



# SUPPLEMENT

## TO THE NEW SOUTH WALES GOVERNMENT GAZETTE.

OF WEDNESDAY, SEPTEMBER 26, 1838.

Published by Authority.

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SATURDAY, SEPTEMBER 29, 1838.

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ANNO SECUNDO  
VICTORIÆ REGINÆ.  
No. 10.

By His Excellency Sir George Gipps, Knight, Captain General and Governor in Chief of the Territory of New South Wales and its Dependencies, and Vice Admiral of the same, with the advice of the Legislative Council.

*"An Act for adopting certain Acts of Parliament passed in the First Year of the Reign of Her Majesty Queen Victoria, in the administration of Justice in New South Wales, in like manner as other Laws of England are applied therein."*

**W**HEREAS certain Acts of Parliament were passed in the first year of the reign of Her present Majesty Queen Victoria, intituled respectively, "*An Act to abolish the*" 1 Vict., c. 23. "*punishment of the Pillory;*" 1 Vict., c. 85. "*and 'An Act to amend the Laws relating to Offences against the*" 1 Vict., c. 86. "*Person;*" and "*An Act to amend the Laws relating to Burglary and Stealing in a Dwelling-house;*" and "*An Act to amend the Laws relating to*" 1 Vict., c. 87. "*Robbery and Stealing from the Person;*" and "*An Act to amend certain Acts relating to the crime of*" 1 Vict., c. 88. "*Piracy;*" and "*An Act to amend the Laws relating to burning or*" 1 Vict., c. 89. "*destroying Buildings and Ships;*" and 1 Vict., c. 90. also "*An Act to amend the Law relative to offences punishable by Transportation for Life;*" and also

1 Vict., c. 91. "*An Act for abolishing the punishment of Death in certain cases;*" and whereas it is expedient to adopt and apply the said recited Acts of Parliament in the administration of Justice in New South Wales: Be it therefore enacted, by His Excellency the Governor of New South Wales, Adopted and with the advice of the Legislative Council thereof, that the said recited Acts of Parliament, and every clause, provision, and enactment, therein contained, shall be, and the same is and are hereby adopted, and directed to be applied, in the administration of Justice in the said Colony and its Dependencies, in like manner as other Laws of England are therein applied, and as if the same, and every part thereof, had been repeated and re-enacted in this Act or Ordinance.

*(Act to take effect from the 1st October, 1838.)*

II. And be it enacted, that this Act shall commence and take effect on the first day of October, one thousand eight hundred and thirty-eight, except as to offences and other matters committed or done before the said first day of October, which shall be dealt with and punished as if this Act had not been passed.

"GEORGE GIPPS."

*Passed the Legislative Council  
this twenty-eighth day of August,  
One thousand eight hundred and thirty-eight.*

WM. MACPHERSON,  
Clerk of Councils.

ANNO SECUNDO.  
VICTORIÆ REGINÆ.  
No. 11.

By His Excellency Sir George Gipps, Knight, Captain-General and Governor-in-Chief of the Territory of New South Wales and its Dependencies, and Vice-Admiral of the same, with the advice of the Legislative Council.

*"An Act to facilitate the Apprehension of Offenders escaping from the Island of Van Diemen's Land, or from South Australia, to the Colony of New South Wales."*

WHEREAS the communication of the Island of Van Diemen's Land and South Australia with the Colony of New South Wales hath greatly increased, and facilities for the escape of Transported Offenders and persons charged with crimes and misdemeanors, have thereby arisen: Be it therefore enacted, by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, that, from and after the passing of this Act, if any transported offender or any person or persons against whom a warrant shall be issued by any of the Judges of the Supreme Court of Van Diemen's Land, or by any Judge of South Australia, or any Justice of the Peace for the same respectively, for any crime or offence against the laws in force in Van Diemen's Land, or South Australia, shall escape, go into, reside, or be in any place within the Colony of New South Wales or its Dependencies, it shall and may be lawful for any Justice or Justices of the Peace of New South Wales, and such Justice and Justices is and are hereby required, upon proof being made, upon oath of a credible witness, of the handwriting of the Judge, Justice or Justices of Van Diemen's Land, or South Australia respectively, granting such warrant, to endorse his or their name or names on such warrant, which shall be a sufficient authority to the person or persons bringing such warrant, and to all other persons to whom such warrant was originally directed, and also to all Constables for any part of the Colony of New South Wales or its Dependencies, to execute the said warrant within any part of New South Wales or its Dependencies, and to apprehend and carry such offender or offenders before the Justice or Justices who endorsed such warrant, or some other Justice or Justices for the Colony of New South Wales.

