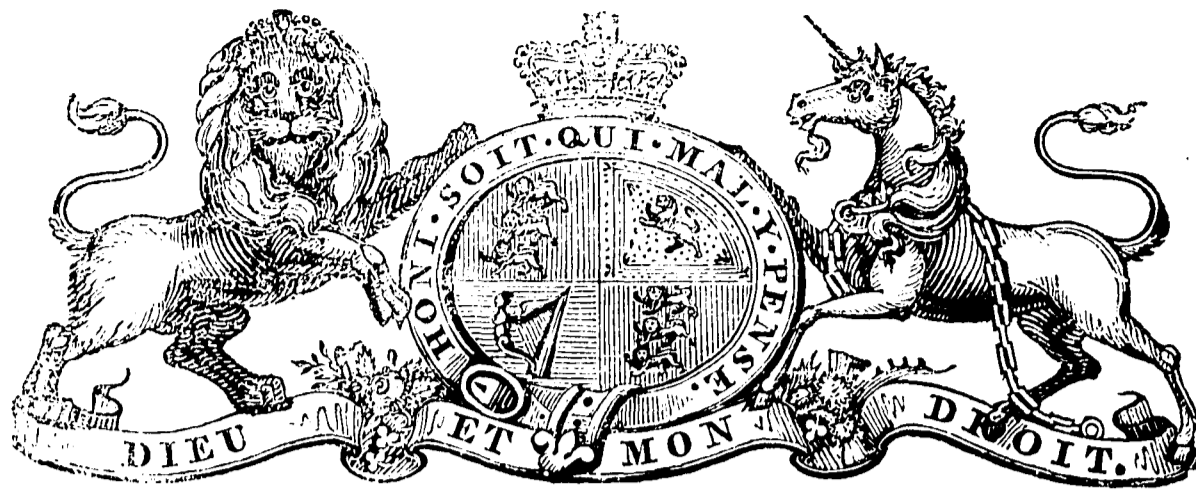


VICTORIA.



ANNO VICESIMO SECUNDO

VICTORIÆ REGINÆ.

No. LXXIX.

An Act for an Assessment on Stock.

[24th February, 1859.]

WHEREAS it is expedient that an assessment should be raised and levied upon certain stock 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 Victoria in this present parliament assembled and by the authority of the same as follows (that is to say)—

Preamble.

I. Every year there shall be levied and paid to Her Majesty upon and in respect of the stock of every person depasturing or keeping the same upon any Crown lands the following assessments (that is to say)—For every sheep the sum of eight pence and for every head of cattle the sum of three shillings and for every horse the sum of six shillings.

Yearly assessment to be paid.

II. The said assessment shall be payable at such places as the Governor in Council may appoint half-yearly by equal instalments on or before the last day of June and the last day of December and where a return shall have been made during the first fourteen days of the month of September as hereinafter provided of stock depastured on the Crown lands aforesaid and upon which no assessment shall have been paid for the current year an assessment shall be charged upon the stock included in such return of eightpence for every sheep three shillings for each head of cattle and six shillings for every horse which assessment shall be payable in one payment on or before the last day of December.

Assessment payable half-yearly.

III. Every person depasturing or keeping stock as aforesaid or being the occupier of any Crown lands for the purpose of depasturing or keeping stock thereon shall on or before the thirty-first day of the month of March in every year deliver to the commissioner of the district within which such stock shall be depastured and kept a return in the form contained in the Schedule A to this Act annexed of the several matters

Return to be made yearly.

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matters and particulars indicated in and required by the same together with a declaration to be made before a justice in the form contained in the same Schedule and if any such person shall neglect to deliver such return or declaration during the time hereinbefore mentioned he shall upon conviction forfeit and pay for every such offence a sum not less than ten nor more than fifty pounds.

Allowance in respect of purchased land.

IV. The said assessment shall be paid for all stock grazing or running on any land which may form part of any run or adjoining thereto (and being in the use and occupation of the occupier of the run) the fee simple of which may have been alienated from the Crown by sale and on all other Crown lands whether held under license or lease or pre-emptive right (if such return shall relate to land within the settled districts) or otherwise provided that at the rate of eight pence per annum for every acre of purchased land not under cultivation mentioned in the return required by this Act to be made shall be deducted from the amount of such assessment.

