within secure folds throughout the night. And any owner who shall neglect so to do shall incur a penalty not exceeding twenty-five pounds for every day or night he shall so neglect.

17. Every Inspector upon being satisfied that any sheep are <sup>Quarantine for infected sheep.</sup> infected shall define a boundary within which the whole of such infected sheep shall be kept in Quarantine until declared to be clean by a certificate under the hand of such or some other Inspector or of any Directors on Appeal as hereinafter provided and within which boundary no other sheep shall be admitted until such run shall be declared clean in like manner.

18. Any owner may appeal in any respect against the judgment <sup>Appeal to Directors.</sup> of an Inspector to the Directors of whom any two or more shall finally decide in the matter of such appeal and may direct such alterations of boundaries or grant such certificate as they may deem necessary or in any other manner alter or vary his decision. Provided that in case of every such appeal the Directors shall have power to determine by whom the immediate costs of such appeal including their own travelling expenses shall be paid the scale of such expenses being settled by the regulations to be made as hereinafter enacted.

19. Every such Quarantine boundary shall be binding on the <sup>Penalties for infringing Quarantine.</sup> owner and on all other persons whomsoever. And any owner who shall remove or cause to be removed beyond such boundary any sheep until he shall have obtained a certificate as aforesaid shall be deemed guilty of a misdemeanor. And whosoever not being owner of the run under Quarantine shall take or cause to be taken within such boundary any sheep whatever shall incur a penalty not exceeding one hundred pounds. And all sheep so taken shall be forthwith deemed to be infected sheep and shall be detained as such and may be destroyed in accordance with the provisions hereinafter contained with respect to infected travelling sheep.

20. All infected sheep above the age of three months shall <sup>Branding infected sheep.</sup> be legibly branded with the initial letters of the first name and surname of their owner or with his known station brand and also in either case with the letter S—such letters and brand to be at least three inches in length. And every owner neglecting any provision of this section shall incur a penalty not exceeding one hundred pounds.

21. For the purposes of this Act all sheep branded as aforesaid <sup>Brands evidence of infection.</sup> shall be deemed to be infected sheep and such brands shall be *prima facie* evidence of infection.

22. At any time within one month after any owner shall have <sup>Return of license fee under special circumstances.</sup> obtained a certificate that his sheep are clean he may apply in writing to the

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the Directors for their authority to receive back any license fees upon the ground that at the time of his paying the same such sheep were and had thenceforth continued to be actually clean although according to the terms of this Act he was not then yet entitled to such certificate. And if upon full inquiry by the Directors or any two of them it shall be satisfactorily shewn that the fact was as so alleged by him they may state the same in writing under their hands. And the Colonial Treasurer upon the authority of such written statement shall pay to such owner the amount of such license fees. And the costs of this proceeding shall be deemed to be costs of an appeal.

Persons driving sheep to give notice to occupier.

23. Any owner who shall drive or conduct any sheep upon or across any run where other sheep are depastured and kept or upon or along any public way which may intersect or form a boundary line of any such run without having given not more than forty-eight nor less than twelve hours previous notice to the owner of such run of his intention to drive or conduct such sheep as aforesaid shall incur for every such offence a penalty not exceeding fifty pounds. Provided that notice given at the house homestead or principal station of the owner shall be deemed sufficient notice. Provided also that no such notice shall be necessary within the "Coast Scab District."

Travelling sheep to be branded.

24. All travelling sheep shall be legibly branded with the letter T not less than three inches in length. And every owner of travelling sheep not being at the time so branded shall for every one of such sheep incur a penalty not exceeding sixpence. And any owner permitting his sheep to travel after they shall have become infected or any person assisting infected sheep to travel knowing the same to be infected shall be deemed guilty of a misdemeanor. Provided that any sheep not being infected sheep driven from one run to any other run of the same owner such runs not being more than forty miles apart shall not be deemed travelling sheep within this Act.

Owner may detain travelling sheep for examination.