*(The party apprehended to be admitted to bail unless Convicts.)*

II. And be it enacted, That in case the offence be bailable in law, and such offender or offenders, (not being convicts then under sentence, or suspected to be such) shall be ready and willing to give bail for his, her, or their appearance, according to the exigence of said warrant, such Justice or Justices by whom the warrant was endorsed, or before whom any such offender or offenders shall be brought,

shall and may proceed with such offender or offenders, and take bail for him, her, or them, according to the exigence of the said warrant, in the same manner as the Judge, Justice or Justices who originally issued the same should or might have done; and such Justice or Justices so taking bail as aforesaid shall take the recognizance or bail bond of the said offender or offenders, and of his, her, or their bail, in duplicate, and shall deliver one of such duplicates to the Constable, or other officer or officers, or person or persons so apprehending such offender or offenders as aforesaid, who are hereby required to receive the same, and to deliver, or cause to be delivered, such recognizance or bail bond, to Her Majesty's Crown Solicitor, or Clerk of the Peace, or other proper officer for receiving the same, in Van Diemen's Land or South Australia respectively; and the said Justice or Justices so taking bail as aforesaid, shall transmit the other of such duplicate to the Chief Clerk, or other proper officer for receiving the same, belonging to the Supreme Court of New South Wales, there to be kept of record; and it shall and may be lawful for the Court in which any person so bound to appear shall forfeit his or her recognizance or bail bond, to transmit a certificate testifying the forfeiture thereof, under seal of the said Court, or under the hand and seal of one of the Judges or Justices of the same, to the proper officer of the said Supreme Court, and it shall and may be lawful for the said Supreme Court to proceed upon such certificate to levy the sum so forfeited, in the same manner in which the said Supreme Court may proceed upon any recognizance or bail bond taken and forfeited within the said Colony of New South Wales, and estreated into the said Supreme Court: Provided always, that if such offence be not bailable in law, or such offender or offenders shall not give bail for his, her, or their appearance, according to the exigence of such warrant, the said Justice or Justices before whom such offender or offenders shall be brought, shall remand him, her, or them to the custody of the Constable, or other officer or person who shall have apprehended such offender or offenders, and such Constable, officer, or other person, shall proceed to convey such offender or offenders, by the most safe and expeditious mode of conveyance, to that part of Van Diemen's Land or South Australia, in which the crime was committed, to be there dealt with according to law.

"GEORGE GIPPS."

*Passed the Legislative Council  
this—twenty-ninth day—of—  
August, one thousand eight—  
hundred and thirty-eight.*

WM. MACPHERSON,  
Clerk of Councils.

ANNO SECUNDO  
VICTORIÆ REGINÆ.  
No. 12.

By His Excellency Sir George Gipps, Knight, Captain General, and Governor in Chief of

the Territory of New South Wales and its Dependencies, and Vice Admiral of the same, with the Advice of the Legislative Council.

*"An Act for preventing the extension of the disease, commonly called the Influenza or Catarrh in Sheep and Lambs, in the Colony of New South Wales."*

WHEREAS, a certain disease commonly called the Influenza or Catarrh has, for some time, been prevalent amongst sheep and lambs, in New South Wales, to the great injury of divers individuals, and of the interests of the Colony generally; and it is expedient to prevent, as much as possible, the further communication and extension of the said disease: Be it therefore enacted, by His Excellency the Governor of New South Wales, with the advice of the Legislative Council thereof, that if any person shall, after the expiration of ten days from the passing and publication of this Act, turn out, keep, depasture, drive, or conduct, or permit or suffer to be turned out, kept, depastured, driven or conducted, any sheep or lambs infected with the said disease, upon any land whatsoever, not being the property of such person, or rented by him; or if any person shall drive or conduct, or permit, or suffer to be driven or conducted, any sheep or lambs so infected as aforesaid, upon any public road or way, used as a public way for driving sheep from one part of the Colony to another, unless the same shall cross or pass through land owned or rented by such person, and then only in the place or places where the same shall cross or pass through such land, every such person shall, upon the complaint, upon oath, of any proprietor or overseer in charge of any sheep, and upon conviction before two or more Justices of the Peace for the said Colony, forfeit and pay for every such offence a penalty or sum not exceeding fifty pounds, nor less than ten pounds, together with all reasonable costs and charges to be ascertained by the Justices before whom the conviction shall take place; and the like penalty for every hundred sheep which shall be so turned out, kept, depastured, driven or conducted, contrary to the provisions of this Act: Provided always, that all sheep or lambs belonging to any flock in which there shall be at the time, or may have been within three months previously any sheep or lamb infected with the said disease, shall be deemed to be infected, within the meaning of this Act, so as to render the proprietor thereof liable to the penalties hereby imposed:

*(Not to extend to cases in which the disease shall appear after being so turned out, &c., nor when depastured upon their accustomed run.)*

II. Provided always, and be it enacted, That no conviction shall take place for any such offence as aforesaid, if it shall be made to appear to the satisfaction of the Justices before whom the case is tried, that any such sheep or lambs became infected after they were so turned out, kept, depastured, driven or conducted as aforesaid, and had not been so infected or mixed

with sheep or lambs so infected, within three months previously to the time when the offence shall be alleged to have been committed: Provided also, that no conviction shall take place for any such offence as aforesaid, in any case in which such disease shall break out in any sheep or lambs when depastured upon the accustomed run, where the same, or other flocks of the same owner or overseer, have been ordinarily kept, unless they shall be removed thereto or therefrom, so as to endanger the flocks of any other person; and if a question shall arise as to what is the accustomed run where the sheep or lambs of such owner or overseer have been ordinarily kept, the fact shall be determined by the Justices before whom the case is tried, as incidental to the same.

