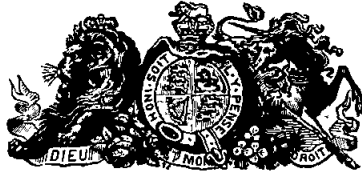


VICTORIA.



ANNO DECIMO SEXTO

VICTORIÆ REGINÆ.

By His Excellency CHARLES JOSEPH LA TROBE, ESQUIRE, Lieutenant Governor of the Colony of Victoria and its Dependencies, with the advice and consent of the Legislative Council.

No. XXI.

An Act for preventing the Extension of the Disease called Scab in Sheep. [Assented to 29th December, 1852.]

WHEREAS it is expedient to amend the Laws now in force for preventing the Disease called Scab in Sheep: Be it enacted by His Excellency the Lieutenant Governor of the Colony of Victoria, by and with the advice and consent of the Legislative Council thereof as follows:—

Preamble.

I. From and after the commencement of this Act so much of an Act of the Governor and Legislative Council of the Colony of New South Wales passed in the tenth year of the Reign of Her Majesty Queen Victoria intituled "*An Act to consolidate and amend the Laws now in force for preventing the Extension of the Diseases called Scab and the Influenza or Catarrh in Sheep or Lambs in the Colony of New South Wales,*" as relates to the prevention of the Disease called Scab shall be repealed.

Repeal of so much of Act 10 Vic. No. 8. as relates to Scab.

II. Every owner of Sheep above the age of six months kept or depastured on any land whatever in the said Colony of Victoria shall on or before the thirty-first day of March which will be in the year of our Lord one thousand eight hundred and fifty-three or within two months after such Sheep shall come into his possession cause all such sheep to be marked or branded in a conspicuous way with Pitch Tar or Paint and every such mark or brand shall from time to time as occasion may require be refreshed or renewed so that the same shall always be distinct and every such mark or brand shall be the usual brand of the owner of such Sheep and shall be not less than three inches in length and every such owner shall within one month after the date aforesaid or within one month after such sheep shall come into his possession register by writing under his hand with the Clerk of the Petty Sessions nearest to the place in which such sheep may then be a true description of the mark and brand so affixed as aforesaid together with the name or names of the owner or owners of such sheep so marked or branded and the name of the place or station where the same are depastured or kept And every sheep marked or branded as aforesaid shall be taken to be the property of and to belong to the person whose name is registered as the owner of sheep so marked or branded unless the contrary be proved and proof of the identity or similarity

Sheep to be branded.

similarity of the mark or brand on such sheep with or to the mark or brand registered and of the name of the owner registered as aforesaid shall be good *prima facie* evidence of the proprietorship of such sheep. Provided that such Court of Petty Sessions shall cause any owners of sheep within the same District using similar brands to make such difference in their brands respectively as may be necessary to prevent mistake or confusion. And every owner who shall refuse or neglect to mark and affix or refresh and renew such marks and brands as aforesaid, or to register such marks and brands as aforesaid or to make such difference in his brands as aforesaid shall upon conviction forfeit and pay for every such offence any sum not exceeding fifty pounds.

Notice to be given of intention to drive Sheep through a Run.

III. If any person shall drive or conduct any sheep upon or across any land whatever where other sheep are depastured and kept or upon or along any road which may intersect or form a boundary line of any such land without giving twelve hours previous notice to the occupier of such land of his intention to drive or conduct such sheep as aforesaid he shall forfeit and pay for every such offence any sum not exceeding fifty pounds. Provided that notice given at the house homestead or principal station of such occupier shall be deemed sufficient notice.

Diseased Sheep not to be kept near a public road or way, &c.

IV. Any person who shall permit or suffer to be turned out kept depastured driven or conducted any sheep infected with the disease called Scab within one quarter of a mile of any public road or way used as a public way or permit any such sheep to roam stray or be upon any land not in the actual occupation of such person shall upon conviction forfeit and pay for every such offence any sum not exceeding one hundred pounds.

Penalty.

Penalty for importing.

V. Any person who shall import into the said Colony of Victoria any sheep infected as aforesaid shall for every such sheep so imported forfeit and pay any sum not exceeding the sum of one hundred pounds.

Diseased Sheep not to be driven on a public road or way, or upon Land not occupied by the owners of them.