25. Every owner may examine any sheep driven through or over or found upon or approaching any part of his run and upon reasonable suspicion of their being infected sheep may detain and keep possession of them until an Inspector shall examine such sheep and decide whether or not the same or any of them are infected sheep. And the owner of such sheep shall forthwith give notice of such detention to an Inspector who shall examine the same and decide whether or not such sheep are infected sheep. And if upon such examination the said sheep shall be declared in writing by such Inspector to be infected sheep they shall be forthwith destroyed unless upon an appeal in writing from the owner to the Directors they or any two of them shall in writing under their hands within fourteen days after such examination sanction in their discretion any other safe arrangement. Provided nevertheless that if the sheep so detained shall be found not to be infected sheep and that there were no reasonable grounds to suspect them to be so then the person detaining the same shall incur a penalty not exceeding one hundred pounds in addition to the cost thereby occasioned to the owner. Provided also that if the owner shall refuse to permit such sheep to be examined or detained in manner aforesaid he shall incur a penalty not exceeding one hundred pounds. Provided further that with the consent of the owner of any infected run any infected sheep may travel over the same.

Assistance in detaining or destroying sheep.

26. Any Inspector may employ any person to assist him in detaining and destroying any sheep authorized to be destroyed under this Act and the owner thereof shall on demand reimburse and pay to such Inspector the cost of such detention and destruction or either. And if any owner refuse to pay such cost on demand it may be recovered summarily in like manner as any penalty under this Act.

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27. No sheep shall be brought across the boundary from any adjoining Colony until the owner shall have first procured from some Inspector a certificate under his hand that such sheep are not infected and stating that to the best of his knowledge and belief they have not been dressed or dipped for Scab during six months previously and have not during the same period passed through any infected run or come in contact with any infected sheep. And the Inspector at or nearest to the place at which it is intended that any sheep shall be so brought across such boundary shall examine such sheep and obtain all necessary information respecting them and shall give such certificate in all cases where the same shall be in accordance with the requirements aforesaid. And any owner bringing or causing to be brought across any such boundary any sheep without having obtained such certificate shall for every sheep so brought incur a penalty not exceeding five shillings. Provided that all such sheep shall in addition to the aforesaid travelling brand T before passing the boundary of Victoria be legibly branded with the letter V and before passing the boundary of Queensland with the letter Q and before passing the boundary of South Australia with the letter A not less than three inches in length respectively. Provided also that such sheep shall be continued so legibly branded during the whole period of six months after they shall have so passed the boundary. And in default thereof the owner shall for every omission incur a penalty of sixpence for each sheep.

Sheep not to be brought across the boundaries from adjoining Colonies until certificate obtained from Inspector.

28. As soon as any sheep shall have passed any such boundary the owner shall obtain from the Inspector and he is hereby directed to give in addition to the certificate aforesaid a permit in writing under his hand permitting such sheep to travel by the nearest practicable and ordinarily used public way to some place to be specified in such permit and any owner may thereupon travel such sheep by such public way to such place but not otherwise. And such sheep shall not be removed during the whole period of six months after passing such boundary from such specified place except by virtue of a renewal of such permit or a new like permit under the hand of an Inspector specifying in like manner the place to which such sheep are to be further removed. And any owner shall incur a penalty of twenty pounds for every day he shall allow such sheep to travel without such original or renewed permit and shall further incur a penalty not exceeding one hundred pounds for any deviation from the public way aforesaid. Provided that no owner of sheep which shall have come from any adjoining Colony shall be entitled to demand a license under this Act until he shall have paid a penalty of five shillings for every ewe, wether or lamb which shall within six months aforesaid be declared by an Inspector to be infected and every ram so declared to be infected shall be forfeited and forthwith destroyed. Provided further that such owner shall not incur such penalty or forfeiture if on appeal to the nearest Petty Sessions within the Police District in which he resides it shall be shewn that his sheep became infected within the Colony and not before passing the boundary.

Permit for sheep inside boundary.