*(Justice to grant a warrant for seizure and detention of sheep suspected to be infected.)*

III. And be it enacted, That it shall be lawful for any Justice of the Peace upon information on oath from any proprietor or overseer in charge of sheep, that he has reason to apprehend that infected flocks will be driven through the run where his flocks are depastured, to grant a warrant for the immediate seizure and detention of such flocks, until the same can be properly examined as hereinafter provided, and the fact determined as to their being so infected or otherwise; and if upon examination such sheep prove to be infected, the proprietor thereof shall be liable to the penalties imposed by this Act, but if they be proved to be free from such infection the person so informing shall be liable to defray to the proprietor all expenses and damages which may ensue from the seizure and detention as aforesaid, to be assessed and recovered by and before any two or more Justices of the Peace.

*(Sheep becoming infected on any run to be killed.)*

IV. Provided always, and be it enacted, That in case such disease as aforesaid, shall break out or prevail in any flock of sheep or lambs at the time of their being driven or conducted upon any public road or way, used as a public way, for driving sheep from one part of the Colony to another, every such sheep or lamb which may become infected with such disease shall be immediately killed, and the carcase thereof forthwith completely consumed by fire, or buried at least three feet in depth under a penalty on the owner or proprietor thereof, of a sum not less than ten shillings nor more than five pounds, for every such sheep or lamb which shall not be so killed and consumed, or buried as aforesaid, to be recovered, upon the complaint on oath of any proprietor or overseer in charge of sheep, or any constable or mounted policeman, before any two or more Justices of the Peace: Provided always, that it shall be lawful to bury or burn the carcasses of any infected sheep which shall be killed, or die, upon any public road as aforesaid, in any waste Crown land whatever, near or adjoining to such road, or within the nearest convenient distance from either side of such road, upon any adjoining land being private property; and it shall be lawful either to plead this Act specially, or to

give the same in evidence under the general issue in defending any action of trespass which shall be brought against any person or persons employed in burying or burning such carcasses in manner hereby authorised.

*(Justices to grant a warrant for the removal of Sheep.)*

V. And be it enacted, That when and so often as any sheep or lambs shall become so infected at the time of being driven or conducted as last aforesaid, or any offenders shall be convicted under this Act, for turning out, keeping, depasturing, driving, or conducting of sheep or lambs infected with the said disease, or for permitting or suffering any such sheep or lambs to be turned out, kept, depastured, driven, or conducted contrary to the provisions of this Act, shall be made to appear to any two or more Justices of the Peace that it is necessary to remove the said sheep or lambs to some place where the same may be lawfully turned out, kept, or depastured, it shall be lawful for such Justices to grant a warrant under their hands in the form in the Schedule hereunto annexed, authorising the removal of the said sheep or lambs; and in every such warrant there shall be stated the place to which, and the route by which, the said sheep or lambs shall be removed, and the time for which the same is granted, not exceeding one calendar month: And in case any such person shall detain or continue any such sheep or lambs on any lands or road, or shall turn out, keep, depasture, drive or conduct any such sheep or lambs without such warrant, or contrary to the directions thereof, such person shall be subject and liable to the penalties imposed and inflicted upon persons for turning out, keeping, depasturing, driving, or conducting such sheep or lambs contrary to the provisions of this Act.

*(Justices, upon information, to grant a warrant for the examination of sheep, suspected to be diseased.)*

VI. And be it enacted, That upon information on oath, made before any Justice of the Peace by any proprietor or overseer in charge of sheep or lambs, that there is reasonable cause to suspect and believe that any sheep or lambs are infected with the said disease, and are turned out, kept, depastured, driven, or conducted, contrary to the provisions of this Act, or in case any sheep or lambs shall be seized and detained for examination under the provisions of this Act, it shall be lawful for such Justice to grant a warrant under his hand, to some fit and proper person to be named by such Justice in the warrant, to authorise him to examine any such sheep or lambs as aforesaid, and if necessary to cause the same to be driven to the nearest pen where the same are ordinarily kept, or to some convenient place for examination; and any proprietor or person in charge of such sheep or lambs, who shall refuse to allow the same to be examined, or shall refuse or neglect when so required, to cause them to be driven to the nearest pen or to some other convenient place for examination, shall

be subject to such and the like fines or penalties as by this Act are imposed or inflicted for turning out, keeping, depasturing, driving, or conducting any sheep or lambs contrary to the provisions thereof.