VI. If any person shall wilfully and knowingly drive or conduct or permit or suffer to be driven or conducted upon or along any public road or way used as a public way or upon over or across any land whatever not being in the actual occupation of such person or shall wilfully abandon or set at large any such Sheep he shall for every such offence forfeit any sum not exceeding two hundred pounds or be liable to be imprisoned in the Common Gaol of the Colony for any term not exceeding twelve months.

Notice of appearance of disease to be given to Clerks of Petty Sessions.

VII. The owner of any sheep which may be or become infected as aforesaid shall within ten days after the commencement of this Act in case such sheep shall then be infected or if not then infected within ten days after the first appearance of such disease cause to be delivered to the Clerk of the Petty Sessions nearest to the place in which such infected sheep are kept or depastured a notice in writing signed by such owner to the effect that the disease called Scab has broken out and appeared amongst the sheep of such owner and such notice shall likewise contain the name of the owner of such infected sheep of the station or place where the same are depastured or kept and of the person managing or superintending such station or place and every such Clerk shall cause a true copy of such notice to be affixed in some conspicuous place on the outside of the Office there to remain for one month from the day of the receipt of such notice and the original of such notice shall be kept by the said Clerk in the Office for purposes of reference and every owner as aforesaid shall likewise cause to be delivered within the time specified as aforesaid, to the owner of sheep kept or depasturing upon any land adjoining that upon which such infected sheep as aforesaid are kept or depastured a written notice to the effect that the disease aforesaid has appeared amongst such Sheep and shall affix the like notice in distinct legible characters not less than one inch in length at each point of entrance of any public road which may intersect the land upon which such infected Sheep are

Who shall affix copy of notice outside office.

Notice to be given also to adjoining Sheep owners.

And public notice to be affixed where roads intersect land.

are depastured or kept and any owner of Sheep which may be or become infected as aforesaid who shall neglect or refuse to cause such notice as aforesaid or either of them to be delivered as aforesaid or shall neglect omit or refuse to affix such notice in some conspicuous place as aforesaid shall for every such offence forfeit and pay any sum not exceeding fifty pounds.

Penalty.

VIII It shall be lawful for the Lieutenant Governor from time to time to appoint one or more Inspectors of Sheep within the said Colony or such parts thereof as to him shall seem fit by a notice to be published in the Government Gazette and every person who shall be so appointed shall have full power and authority to inspect any Sheep within the said Colony or such part thereof for which he shall be appointed at any time and whether such Sheep are depasturing on private lands or upon the waste lands belonging to the Crown or upon lands held under Leases from the Crown or otherwise and shall have exercise and discharge such several powers authorities and duties within the said Colony or such part thereof for which he shall be appointed as hereinafter mentioned and provided.

Lieutenant Governor
to appoint inspector.

IX. If it shall appear to any Justice of the Peace or Inspector either from information on oath made before any Justice or upon the view of such Justice or Inspector that there is reasonable cause to believe that any infected Sheep are turned out kept depastured driven or conducted or roam or stray contrary to the provisions of this Act it shall be lawful for such Justice or Inspector to issue a warrant under his hand to some fit and proper person or persons to be named in such warrant to authorise him or them to examine such Sheep and if necessary to cause the same to be driven to the nearest pen where the same are ordinarily kept or to some other convenient place for examination and any owner of such sheep who shall refuse to allow such person or persons to enter on any lands of such owner or to allow such sheep 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 forfeit and pay for every such offence any sum not less than five pounds nor more than one hundred pounds.

Suspected Sheep may
be examined by
warrant from a Jus-
tice of the Peace
or Inspector

Penalty for obstruct-
ing execution of
warrant.

X. If it shall appear to any Justice of the Peace or Inspector either from information on oath taken before any Justice or upon view of such Justice or Inspector that there is reasonable cause to believe that any Sheep affected with the said disease are driven kept or depastured upon or along any public road or any land not in the actual occupation of the Owner of such Sheep contrary to the provisions hereof such Justice or Inspector is hereby required to cause a summons in writing to the effect set forth in the Schedule marked A hereunder written to be forthwith served upon or left at the usual place of abode of the Owner of such Sheep and such Justice or Inspector may in his discretion also issue a warrant under his hand to the effect set forth in the Schedule marked B hereunder written authorizing any person therein named to seize such Sheep wherever they may be found and it shall be lawful for such Justice or Inspector with or without such warrant and for their assistants with such warrant to enter upon any lands where such Sheep may be and seize and detain them or if necessary cause them to be driven to some convenient place to be named in such warrant for the purposes of examination and in every case of seizure a report of the same and of the place where such Sheep are detained shall be forthwith served on such Owner or left at his last place of abode and any two Justices of the Peace or such Inspector and any Justice are hereby required to proceed at the time in the said notice mentioned to the place and enter on the lands where the Sheep may then be and if such owner shall attend or if he shall fail to attend then upon proof on oath of the service of the said notice and also of the report of any seizure which may have been made such Justices or such Justice and Inspector shall (whether any warrant has been issued or not) seize detain and examine

Justices or Inspector
to have power to
order seizure
of infected
Sheep.