29. Every owner of sheep imported into any seaport either coastwise or from parts beyond the seas shall report in writing the fact of such importation as soon as practicable after their arrival to some Inspector at or near 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 ten days nor until a certificate to that effect and also to the effect that such sheep are clean shall have been delivered to the owner by such Inspector. And such Inspector shall grant such certificate in all cases where the same shall be in accordance with the facts. And every owner any of whose sheep so imported shall be so removed without such certificate being first obtained shall for every sheep so removed incur a penalty not exceeding thirty pounds.

Imported sheep to be reported immediately to Inspector and not removed without his certificate.

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Sheep from inland  
to near seaport to  
be dressed.

Infected sheep loose  
may be killed.

Communicating  
Scab a misdemeanor.

Casting carcasses of  
infected sheep into  
stream or waterhole.

Slaughtering or  
exposing for sale  
infected sheep.

Wool or skins of in-  
fected sheep not to  
be removed unless  
securely packed.

Yearly contribution  
on sheep.

Returns of sheep to  
Clerk of Petty  
Sessions.

30. It shall not be lawful for any sheep brought from inland to any place within thirty miles of any seaport or being at any place within that distance from any seaport to return or to be removed to any place inland until they shall have been dressed in like manner as imported sheep are to be dressed under the next preceding section after such examination as therein prescribed nor until a like certificate shall have been given to the owner. And whosoever shall remove or take back any such sheep contrary to this enactment shall incur a penalty not exceeding two hundred pounds. Provided that the Governor with the advice aforesaid may modify the requirements of this section for any period to be specified by proclamation in the *Gazette*.

31. Any owner may seize and destroy any infected sheep which he finds off their own run without a shepherd. Provided that unless within three days thereafter such owner shall deliver in writing or send by registered letter through the post a notice thereof with particulars of the sheep destroyed to an Inspector of the District he shall incur a penalty not exceeding one hundred pounds.

32. Whosoever shall wilfully communicate or cause to be communicated to any sheep the disease called Scab shall be deemed guilty of a misdemeanor. Provided that any conviction for such offence shall not prejudice any civil proceeding against him.

33. Whosoever shall cast or cause to be cast into any stream or waterhole the carcass of any infected sheep shall incur for every infected sheep so cast a penalty of ten pounds.

34. Whosoever shall have in his possession for the purpose of slaughter for sale or shall slaughter or cause to be slaughtered for sale any infected sheep or shall expose the carcass or any part thereof in any public shop stall market or other place shall for every such offence incur a penalty not exceeding twenty pounds and the convicting Justices shall direct that the flesh of all such infected sheep so slaughtered shall be seized and destroyed.

35. Whosoever shall remove or carry away the wool or skin of any infected sheep otherwise than in bags or bales securely packed and sewed up shall for every such offence incur a penalty not exceeding one hundred pounds.

36. For defraying the costs and expenses of carrying this Act into effect there shall in each year be levied and paid upon and in respect of all sheep depastured and kept in any part of the Colony for every one thousand sheep a contribution of one pound and so in proportion for any greater or smaller number exceeding the number of five hundred only possessed by one owner such contribution to be paid on or before the thirty-first of May in each year at the office of the Colonial Treasurer in Sydney or to such other officer and at such other place as the Governor with the advice aforesaid may appoint. And all such contributions shall by the said Treasurer be carried over to the Consolidated Revenue Fund and a separate account shall be kept in the books of the Treasury of all moneys so carried over to the said fund in respect of such contributions and otherwise under this Act and of all moneys paid thereout under and for the purposes of this Act. Provided that if at any time it shall appear upon balancing such account that the moneys so carried over exceed the requirements of this Act the Governor with the advice aforesaid may reduce or remit such contributions for any period to be specified by Proclamation in the *Gazette*.

37. Every owner of sheep exceeding such number of five hundred depastured and kept in the Colony shall make to the Clerk of Petty Sessions for the District in which the said sheep are depastured a return on the first day of March one thousand eight hundred and sixty-four and on the first day of January in each succeeding year or within fourteen days thereafter in each year of all sheep so kept and depastured and any owner

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owner who shall fail to make such return at the time so appointed or shall omit to deliver the same or transmit it to such Clerk by registered letter through the post shall incur for every such offence a penalty not exceeding twenty pounds.