*(Whenever sheep infected with Influenza or Catarrh shall be kept upon any land crossed by a public way, notice of such infection to be affixed at each end of such way.)*

VII. And be it enacted, That whenever any sheep or lambs infected with the said disease, called the Influenza or Catarrh, shall be turned out, kept, or depastured upon any land whatsoever which may be intersected or crossed by any public road or way, used as a public way for driving sheep from one part of the said Colony to another, it shall be the duty of the proprietor or person in charge of such sheep or lambs, or of his or her overseer or manager, to cause public notice to be given of such infection, by affixing the same in writing in distinct legible characters at some conspicuous place at each end of such public road or way; that is to say, one such notice shall be affixed at the end of such road or way where it enters such land, and the other at the end where the said road leaves such land; and every such notice shall, by such proprietor or person in charge, or his or her overseer or manager, be renewed and replaced as often as occasion shall require, and shall be there continued so long as any sheep or lambs, so infected as aforesaid, shall be kept or depastured upon such land, and for three months thereafter: And if any proprietor or person in charge of such infected sheep or lambs, or his or her overseer or manager, shall wilfully omit or neglect to cause such public notice to be given according to the form and manner hereby provided and directed, or shall omit or neglect to renew and continue the same in such and the like manner, and so long as any such sheep or lambs shall remain infected, and for three months thereafter, according to the true intent and meaning of this Act, every such person so offending shall be liable for every such omission or neglect, upon complaint made upon oath by any other proprietor or overseer in charge of any sheep, and upon conviction before any two or more Justices of the Peace, to pay a penalty or sum of ten pounds.

*(Penalty for abandoning infected Sheep.)*

VIII. And be it further enacted, That if any person shall wilfully set at large and abandon any sheep or lamb infected with the said disease called the Influenza or Catarrh, to the danger of infecting other sheep with such disease, every person so offending shall be liable upon complaint made upon oath, and upon conviction before any two or more Justices of the Peace, to forfeit and pay a penalty or sum of not less than five pounds, nor more than twenty pounds for every such infected sheep or lamb, which may be so abandoned as aforesaid.

*(Penalty for not burning or burying infected Carcase.)*

IX. And be it enacted, That the carcase of

every sheep or lamb which at the time of its death shall have been infected with such disease as aforesaid, shall be immediately thoroughly consumed by fire or buried at least three feet in depth, and the owner or proprietor of any such sheep or lamb shall be liable on conviction before any two or more Justices of the Peace to a penalty or sum of not less than ten shillings nor more than five pounds for every such carcase which shall not be so consumed or buried as aforesaid.

*(Penalty for casting infected carcasses into running streams.)*

X. And be it enacted, That if any person shall cast, or cause to be cast into any running stream or water hole, the carcase of any sheep or lamb which at the time of its death shall have been infected with such disease as aforesaid, such person shall be liable on conviction before any two or more Justices of the Peace to a penalty or sum of not less than five pounds, nor more than twenty pounds for every carcase which may be so cast contrary to the provisions hereof.

*(Persons having charge of infected sheep by whose misconduct such infection shall be communicated to the sheep of any other person, liable to reimburse such other person.)*

XI. And be it further enacted, That if any proprietor or person having the charge and management of any sheep or lambs infected with the said disease called the Influenza or Catarrh, shall knowingly and wilfully, turn out, keep, depasture, drive or conduct, or permit or suffer to be turned out, kept, depastured, driven or conducted, any such sheep or lambs, contrary to the provisions of this Act, or shall knowingly and wilfully fail and neglect to give, or cause to be given, notice of such infection, in such case, and in such form and manner, as hereinbefore is directed and required; if such infected sheep or lambs shall, while so turned out, kept, depastured, driven or conducted, or permitted or suffered to be so turned out, kept, depastured, driven or conducted, communicate the said disease to any sheep or lambs of any other person or persons; then, and in every such case, such proprietor or person having the charge and management of sheep or lambs so infected as aforesaid, shall be subject and liable over and above any other penalty imposed by this Act, to forfeit and pay to the person or persons to whose sheep or lambs such disease shall be so communicated, such sum of money as in the judgment and discretion of the Justices before whom complaint shall be made, as herein-after mentioned, shall be sufficient to reimburse such person or persons for the losses and expenses which he, she, or they shall have incurred and been put to thereby, so as that such sum shall not in any one case exceed the sum of fifty pounds; and such sum shall be recovered upon complaint, brought by, or on behalf of the injured person or persons, and duly proved, before any two or more Justices of the Peace, in like manner as any fine or penalty imposed by this Act: Provided always, however, that every such complaint as last aforesaid shall be brought within three calendar months next after the cause of such complaint shall have arisen; and provided also, that no action or suit at law shall be brought in any Court in the said Colony, for or in

No. 360. September 29, 1838.

respect of any loss, expense, or damage which shall or may be incurred as aforesaid, after the cause shall have been heard and determined in a summary way as hereby provided; and if any such action or suit shall be brought, for such cause, it shall be lawful for the defendant or defendants to apply to the Court, wherein such action or suit shall be brought, to stay proceedings, and such Court is hereby required to stay such proceedings accordingly, and to award such reasonable costs as shall be thereby incurred by such defendant or defendants.

