

See No. 443d '08, s. 9.



ANNO VICESIMO SECUNDO ET VICESIMO TERTIO

VICTORIÆ REGINÆ.

A.D. 1859.

No. 19.

An Act to amend and consolidate the Laws in force in South Australia for preventing the extension of the Scab in Sheep.

[Assented to, 1st September, 1859.]

WHEREAS it is desirable to amend and consolidate the laws Preamble.
for preventing the extension of the scab in sheep, and in order thereto to repeal all existing Acts relating thereto: Be it therefore Enacted, by the Governor-in-Chief of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said Province, in this present Parliament assembled, as follows—

1. The following Acts are hereby repealed, except in so far as they repeal any Ordinances or Acts, or as regards any proceedings commenced, or offences already committed, or the appointment of any Inspector or other officer thereunder, namely: No. 21, 1852—Repeal of Acts.
“An Act to prevent the Extension of the Scab in Sheep in South Australia, and to make provision for the Destruction of Sheep infected with that Disorder;” No. 17, 1853—No. 21, 1852.
“An Act to amend An Act to prevent the extension of the Scab in Sheep in South Australia, and to make provision for the Destruction of Sheep infected with that Disorder;” No. 29, 1855-6—No. 17, 1853.
“An Act for the further amendment of An Act to prevent the Extension of the Scab in Sheep, and to make provision for the Destruction of Sheep infected with that Disorder.” No. 29, 1855-6.

2. The Governor may from time to time appoint Inspectors of Sheep within any parts of the said Province, by a notice to be published in the *Government Gazette*; and every person so appointed shall Governor to appoint Inspectors.

shall have full power at any time to inspect any sheep within the said Province, or the part thereof for which he shall be appointed, wherever such sheep may be depastured or kept, and shall have, exercise, and discharge, within the said Province, or the part thereof for which he shall be appointed the several powers, authorities, and duties hereinafter mentioned; and if any person shall refuse to allow any Inspector to enter upon his pasturage or premises, or to examine any sheep belonging to him, or in his care or possession, or shall attempt to impede or hinder the Inspector from examining such sheep, such person shall, on conviction, forfeit and pay the sum of Fifty Pounds.

Scabby sheep to be branded.

3. All sheep within the said Province infected with the said disease called "the scab," shall be legibly marked upon the rump with the initial letters of the first name and surname of the owner, and also with the letter S, such last mentioned letter to be at least three inches in length; and such sheep shall be kept so marked so long as they shall continue so infected; and every person who shall neglect to mark his sheep if so infected, or to keep the same marked as aforesaid, shall, upon conviction, forfeit and pay the sum of Fifty Pounds.

Brand evidence of disease.

4. For the purposes of this Act, all sheep branded as aforesaid shall be deemed to be infected with the said disease, and such brand shall be conclusive evidence against the owner of sheep so branded that such sheep are so infected.

Scabby sheep at large in hundreds, may be destroyed.

5. Any person being a sheepowner, or the servant of a sheepowner, whose sheep may be running or depasturing in any hundred, or upon any waste or common lands of the Crown, or upon private land, may seize and destroy all such sheep as are infected with the said disease, that may be running loose in such hundred, or upon any waste or common lands of the Crown, without a shepherd, or that shall be found in or approaching near to any of the flocks of sheep of such sheepowner.

Owners of sheep to deliver correct accounts of infected sheep.

6. Every owner of sheep within the said Province, and the person having the care and management of sheep depasturing within the said Province, where the owner of such sheep is absent therefrom, shall, whenever thereunto required, by a notice in writing to be personally delivered to such owner or other person as aforesaid, or left at his usual or last known place of abode in the said Province, deliver to the Inspector a correct account of all sheep in his possession or custody infected with scab, with the marks or brands of such sheep, and the description of their age and sex, and where depasturing or kept; and if any such owner or other person shall, within three days after the delivery of such notice, neglect to deliver such account, he shall forfeit and pay for every offence the sum of Twenty Pounds.

Penalty in case of scabby sheep.

7. Every person who shall be possessed of any sheep infected with the said disease shall be liable to pay the sum of Five Shillings, as a penalty, in respect of every such sheep so infected.