Power to Justices
Inspector and Jus-
tice to examine
directly or in-
directly and
to be killed or
burned.

the

the said Sheep and determine whether or not they are infected with the said disease and if necessary for that purpose examine any witness upon oath or at his or their discretion adjourn such examination and keep the said Sheep so detained for any period not exceeding seven days from the date of the said notice inspecting and examining them from time to time in the meantime and if such Justices or such Justice and Inspector shall be satisfied that such Sheep are affected with the said disease they are hereby authorised and required to direct by writing to the effect set forth in the Schedule marked C hereunder written that the person therein named and his assistants shall within the time therein limited enter on the lands where the Sheep so infected may be, and seize and kill them and also all or so many of the Sheep in the flocks in which they may have been running specified in such writing and burn and destroy them and every part thereof together with any pens, hurdles, yards, troughs, and other articles mentioned in such writing or if they shall be satisfied that the said Sheep are not infected with the said disease such Justices or Justice and Inspector are hereby directed to order so many of the said Sheep as shall have been seized as aforesaid to be restored to the owner.

Sheep to be folded at night.

XI. Every owner of Sheep infected as aforesaid shall cause the same to be secured and kept at night in good and substantial folds and in case he shall neglect or omit so to do he shall for every such offence forfeit and pay any sum not less than five pounds nor exceeding fifty pounds.

Casting carcase of diseased Sheep into streams or water-holes.

XII. If any person shall cast or cause to be cast into any stream or water hole the carcase or any part of any Sheep which at the time of its death was infected as aforesaid he shall forfeit and pay for every Sheep so cast as aforesaid any sum not less than one pound nor more than five pounds.

Penalty.

Slaughtering or exposing for sale, infected Sheep.

XIII. If any person shall have in his possession for the purpose of slaughter for sale or shall slaughter or cause to be slaughtered for sale, any Sheep infected as aforesaid or shall expose the carcase or any part thereof in any public shop stall market or other place he shall for every such offence forfeit and pay any sum not less than one pound nor more than twenty pounds and it shall be lawful for the convicting Justices to direct that the flesh of all such infected sheep so slaughtered as aforesaid shall be seized condemned and destroyed in such manner as they may think fit.

Penalty.

And Justices may order flesh of diseased Sheep to be seized and destroyed.

XIV. If any person shall remove or carry away the wool or skin of any sheep infected as aforesaid otherwise than in bags or bales securely packed and sewed up he shall forfeit and pay for every such offence any sum not exceeding fifty pounds.

Wool or skins of infected Sheep not to be removed except in bags or bales securely packed and sewed.

No fresh information to be laid until after expiration of three days from a previous conviction.

XV. No information shall be laid or brought under the provisions of this Act unless within three calendar months after the commission of the offence complained of, nor for any second or subsequent offence until the expiration of three clear days from the date of the previous conviction.

Penalty for obstruction.

XVI. In case any person shall wilfully obstruct or impede any person acting under the authority of this Act or of any warrant order or direction made or issued in pursuance thereof he shall forfeit any sum not exceeding one hundred pounds and in default of payment may be imprisoned for any term not exceeding three calendar months unless the amount of such penalty shall have been sooner discharged and such person so offending may if necessary be apprehended and detained in custody by any person acting under the authority of this Act or any other person who may be called to his assistance until such offender can be conveniently taken before some Justice of the Peace for the said district who is hereby authorised upon complaint on oath by any person to take cognizance thereof and to act summarily in the premises.

Act.

Power to summon witnesses.

XVII. It shall be lawful for any Justice or Inspector to summon any person to appear before him as a witness in any matter in which such Justice or Inspector shall have jurisdiction under this Act at a time and place mentioned in such summons and to administer to him an oath or affirmation and if any person so summoned shall without reasonable excuse refuse or neglect to appear at the time and place appointed for that purpose

or

or to produce any documents or appearing shall refuse to be sworn or examined on oath or give evidence he shall forfeit a sum of not less than ten pounds and not more than one hundred pounds.