*(Penalty for butchers having infected sheep or lambs in their possession for the purpose of slaughtering, or exposing the carcase for sale.)*

XII. And be it further enacted, That if any butcher, or other person, shall have in his possession, for the purpose of slaughtering for sale, or shall slaughter, or cause to be slaughtered for sale, any sheep or lamb so infected as aforesaid, or shall expose the carcase or any part thereof, for sale, in any public shop, stall, market, or other place, every such person shall be liable, upon conviction thereof, before any two or more Justices of the Peace, to a penalty of not less than five pounds nor more than twenty pounds, for every such infected sheep or lamb so in his possession or slaughtered, or of which the carcase, or any part thereof, shall be exposed for sale; one moiety of which penalty, when recovered, shall go and be paid to the informer, and the other moiety thereof shall be to the use of Her Majesty, Her Heirs and Successors, to be applied to the purposes hereinafter mentioned: Provided always, that the flesh of all such infected sheep or lambs so slaughtered as aforesaid, shall be seized, condemned, and destroyed, in such manner as such Justices may direct.

*(Mode of compelling the appearance of persons punishable under this Act.)*

XIII. And for the more effectual prosecution of all offences punishable by summary conviction under this Act, be it further enacted, That where any person shall be charged on oath before any Justice or Justices of the Peace with any such offence, the Justice or Justices may summon the person charged to appear at a time and place to be named in such summons, and if he shall not appear accordingly, then upon proof of the due service of the summons upon such person, by delivering the same to him personally, or by leaving the same at his usual place of abode, the Justices may proceed to hear and determine the case *ex-parte*; or the Justice or Justices before whom the charge shall be made, may, if the person charged be a Prisoner of the Crown without any previous summons, issue his or their warrant, and when the person charged shall appear, proceed to hear and determine the case.

*(Recovery of penalties.)*

XIV. And be it further enacted, That upon any person being convicted before any Justices as aforesaid, in any penalty for any offence committed against the provisions of this Act, and the said penalty not being forthwith paid, it shall and may be lawful for the Justices to issue their warrant to distrain upon the offender's goods and chattels; and the constable or other person by whom the distress shall be levied, shall, within ten days from the making such distress, sell, or cause to be sold, the said goods and chattels, or so much as shall be

necessary to satisfy the said warrant; and after satisfaction of the same, and payment of all costs and charges for the levying, keeping, and selling such distress, shall render the overplus of the proceeds of such sale (if any) to the offender as aforesaid: Provided always, that in case no sufficient distress can be found, the person or persons so convicted as aforesaid, shall be liable to be imprisoned for any period not exceeding six months, nor less than one month, unless the whole of such penalties, forfeitures, and costs, be sooner satisfied.

*(Form of Conviction.)*

XV. And be it further enacted, That in all cases where any conviction shall be had for any offence or offences committed against this Act by any free person or persons, the conviction shall be according to the form in the Schedule hereunto annexed, or to the effect thereof.

*(Punishment of convicts for offences under this Act.)*

XVI. Provided always, and be it enacted, That when any offence against this Act shall be committed by any convict or offender under sentence of transportation, such convict or offender being convicted of the said offence, shall and may, at the discretion of the Justice or Justices before whom such conviction shall take place, be punished for the same, as any offender under sentence of transportation, convicted of a misdemeanor, or of disorderly conduct, is liable to be punished under an Act of the Governor of this Colony, with the advice of the Legislative Council, passed in the third year of the reign of His late Majesty King William the Fourth, intituled, "An Act to consolidate and amend the laws for the transportation and punishment of offenders in New South Wales, and for defining the respective powers and authorities of General Quarter Sessions, and of Petty Sessions, and for determining the places at which the same shall be holden, and for better regulating the summary jurisdiction of Justices of the Peace, and for repealing certain laws and ordinances relating thereto." Anything therein contained to the contrary notwithstanding; unless it shall appear and be proved to the satisfaction of the Justice or Justices before whom the case is tried, that the offence was committed by such convict or offender by the order or direction of his or her Master, Mistress, or Overseer, in which case such Master, Mistress, or Overseer shall be held exclusively liable for such offence, and to the penalties herein before provided for the same.

*(Appeal to the Quarter Sessions.)*

XVII. And be it further enacted, That if any person, not being a transported felon or offender, convicted of any offence or offences punishable by this Act, before any two or more Justices of the Peace as aforesaid, shall think himself or herself aggrieved by the Judgment of such Justices, such person, in case the penalty awarded shall exceed the sum of ten pounds, but not otherwise, shall have liberty to appeal from any such conviction to the next Court of Quarter Sessions of the Peace which shall be held nearest to the place where such offence shall have been committed, and that the execution of every judgment so appealed from shall be suspended, in case the person so convicted shall, with two sufficient sureties, immediately be-

fore such Justices, enter into a bond or recognizance to Her Majesty, her heirs and successors, in the penal sum of double the amount of the penalty so incurred or forfeited; which bond or recognizance respectively such Justices are hereby authorised and required to take, and such bond or recognizance shall be conditional to prosecute such appeal with effect, and to be forthcoming to abide the judgment and determination of the said Court of Quarter Sessions, and to pay such costs as the said Court shall award on such occasion; and the Justices of the said Court of Quarter Sessions are hereby authorised and required to hear and determine the matter of the said appeal, and to award such costs as to them shall appear just and reasonable; to be paid by either party, and such decision shall be final between the said parties to all intents and purposes.