38. Every owner making such return shall verify the same by a <sup>Returns to be verified by declaration.</sup> solemn declaration made before any Justice to the effect that the several matters and things contained in such return are true to the best of his knowledge and belief and any owner who shall wilfully make therein any false statement shall be deemed guilty of a misdemeanor.

39. The several Clerks of Petty Sessions shall within twenty-one days after the first day of March in each year from such returns calculate the amount of contribution to be made by the several owners within their respective districts and shall on or before the first day of April then next make a return thereof to the Colonial Treasurer according to which return the contribution hereinbefore mentioned shall upon notice as hereinafter provided be due and payable as aforesaid by the owners therein named except in so far as the same may be affected by any order made on appeal as hereinafter provided.

40. The said several Clerks of Petty Sessions shall also not less <sup>Notice of calculation of contribution.</sup> than one month previous to such contribution becoming due cause a notice in writing to be served upon each such owner at the residence of such owner apprising him of the amount of contribution to which he is liable and requiring him to pay the same at the office of the Colonial Treasurer in Sydney or other place appointed as aforesaid on or before the thirty-first of May then next ensuing.

41. Any owner liable to contribute as aforesaid who shall consider himself aggrieved by the amount charged to him may appeal to the Petty Sessions of his district. Provided that within ten days after the service of the said notice of contribution the person assessed or some one on his behalf shall give to the Clerk of such Petty Sessions a notice in writing of his intention to make such appeal upon some day to be therein mentioned not later than fourteen days after the date of such notice of appeal and the Petty Sessions shall hear and determine the matter of the said appeal in a summary way.

42. In the absence of any such appeal within the time limited or in the case of such appeal being decided against the appellant if the owner liable to pay such contribution shall not on or before the thirtieth of June pay the same to the Colonial Treasurer or other officer as aforesaid the said Treasurer shall issue a warrant under his hand to the Clerk of Petty Sessions of the district directing him and his assistants to levy the amount together with an additional sum equal to one-fifth part thereof by way of penalty by distress and sale of a sufficient part of the sheep in respect of which the contribution shall have been calculated and such Clerk and his assistants to whom such warrant shall be so directed may make such distress and sale according to the law and practice in like cases.

43. The Colonial Treasurer may by virtue of warrants of the Governor under his hand which he is hereby authorized to issue pay out of the Consolidated Revenue Fund such sums of money as shall be deemed necessary and be specified in such warrants for the purposes of this Act whether before or after any sums shall have been carried over to such fund in respect of the contribution aforesaid. Provided that no payment so made out of the Consolidated Revenue Fund shall exceed such contributions beyond the sum of two thousand pounds at any one time.

44. The Governor with the advice aforesaid may make all necessary <sup>Regulations.</sup> regulations respecting the places of meeting and mode of voting of owners—the appointment of Sheep Directors if not duly appointed by the owners—the duties of Directors and Inspectors—and for making any special arrangements necessary to prevent the occurrence of any serious public inconvenience

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*Newspaper Postage.*

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nience whatsoever by reason of the establishment of any Quarantine boundary or otherwise and as to all other matters of detail for carrying this Act into full effect so far as the same are consistent herewith and are not herein provided for by express enactment. And such regulations upon being published in the *Gazette* shall have the force of law. And copies thereof shall be laid before both Houses of Parliament forthwith if sitting and if not then within fourteen days after the opening of the next Session.

Recovery and application of penalties and fees.

45. All penalties under this Act may be recovered on the complaint of a Sheep Inspector before any two Justices and such penalties and all fees payable under this Act shall be paid to the Colonial Treasurer at Sydney or to such other officer and at such place as the Governor with the advice aforesaid may appoint and be by him carried over to the Consolidated Revenue Fund and shall be credited in the separate account at the Treasury hereinbefore mentioned.

Punishment for misdemeanors.

46. Every person deemed guilty of a misdemeanor under this Act shall be liable to be imprisoned with or without hard labor for any period not exceeding two years.

Act to continue to 31 December 1865.

47. This Act shall be in force until the thirty-first day of December one thousand eight hundred and sixty-five.

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