Assessment to be payable on greatest number of stock on run in any day in January or February.

V. Every such assessment shall be payable on the greatest number of stock respectively that shall have been kept or depastured on any such run or purchased land respectively during any period of the months of January and February immediately preceding the date of such return. Provided that if any person shall in either of the said months or before the date of the return sell to another any stock which shall be included in the return required by this Act to be made by the person so selling it shall be lawful for such person to give to the purchaser of any such stock a certificate in the form and to the effect set forth in the Schedule to this Act annexed marked B together with a declaration to be made before a justice in the form contained in the said Schedule and upon the transmission of such certificate with the return of stock the assessment upon such stock shall be deducted from the total amount of the assessment to which such purchaser would be otherwise liable.

Where no assessment paid in March a return to be made in September.

VI. If any occupier of the Crown lands herein referred to shall between the first day of March and the thirty-first day of August in any year depasture any stock upon which no assessment has been paid under the provisions of this Act during the current year whether such stock shall have been received from any other colony or not every such occupier shall deliver to the commissioner of the district within which such stock shall be depastured on or before the fourteenth day of September a return showing the greatest number of stock so depastured upon such Crown lands between the first day of March and thirty-first day of August and upon which no assessment for the current year has been paid as aforesaid and such return shall be in form set forth in the Schedule C to this Act annexed and shall contain the several matters and particulars indicated in and required by such form together with a declaration to be made before a justice in form contained in the same schedule. And if any such person shall neglect to deliver such return or declaration during the time hereinbefore mentioned he shall upon conviction forfeit and pay for every such offence a sum not less than ten or more than fifty pounds.

Stock not returned to be impounded and sold.

VII. After the last day of March or September as the case may be in every year it shall be lawful for the commissioner and his assistants in each and every district (but subject to such direction as the Board may think proper to give in any case) to seize and drive to the nearest or most convenient pound all stock depasturing as aforesaid whereof a return with a declaration in form aforesaid shall not by that time have been made by the person

keeping

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keeping or depasturing the same in conformity with the provisions of of this Act and such stock so impounded shall be subject to the ordinary course of the law for regulating the impounding of stock for trespass (the commissioner being deemed to be for the purpose of such impounding in legal possession of the land from which such cattle were impounded) except that the owner thereof shall on claiming the same before such stock shall be sold out of such pound pay by way of penalty to the said commissioner the sum of one shilling for every sheep and five shillings for every head of cattle or horses besides the expenses chargeable thereon for poundage and food and upon such claim being made by a person who shall satisfy the said commissioner that he is the lawful owner of any such stock so impounded and upon such payment the said stock shall be restored to such owner.

VIII. The several commissioners shall on or before the fifteenth day of April (or fifteenth day of October when half-yearly returns are made) in every year make a return to the Board shewing the amount of assessment payable by each person in his district.

Annual return to
Treasurer.

IX. The Board shall every half-year not less than one month previous to the time hereinbefore appointed for the payment of the said assessment cause to be published in the *Government Gazette* a notice requiring each person assessed to pay his assessment at some place to be therein named on or before the last day of June and last day of December as the case may be and upon the publication of such notice such assessment shall be due and payable.

Notice of assessment

X. In case any error or inaccuracy shall appear in any such return of stock or amount of assessment or in case default shall be made in payment of the assessment on or before the day appointed for its payment it shall be lawful for the said commissioners to cause notice thereof respectively to be served on any person making such erroneous or inaccurate returns or on such defaulter as the case may be and every such notice shall specify the errors or inaccuracies in any such return the amount of assessment actually due and the costs of the service of such notice and the expenses of such service shall be added to such assessment and shall be recovered as hereinafter mentioned.

Provisions for errors
in returns.