*(Limitation of conviction.)*

XVIII. And be it further enacted, That no conviction shall be had under this Act on any case happening more than one month before the time of laying the complaint, except in the case hereinbefore specially provided for.

*(Penalty upon persons summoned as witnesses not appearing, or refusing to give evidence.)*

XIX. And be it further enacted, That if any person shall be summoned as a witness, to give evidence before any such Justice or Justices of the Peace, or any Court of Quarter Sessions, touching any of the matters aforesaid, either on the part of the prosecution or of the person or persons accused, and shall neglect or refuse to appear at the time and place to be for that purpose appointed, without a reasonable excuse for such neglect or refusal, to be allowed by such Justice or Justices of the Peace, or Court respectively, before whom such prosecution or appeal shall be depending; or appearing, shall refuse to be examined on oath, or otherwise give evidence, every such person so offending shall forfeit for every such offence the sum of five pounds, to be levied by distress and sale of the offender's goods, in manner hereinbefore directed.

*(Limitation of Actions.)*

XX. And be it further enacted, That no action at law shall lie against any Justice of the Peace, Constable, or Mounted Policeman, for any matter or thing which may be done or commanded by them, or any of them, in pursuance of the provisions of this Act, unless there be direct proof of corruption or malice, and unless such action be commenced within three calendar months after the cause of action or complaint shall have arisen; and if any Justice, Constable, or Mounted Policeman shall be sued for any matter or thing done in pursuance of this Act, the defendant or defendants in any such action may plead the general issue, and give this Act and the special matter in evidence.

*(Proceedings not to be quashed for informality, or removed by certiorari.)*

XXI. And be it further enacted, That no order or judgment, or other proceedings made, touching and concerning any of the matters aforesaid, or touching and concerning the conviction of any offender or offenders against this Act, shall be quashed or vacated for want of form only, or be removed or removeable by *certiorari*, or any other writ or process whatsoever, into the Supreme Court:

(Appropriation of Fines.)

XXII. And be it further enacted, That all fines and penalties which shall be levied under this Act, and for the appropriation of which no special directions are given, shall, at the discretion of the Justices, be paid one half to the informer, or part thereof, and the remaining part shall be paid into the Colonial Treasury, for the use of Her Majesty, Her Heirs and Successors, for the public uses of the said Colony, and the support of the Government thereof.

(Commencement of Act.)

XXIII. And be it further enacted, that this Act shall commence and take effect from and after the expiration of ten days from the passing and publication thereof, and shall be and continue in force for two years.

"GEORGE GIPPS."

*Passed the Legislative Council,  
this twenty-ninth day of Au-  
gust, One thousand eight hun-  
dred and thirty-eight.*

WM. MACPHERSON,  
Clerk of Councils.

SCHEDULES REFERRED TO.

FORM OF WARRANT FOR REMOVING SHEEP AFTER  
CONVICTION.

*District of* }  
*In the Colony of New South Wales.* }

We, A. B. and C. D., Justices of the Peace, for the District of \_\_\_\_\_ in the Colony of New South Wales, having this day convicted E. F., of \_\_\_\_\_ (or G. H., Overseer of E. F., of \_\_\_\_\_) of having turned out (kept, depastured, driven, or conducted, as the case may be) certain Sheep (or Lambs) infected with the disease called the Catarrh or Influenza, the property of the said E. F., contrary to the provisions of the Act of the Governor and Council in such case made and provided, and it has been made to appear to our satisfaction that it is necessary to remove the said Sheep (or Lambs) &c. (or whereas it has been made to appear to us, A. B. and C. D., Justices of the Peace for the District of \_\_\_\_\_ in the Colony of New South Wales, that certain Sheep (or Lambs), the property of E. F. have, while being driven or conducted on the public road leading from \_\_\_\_\_ to \_\_\_\_\_ become infected with the disease called the Catarrh or Influenza, and it has also been made to appear to our satisfaction that it is necessary to remove the said Sheep or Lambs &c.) to \_\_\_\_\_ in the District of \_\_\_\_\_ where the same may be lawfully turned out, kept, and depastured, do hereby, in pursuance of the authority in us vested by a certain Act of the Governor and Council, passed in the second year of the Reign of Her Majesty Queen Victoria, intituled "*An Act for preventing the extension of the disease commonly called the Catarrh or Influenza, in Sheep and Lambs, in the Colony of New South Wales,*" authorise and direct the said E. F. (or the said G. H. Overseer of the said E. F.) to drive or conduct the said Sheep (or Lambs) or cause the same to be driven or conducted to

aforesaid, by (here point out the nearest or most convenient route, or that by which the said Sheep or Lambs are the least likely to spread the infection.) This Warrant to be and continue in force from the date thereof, until the Day of

Given under our hands, at  
this \_\_\_\_\_ Day of  
One thousand eight hundred and

A. B.  
C. D.

FORM OF CONVICTION.