8. Any

8. Any Inspector, instead of proceeding to recover the said penalty, may receive from the owner of such sheep a sum of Sixpence for every sheep so infected, and may thereupon give such owner a licence to keep the said sheep, for the purpose of cleansing the same, for such period, not exceeding six calendar months, as such Inspector may deem sufficient for such purpose: Provided that every such licence shall be void, if, during the continuance thereof, the person to whom the same is granted shall not take measures for the effectual cleansing of the sheep mentioned therein, to the satisfaction of any Inspector: And provided that any Inspector may from time to time renew such licence for a period of three calendar months, upon payment of the sum of One Shilling for every sheep so infected for the first renewal; of One Shilling and Sixpence for the second renewal; and of an additional Sixpence beyond such sum of One Shilling and Sixpence for every additional renewal.

Inspectors, in their discretion, may grant further time for cleansing infected sheep.

Proviso.

9. Any three or more owners of sheep who may occupy runs within ten miles of any run upon which sheep infected with the said disease are depastured or kept, may, by notice in writing, require any Inspector to destroy such sheep so infected, notwithstanding a licence may have been granted in respect of such sheep, as herein authorized; and such Inspector, upon receiving such notice, and also a bond, with three sufficient sureties to his satisfaction, duly executed by such three persons, in the form as set forth in the Schedule annexed hereto, and, upon being satisfied that such sheep are so infected, shall forthwith seize and destroy them.

Owner of sheep may give notice for destruction of sheep.

Bond.

10. The Chief Inspector for the time being, upon being thereto requested by the owner of any sheep so destroyed as last aforesaid, shall put such bond in suit, in the name of the Inspector to whom such bond was given, although he shall no longer be Inspector, or shall be dead, in the nearest Local Court of Full Jurisdiction, which Court is hereby authorized to hear and determine the matter thereof; and shall be entitled to recover under the same, the full value (not exceeding the sum of Seven Shillings and Sixpence per head) of all sheep so destroyed, together with the cost of suit, and shall pay over all moneys received under such bond to the owner of the sheep so destroyed, and no release or discharge by the Inspector to whom the bond shall have been given shall be pleaded in bar to any such suit, nor shall any defence be available thereto, excepting proof of payment of the value of such sheep to the owner thereof.

Bond how enforced.

11. In any proceedings under this Act, proof that any sheep in a flock is infected with the said disease, shall be sufficient evidence that all the sheep in such flock are so infected.

Flock held to be diseased, if diseased sheep found therein.

12. If any sheep which shall be or shall have been infected with or dressed for the said disease shall, without the authority in writing of the Inspector, be removed from any place or run, or conducted upon or along any public road, or upon, over, or across any land in the said Province, not being in the actual occupation

Sheep diseased or dressed within six months not to be removed without authority of Inspector.

occupation of the owner of such sheep while so infected or dressed or within six calendar months after having been so infected, or dressed, the Inspector may cause such sheep, as well as all other sheep accompanying and mixed together with them, to be destroyed; or, at the option of the Inspector, the owner of such sheep shall be liable to pay a penalty of not less than One Hundred Pounds, or more than Five Hundred Pounds.

Lessee of waste lands may examine sheep driven on such lands.

13. Every lessee of waste lands of the Crown in the said Province, and every person duly authorized to occupy any part of such waste lands for the purpose of depasturing thereon, may examine any sheep which shall be driven through, over, or found upon any part of the lands occupied by him, unless the person having the charge of such sheep shall produce such authority from the Inspector as aforesaid, and if such sheep, or any of them, shall, upon examination, be found to be infected with, or to have been infected with or dressed for the said disease, then such lessee or other person may detain and keep possession as well of the sheep so infected, or that have been so infected or dressed, as of the whole flock in which such sheep are found, until the Inspector shall examine such sheep, and decide whether or not the same or any of them are infected or have been, within such period of six calendar months, infected or dressed as aforesaid; and the owner or person in charge of such sheep shall forthwith give notice of such detention to the Inspector, who is hereby required to repair, without delay, to the place where such sheep are detained, and to examine the same, and ascertain whether or not such sheep are infected with, or have, within the period aforesaid, been infected with or dressed for the said disease; and if upon such examination the said sheep, or any of them shall be found by the Inspector to be diseased, or to have been within the period aforesaid infected with or dressed for the said disease, then the Inspector may cause the whole flock to be destroyed, or, at the option of the Inspector, the owner of such sheep shall be liable to a penalty of not less than One Hundred Pounds or more than Five Hundred Pounds: Provided that if, upon examination by the Inspector, the sheep so detained shall be found not to be infected with or to have been within the period aforesaid infected with or dressed for the said disease, then the person detaining the same shall forfeit and pay the sum of not less than Ten Pounds nor more than One Hundred Pounds: And provided also, that in case the person in charge of or driving sheep through, over, or found upon any part of the lands lawfully occupied by any other person, shall refuse to permit such sheep to be examined or detained in manner aforesaid, the owner of such sheep shall forfeit and pay the sum of One Hundred Pounds.