XI. In case any person liable to pay any such assessment as aforesaid shall refuse or neglect to pay the same or any part thereof on or before the day hereinbefore appointed in that behalf such person shall be liable to pay in addition to such assessment by way of penalty a further amount equal to one-tenth part of the amount due and if after the expiration of one month from the day so appointed as aforesaid the assessment then due and the said further amount or either of them shall not be paid at the Treasury it shall and may be lawful for the Governor in Council to direct the commissioner in whose district the stock of any person so refusing or neglecting to pay as aforesaid shall be depasturing and his assistants to levy such assessment and further amount as aforesaid together with a further amount equal to another tenth part of such assessment by a distress of a sufficient part of the stock in respect of which the assessment shall have been made as aforesaid and such commissioner and his assistants are hereby authorised to distrain take and drive to the nearest or most convenient pound such and so many of the stock of the party in default as shall be sufficient (when sold) to pay the amount of such assessment and further amounts respectively and the costs and expenses of making such distress and the payment of the maintenance of such stock till sold and the said stock (or a sufficient part thereof) after seven days' detention to sell or cause to be sold and disposed of at such pound by public auction (unless previously thereto

Recovery of assess-
ment.

the

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the said assessment further amounts costs and expenses shall be paid) and the proceeds thereof shall be applied to the payment of the assessment further amounts costs and expenses aforesaid and the surplus (if any) shall be paid to the owner or superintendent of the said stock and no such commissioner or other person authorised to make such distress and sale shall be subject to any penalty or other liability for so selling by auction not being licensed as an auctioneer and in case the amount of the assessment further amounts costs and expenses shall be tendered to the person charged with the making of such distress then and in such case the said person shall and he is hereby authorised to accept and receive the said amount and to give a receipt for the money so received and to refrain from making and executing the said distress but in the event of no sufficient distress being found to pay the full amount of the said assessment further amounts costs and expenses the same or any unpaid portion thereof shall be recoverable as a debt due to Her Majesty for the use of Crown land by Her Majesty's permission.

Governor in Council
may remit penal-
ties.

XII. It shall be lawful for the Governor in Council at any time to remit either partially or altogether any sum of money herein provided to be received or levied by way of penalty for any neglect or other omission or failure to do or perform any act matter or thing required by this Act to be done or performed.

Penalty for trespass-
ing on waste lands
of the Crown.

XIII. If any person not having lease license or other due permission shall trespass on any of the waste lands of the Crown and shall neglect or refuse to leave such lands after having been warned to do so by the board or any commissioner or other person duly authorised by the board or any commissioner to give such warning or any person who shall again trespass on any such waste lands of the Crown within three months from the time any such warning shall have been given him and being thereof duly convicted before any justice shall be liable to a penalty not exceeding the sum of ten pounds and in default of payment in such time as the justice may order shall be liable to be imprisoned for the space of one month and it shall be lawful for any such authorised person and his assistants to apprehend any person so trespassing and who shall not leave the place when so warned or who shall commit a second trespass as aforesaid and convey him before some justice of the peace to be dealt with according to law.

Limitation and notice
of action, &c.

XIV. All actions for any thing done under this Act shall be commenced within six calendar months after the act was committed and not otherwise and notice in writing of such action and of the cause thereof shall be given to the defendant one month at least before the commencement of the action and in every such action the defendant may plead the general issue and give this Act and the special matter in evidence at any trial to be had thereupon and no plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action brought or if a sufficient sum of money shall have been paid into court after such action brought by or on behalf of the defendant together with costs incurred up to that time and if a verdict shall pass for the defendant or the plaintiff shall become nonsuit or discontinue such action after issue joined or if upon demurrer or otherwise judgment shall be given against the plaintiff the defendant shall recover his full costs as between attorney and client and have the like remedy for the same as any defendant hath by law in other cases.

Who to prosecute.

XV. All prosecutions suits actions informations or complaints to be brought under or by virtue of this Act or upon or by reason of the breach of any of the provisions thereof shall and may be brought by any commissioner or by any person by him or by the treasurer or by the board thereunto authorized in writing.

XVI.

Assessment on Stock.