XVIII. All penalties and forfeitures incurred under the provisions of this Act may be sued for and recovered by any owner or person in charge of sheep or lambs or by any Inspector or Constable and shall be paid one moiety to Her Majesty her Heirs and Successors for the public uses of the said Colony and in support of the Government thereof and the other moiety to the use of the Informer or party prosecuting who shall be deemed in all cases a competent and credible witness and no penalty shall in any case exceed the sum of two hundred pounds.

Penalties may be sued for by owner, person in charge, Inspector, or Constable.

And limitation of amount of penalty.

XIX. Whenever any penalty or forfeiture shall have been imposed under the provisions of this Act and the person convicted shall not forthwith pay the same it shall be lawful for the convicting Justices where no mode of proceeding is specially provided to direct that such person be imprisoned in any Gaol or House of Correction in the said Colony with or without hard labor as they shall think fit for a period not exceeding two calendar months if the penalty shall not exceed ten pounds and for a period not exceeding four calendar months if the penalty be above ten pounds and not exceeding twenty pounds and for a period not exceeding six calendar months if the penalty be above twenty pounds and such person shall be detained and kept to hard labor accordingly unless such respective penalties and costs shall be sooner paid.

Imprisonment in default of payment of penalties.

XX. Every Proceeding under this Act shall be had and taken in a summary way before any two Justices of the Peace and no such Proceeding shall be quashed for want of form or removed by writ of *certiorari* or otherwise into the Supreme Court of the said Colony.

Summary Jurisdiction.

No *certiorari*.

XXI. In the interpretation of this Act the word "owner" shall mean and include proprietor lessee overseer superintendent person in possession or charge the word "sheep" shall include rams ewes wethers and lambs the words "public road" shall be construed to mean any road or way used uninterruptedly by the public for not less than six years without any opposition from the proprietor of the land or over which sheep cattle horses or drays have been usually and commonly driven by the inhabitants of the said Colony during any such period and all Sheep or Lambs shall be deemed infected within the meaning of this Act which may have been infected as aforesaid or mixed with Sheep or Lambs infected as aforesaid at any time within three months previously.

Interpretation Clause.

What may be deemed diseased Sheep.

XXII. This Act shall commence and take effect from and after the first day of February which will be in the year of our Lord one thousand eight hundred and fifty-three.

Commencement Act.

SCHEDULES REFERRED TO.

[A.]

SUMMONS TO ATTEND EXAMINATION OF SHEEP.

YOU are hereby required to attend at _____ of the Clock, on the _____ day of _____ A.D., 185____, at _____ or such other place, of which you may before that day receive notice, at an examination to be then and there held of certain Sheep, of which you appear to be the owner, or person in charge, and which Sheep are it is believed affected with Scab.

Dated the _____ day of _____ in the Colony of Victoria.

A.D., 185____, at _____

To Mr. C. D.

A.B.,

J.P., or Inspector.

[B.]

[B.]

WARRANT TO SEIZE.

THESE are to authorize you and your Assistants, at any time within three days from the date hereof, to enter, by force if necessary, on the Lands on which the Sheep specified below are now running, and seize and detain them where so seized, or remove them to and there detain them until they have been killed and destroyed or released.

Total Number of Sheep to be seized.	General description.	Where now running or being.	Name of person in ostensible possession.	Name of supposed Owner.

Dated the day of A.D., 185 , at
in the Colony of Victoria.

To Mr. } A.B., J.P., or Inspector.
and his Assistants. }

[C.]

WARRANT TO KILL SHEEP AND BURN THEIR HURDLES, &c.

THESE are to authorize you and your Assistants at any time within four days from the date hereof, to enter, by force if necessary, on the Lands on which the Sheep specified below are running or being, and to kill, destroy, and burn them and every part of them, and also to burn the goods and Chattels specified below, and for so doing this shall be your sufficient Warrant.

Description of Sheep and Chattels to be destroyed and burned.	Number.	Where being.	Name of person in ostensible possession or charge.	Supposed Owner.
Ewes				
Wethers				
Lambs				
Hurdles				
Pens				
Troughs				
Other Articles				

Given under our hands this day of
A.D., 185 , at in the Colony of Victoria.

A. B. J. P., or Inspector.
C. D. J. P.

To Mr. }
and his Assistants. }