Persons driving sheep across leased lands to give notice to occupier.

14. If any person shall drive or conduct any sheep upon or across any waste lands of the Crown in the said Province leased for and occupied as a run for cattle or sheep, where other sheep are depastured or kept, or upon or along any road which may intersect or form a boundary line of any such waste land, without having given to the occupier of such run not more than forty-eight and not less than twelve hours previous notice in writing of his intention so to drive

drive or conduct such sheep, he shall forfeit and pay a penalty not exceeding Twenty Pounds: Provided that such notice being given or left at the homestead or principal station of such occupier shall be deemed sufficient notice.

15. Any person who shall import or introduce into the said Province any sheep infected as aforesaid, and shall cause, suffer, or permit them to be landed in the said Province, or driven over the boundary of any other Colony into the said Province, without the authority in writing of the Inspector, shall forfeit and pay the sum of Fifty Pounds.

Penalty on person importing.

16. Any owner of sheep infected as aforesaid shall cause the same to be followed and kept in sight when depasturing throughout the day, and to be kept within secure folds or other fences throughout the night; and if he shall neglect so to do he shall forfeit and pay the sum of Twenty-five Pounds for every day or night he shall so neglect.

Owners of sheep to cause them to be followed during the day and kept securely folded during the night.

17. The Inspector may employ persons to assist him in the destroying sheep under the provisions of this Act, and the owner of sheep so destroyed shall pay to the Inspector, on demand, the cost thereof, and if the owner shall refuse to pay such cost on demand, the amount may be recovered by the Inspector from the owners by the same proceedings as in the recovery of a penalty.

Inspector may employ person or persons in destroying sheep, the cost of which the owner shall pay.

18. Every proceeding for the recovery of any penalty, sum of money, and other sums, by this Act imposed or made payable, may be had before any two or more Justices of the Peace for the said Province, in a summary way, in the name of the Inspector.

Penalties may be recovered in a summary way.

19. If any person, against whom any proceeding may be taken under this Act as owner of any sheep, shall dispute his ownership thereof, or if it shall be uncertain who is the owner of any sheep, in respect of which any proceedings for the recovery of a penalty may have been instituted, the said Justices may give judgment against the owner of the sheep, in respect of which such proceedings have been instituted by such description merely, and may direct that such penalty, and the costs of and attending the recovery thereof, shall be levied by seizure and sale of such sheep, or of so many of such sheep as may be necessary to satisfy the same.

Judgment for a penalty may be given against owner, and levied by sale of sheep.

20. All penalties and sums of money recovered or made payable under this Act, shall, except where otherwise specially provided, be paid to the Treasurer for the public use of the said Province.

Application of penalties, &c.

21. In the construction of this Act, the word "sheep," shall include rams, wethers, ewes, and lambs; and the word "Inspector," shall mean any Inspector of Sheep heretofore appointed or who shall be appointed under this Act.

Interpretation clause.

22. This Act may be cited as the "Scab Act, 1859."

Short title.

23. This Act shall take effect from the first day of September, 1859.

Commencement of Act.

SCHEDULE REFERRED TO.

Know all men, by these presents, that we, A. B., of C. D., of
 and E. F., of are jointly and severally held, and firmly bound to G. H., of
 Inspector of Scab, in the penal sum of £ (double the esti-
 mated value of the sheep at seven shillings and sixpence per head), for which sum, to
 be well and truly paid to him, we do hereby bind ourselves, our heirs, executors, and
 administrators, and our and their goods and chattels.

Sealed with our seals. Dated this day of 18 .
 Whereas we the above bounden having given notice in writing to Inspec-
 tor of Scab to destroy certain sheep, infected with the disease called the scab, now
 depastured at Now the condition of the said bond is such, that if we the
 said or one of us, our or one of our executors, administrators, or assigns
 do and shall pay to the owner of the said sheep the full value thereof, or of such
 thereof as may have been destroyed according to the aforesaid notice, not exceeding
 seven shillings and sixpence per head for each of such sheep, then the above written
 obligation to be null and void, otherwise to remain in full force and virtue.