XVI. All unbranded wild cattle above the age of twelve months which shall at any time be running and feeding on any Crown lands and which shall have no reputed or apparent owner shall be and shall be deemed and taken to be the property of Her Majesty and it shall be lawful for the board to cause the same to be sold and disposed of in such manner as the Governor in Council may direct and the purchaser of such cattle on obtaining the written authority of the board for that purpose shall be at liberty within two months next after the date of such authority with necessary and proper assistance to take possession of such cattle and for that purpose to enter upon any Crown lands where the same may be running or feeding.

Unbranded wild cattle belonging to Crown.

XVII. In the construction of this Act the term "Treasury" shall mean the Treasury or any sub-treasury or such other place as the Governor in Council shall appoint the term "commissioner" shall be deemed and taken to mean a commissioner of Crown lands or such other person as may be duly authorized by the Governor in Council to execute any of the acts duties or other matters required by this Act to be done or performed by commissioners the term "district" shall mean and include the limits within which a commissioner of Crown lands or other duly authorized person has been or may hereafter be appointed to act the term "board" shall mean and apply to the "Board of Land and Works" the term "stock" shall include sheep cattle and horses the word "sheep" shall include rams ewes wethers and lambs above six months old the word "cattle" shall include bulls cows oxen heifers steers and calves above eight months old and the word "horses" shall include horses mares geldings colts and fillies above ten months old.

Interpretation.

XVIII. This Act shall commence and be deemed to have commenced and to have come into operation on and from the first day of January one thousand eight hundred and fifty-nine and on and from that day an Act passed in the twenty-first year of the reign of Her present Majesty entitled "*An Act for an Assessment on Stock*" shall be and the same is hereby repealed excepting as to any matter or thing done or commenced or liability incurred whether for any assessment or for penalties under the said Act which may be continued and completed or remain and be recovered the same as if this Act had not passed.

Commencement of Act and repeal of 21 Vict. No. XLVII.

SCHEDULES

Assessment on Stock.

SCHEDULE B.

This is to certify that I have this _____ day of _____ in this present year _____ disposed of [sheep horses or cattle as the case may be] to C. D. the owner [or superintendent as the case may be] of the station known as [here describe the station and in what district] which sheep have been [or will be as the case may be] included in my return of stock for this present year and form a portion of those inserted under the head of the greatest number of stock depastured on my station called _____ in the district of _____ during any portion of the months of January and February last [185 .]

(Signed) A. B.

I A. B. do solemnly and sincerely declare that the above certificate is true in every particular and I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of "An Act for the more effectual abolition of Oaths and Affirmations taken and made in various Departments of the Government of New South Wales and to substitute Declarations in lieu thereof and for the suppression of voluntary and extra-judicial Oaths and Affidavits."

(Signed) A. B.

Taken before me this _____ day of _____
 in the year _____ }
 (Signed) E. F.

SCHEDULE C.

RETURN of Stock upon which no Assessment has been paid for the current year, kept and depastured by Mr. _____ in the DISTRICT of _____ rendered in conformity with the provisions of the Act No. _____

Name of Station or Land, and nearest Post-office.	Name of Licensee.	Name of Person Superintending.	The greatest Number of such Stock Depastured on such Station (whether on Crown or purchased Land, or both) for any period between 1st March and 31st August, 185 .			Brands of the Stock: distinguishing			Amount of Assessment Due.		
			Horses.	Cattle.	Sheep.	Horses.	Cattle.	Sheep.	£	s.	d.
Amount of Assessment payable on or before the 1st day of November, 185									£		

I A.B. do solemnly and sincerely declare that the foregoing return is true in every particular and I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of an Act made and passed in the ninth year of the reign of Her present Majesty intituled "An Act for the more effectual abolition of oaths and affirmations taken and made in various departments of the Government of New South Wales and to substitute declarations in lieu thereof and for the suppression of voluntary and extra judicial oaths and affidavits."

Taken before me one of Her Majesty's Justices of the Peace in and for the _____ day of _____ 185 }
 this _____ day of _____ 185 }
 J.P. A.B.

MELBOURNE:

By Authority: JOHN FERRIS, Government Printer.