NEW SOUTH WALES, }  
TO WIT.

BE IT REMEMBERED, That  
on this \_\_\_\_\_ day of  
\_\_\_\_\_ in the \_\_\_\_\_ year of the Reign  
of A. B. is convicted before  
of Her Majesty's Justices of the Peace for the Colony of New South Wales, by virtue of an Act of the Governor and Council, made in the Second year of the Reign of Queen Victoria, intituled "*An Act for preventing the Extension of the Disease commonly called the Influenza or Catarrh in Sheep and Lambs, in the Colony of New South Wales,*" (here specify the offence, and the time and place when and where the same was committed); and we the said Justices do adjudge him (her, or them) to forfeit and pay for the same the sum of \_\_\_\_\_

GIVEN under our hands and seals  
the day and year aforesaid.

ANNO SECUNDO  
VICTORIÆ REGINÆ.  
No. 13.

By His Excellency Sir George Gipps, Knight, Captain General and Governor in Chief of the Territory of New South Wales and its Dependencies, and Vice-Admiral of the same, with the Advice of the Legislative Council.

"An Act to authorise the Marriage of Minors,  
"without the consent of Parents, or  
"Guardians, in certain cases."

WHEREAS by an Act of the Governor and the Legislative Council of the Colony of New South Wales, passed in the Seventh year of the Reign of His late Majesty King William the Fourth, intituled "*An Act to prevent Clandestine*" 7 Wm. IV. "*Marriages, and to provide for the issuing*" No. 6. "*of Licenses;*" it is among other things enacted, That no Marriage shall be solemnised where either of the Parties not being a Widower or Widow shall be under the age of twenty-one years without the consent of the Father of such of the Parties so under age (if then living) being first had and obtained, or if dead, of the Guardian or Guardians of the person of the Party so under age, lawfully appointed, or one of them; and in case there shall be no such Guardian, then of the Mother (if living and unmarried) or if there be no Mother living and unmarried, then of a Guardian or Guardians of the person appointed by the Supreme Court: And whereas, from the frequent arrival of young persons in this Colony for the purpose of settling therein unaccompanied by their Parents, and from the residence in other

Countries of the greater number of relations and connections of families settled in New South Wales, and from other causes, it frequently happens that persons under the age of twenty-one years are without any Parent or Guardian residing in the said Colony qualified to consent to their Marriage, and that the Marriage of such persons may under such circumstances be unnecessarily impeded: Be it therefore enacted by His Excellency the Governor of New South Wales with the advice of the Legislative Council thereof, That the consent of any Magistrate of the said Colony, or other person duly appointed for that purpose as hereinafter mentioned, to the Marriage of any person under the age of twenty-one years, obtained in manner hereinafter provided, shall be of the same force and effect to all intents and purposes as the consent of a Parent or Guardian, given in accordance with the provisions of the said recited Act.

*(Judges of Supreme Court may appoint such Magistrates or other Persons as they shall see fit for purposes of this Act.)*

II. And be it further enacted, That it shall and may be lawful for the Judges of the Supreme Court, to nominate and appoint from time to time, as occasion may require, such, and so many Magistrates, or other persons as aforesaid, residing in any District of the said Colony, as they shall think fit, and necessary for the purposes of this Act.

*(Minors in certain cases to make oath before a Magistrate or other Person appointed as aforesaid.)*

III. And be it further enacted, That in case any Unmarried Person in the said Colony being under the age of twenty-one years, and without a parent or Guardian residing in the said Colony authorised to consent to his or her Marriage under the provisions of the said recited Act, shall appear before any Magistrate or other Person duly appointed as aforesaid, for the District in which he or she shall be then residing, or in case there be no such Magistrate or other Person appointed as aforesaid therein, before any such Magistrate or other Person appointed as aforesaid for the District nearest to that in which he or she shall be then resident, and shall make oath in the form, and to the effect, set forth in the Schedule hereunto annexed (which oath such Magistrate or other Person appointed as aforesaid is hereby authorised and required to administer); and such Magistrate or other Person appointed as aforesaid, shall thereupon make such further inquiry as to him shall seem proper and necessary as to the state and condition of the Parties seeking to be married, and if there shall not appear to be any reasonable and valid objection to such Marriage, he shall give his consent thereto, by writing under his hand according to the form in the schedule hereunto annexed: Provided always that nothing herein contained shall be construed to prevent the Supreme Court from appointing a Guardian or Guardians (other than a Magistrate or Magistrates, or other Person or Persons appointed as aforesaid, under the provisions of this Act,) to give consent to the Marriage of any single person under the

age of twenty-one years, whose Parents or Guardians shall be absent from the said Colony.

*(Mode in which such consent shall be registered.)*

IV. And be it further enacted, That where any Marriage shall be solemnized with the consent of any Magistrate or other Person appointed as aforesaid, under the provisions of this Act, according to the rites of the Church of England, such consent shall be specified in the Register of Marriages required by Law to be kept; and where any Marriage shall be solemnized with the consent of any such Magistrate, or other Person, appointed as aforesaid, according to the rites of the Church of Scotland, or according to the rites of the Roman Catholic Church, such consent shall be annexed to and transmitted with the certificate of such Marriage required by Law to be transmitted to the Registrar of the Supreme Court, by the Minister solemnizing the same.

*(Persons making false oath to be guilty of perjury.)*

V. And be it further enacted, That if any person or persons in any oath to be made or taken in pursuance of the provisions of this Act for the purpose of obtaining the consent of any Magistrate, or other Person appointed as aforesaid, shall knowingly or wilfully swear any matter or thing which shall be false, every person so offending shall on conviction thereof be deemed guilty of Perjury, and shall suffer the like pains and penalties, and incur the same disabilities, as persons guilty of wilful and corrupt perjury, are by Law subject to.

*(Affidavit to be kept by proper officer, and to be transmitted by a Magistrate, or other Person appointed as aforesaid.)*

VI. And be it further enacted, That every oath, or affidavit required by this Act for the purpose of obtaining any such consent, as aforesaid, shall be duly preserved by the proper Officers appointed by Law to keep and preserve the Registers or certificates of such Marriages respectively, and shall for that purpose be transmitted by the Magistrate, or other Person appointed as aforesaid, from whom any such consent shall be obtained, to such Officer, within ten days after such consent shall have been granted.

*(Nothing in this Act, nor in above recited Act to apply to Marriages of Persons serving under sentence of transportation, which shall be solemnized only with the consent of the Governor.)*

VII. Provided always, and be it enacted, That nothing in this Act, nor in the said recited Act contained, shall be deemed, or construed, to apply to the Marriage of any Felon or other Offender serving under a sentence of transportation, who may be under the age of twenty-one years, anything herein, or in the said recited Act, contained to the contrary notwithstanding: Provided nevertheless that no marriage shall be solemnized, where either of the Parties shall be a Felon or other Offender serving under a sentence of transportation, whether under the age of twenty-one years or otherwise, without the consent of the Governor of the said Colony being first had and obtained.

"GEORGE GIPPS."

*Passed the Legislative Council,  
this twenty-ninth day of August  
One thousand eight hundred  
and thirty-eight.*

WM. MACPHERSON,  
Clerk of Councils

**FORM OF AFFIDAVIT.**

On this                      day of                      in the  
year one thousand eight hundred and  
A. B. of                      in the Colony of New  
South Wales, Bachelor or Spinster, (as the case  
may be) appeared personally before C. D. being  
a Magistrate, or other Person (as the case may be)  
appointed in pursuance of an Act intituled "*An  
Act to authorise the Marriage of Minors without  
the consent of Parents or Guardians in certain  
cases,*" for the District of                      in  
which the said A. B. is now resident (or being  
the District nearest to where the said A. B. is  
resident, as the case may be,) the said A. B.  
being desirous to intermarry with E. F. of  
                    and for the purpose of obtaining the con-  
sent of the said C. D. as such Magistrate or other  
Person appointed as aforesaid. And the said  
A. B. maketh oath and saith, that he, or she, is  
under the age of twenty-one years, and that he, or  
she, knows of no impediment, by reason of any

former marriage, consanguinity, affinity, or any  
lawful cause whatsoever to hinder the said Mar-  
riage, and that he, or she, hath no Parent or Guar-  
dian resident in the said Colony qualified to give  
such consent, and is not a Widower or Widow.

A. B.

Sworn before me, this                      day of  
C. D. J.P. (or as the case may be) duly  
authorised under the Act of the Governor and  
Council 2 Victoria, No. 13.

**FORM OF CONSENT.**

I, C. D., of                      in the  
Colony of New South Wales, Esquire, duly ap-  
pointed under the provisions of an Act of the  
Governor and Council, intituled "*An Act to au-  
thorise the Marriage of Minors without the consent  
of Parents or Guardians, in certain cases,*" do  
hereby declare my consent to the Marriage of  
A. B. (who is a young person under the age of  
twenty-one years, and hath no Parent or Guar-  
dian resident in this Colony qualified to give such  
consent,) with E. F. of

In witness whereof, I have hereunto set my  
hand, this                      day of  
in the year one thousand eight hundred and

C. D

THE 13 BUREAU OF THE  
FEDERAL BUREAU OF INVESTIGATION  
WASHINGTON, D. C. 20535  
JAN 13 1966  
MEMORANDUM FOR THE DIRECTOR  
SUBJECT: [Illegible]