



WESTERN AUSTRALIA.

ANNO TRICESIMO

VICTORIÆ REGINÆ.

NO. XIII.

AN ORDINANCE for the prevention and cure of Scab in Sheep.

[17th December, 1866.]

WHEREAS it is expedient to provide for the prevention and cure of Scab in sheep:—Be it therefore enacted by His Excellency The Governor of Western Australia, and its dependencies, by and with the advice and consent of the Legislative Council thereof, as follows:—

1 THIS Ordinance shall commence and take effect on and from the First day of July, One thousand Eight hundred and Sixty-seven; and shall be styled, and may be cited as the “Scab in Sheep Ordinance of 1866.”

Commencement.

2 THE Ordinances Seventh Victoria, No. 15 of 1844, and Twenty-first Victoria, No. 5 of 1857, and so much of any other Ordinance as relates to the disease called Scab, or to sheep infected therewith shall remain in force until the First day of July, One thousand Eight hundred and Sixty-seven, and no longer.

7 Vict. No. 15 and 21
Vict. No. 5 repealed.

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Interpretation.

3 THE following terms in inverted commas shall, for the purposes of this Ordinance, bear the meaning set against them respectively, unless the context otherwise indicates:—

“**RUN**,”—Any Station, Squat, Farm, Paddock, Yard, or other place where sheep are kept or depastured.

“**SHEEP**,”—Any ram, ewe, wether, or lamb.

“**OWNER**,”—Any proprietor, lessee, licensee, overseer, superintendent, manager, or person in possession or charge of any sheep.

“**INSPECTOR**,”—Any Inspector of sheep appointed under this Ordinance.

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

“**CLEAN**,”—Free from scab under the certificate of an Inspector.

“**BRAND**” or “**BRANDED**”—To brand on the rump with pitch, tar, or black or red paint; or some other suitable composition.

“**PUBLIC WAY**,”—Any proclaimed road, or any road or way dedicated to the public, or which has been ordinarily used by the public three years at least.

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

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

“**JUSTICE**,”—Any Justice of the Peace.

scab

Scab Districts.

4 THE Governor may from time to time, by notice in the Government Gazette, establish and fix the boundaries or limits of “Scab Districts” in such parts of the Colony, and comprising such areas respectively, as may be considered most convenient for the purposes of this Ordinance. And shall appoint for each scab district, by notice in the Government Gazette, an Inspector of sheep: Provided that the Governor may remove from office any such Inspector on proof to his satisfaction of unfitness or misconduct.

Appointment of Inspectors.

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

Power and Duties of Inspectors.

Penalty for obstructing him.

6 EVERY Inspector who shall refuse, or wilfully neglect, or unreasonably delay to perform any of the duties hereby imposed on him, or who shall be guilty of misconduct in the performance thereof, or who shall wilfully abuse the powers and authority hereby entrusted to him, shall for every such offence be liable to a penalty not exceeding Fifty pounds.

Inspector liable to penalty for delay or misconduct in the discharge of his duty.

7 EVERY owner shall within three days after he shall have become aware of any of his sheep being infected, affix at each point of entrance of any public way intersecting his run, a notice signed by him and written or printed in distinct legible characters not less than one inch in length, to the following effect—"Scab on this run." And every such notice shall be dated on the day on which it shall be first affixed, and shall be kept so affixed until such sheep shall be duly declared clean; and every owner of infected sheep who shall fail or delay to cause such notice to be so affixed or kept affixed shall incur a penalty not exceeding Ten pounds for every day of such failure or delay. And every person who shall wilfully tear, deface, or remove such notice, shall be liable to a penalty of not exceeding Twenty pounds.

Public notice of Scab breaking out.

8 EVERY owner shall within three days after he shall have become aware of any of his sheep being infected sheep, send in writing by messenger, or through the post, if any, to the Inspector of his district, and also to the nearest Resident Magistrate, a notice of such infection, with a correct account of the infected sheep, stating the number thereof, and describing their several marks or brands, and precisely defining the localities in which they are respectively kept or depastured; And every such owner who without reasonable cause shall neglect to comply with any of the provisions of this section, shall incur a penalty of not exceeding Twenty pounds for

Immediate notice of infection to Inspector and Resident.

Penalty on neglect.

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A compulsory license for cleansing infected sheep to be issued.

Power of renewal on payment of fee.

Proof of one sheep being infected sufficient evidence as to infection of flock.

Penalty on unlicensed owners of infected sheep.

License may be avoided by Inspector.

Appeal.

Destruction of sheep, on application, by two Justices.

for every day beyond the said three days during which such neglect shall continue. And such or any other Inspector may examine such or any other infected sheep, and, on being satisfied the same are infected sheep, or on being satisfied from any inspection or examination, irrespective of such notice, or in cases where such notice has not been received, any sheep are infected, shall issue, as of course to such owner a compulsory license to keep any infected sheep for the purpose of cleansing the same in quarantine for six months or until declared to be clean by a certificate under the hand of such or some other Inspector as hereinafter provided, and shall also in like manner issue a fresh license for every additional number of sheep becoming from time to time infected sheep; Provided that any Inspector may from time to time renew any such license for a period of three months upon payment of a license fee of Six pence for every sheep so infected for a first renewal, and one shilling for a second and every subsequent renewal.

9 IN any proceedings under this Ordinance 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.

10 EVERY owner who without a license as hereinbefore provided shall knowingly and without reasonable excuse have any infected sheep on his run, during any period exceeding seven days shall incur a penalty of not less than One shilling nor exceeding five shillings in respect of every sheep so infected. Provided that if any such owner shall desire to destroy the said sheep, he shall have one month for so destroying them.

11 EVERY such license may be declared by any Inspector in writing to be and shall thereupon be absolutely void, if during the continuance thereof the owner to whom the same is granted shall not take measures for the effectual cleansing of the sheep mentioned therein to the satisfaction of such Inspector, and any owner whose license shall not have been so renewed, or shall have been so declared void, shall incur a penalty of not less than Six pence nor exceeding One shilling in respect of every sheep so infected; Provided that any refusal by an Inspector to renew a license, or any declaration of avoidance by an Inspector shall be subject to an appeal to any two or more Justices, who shall have power to order such license to be renewed, or such declaration of avoidance to be annulled: And provided that on such refusal to renew a license, or any such avoidance, it shall be lawful for two or more Justices, on the application of such Inspector, and after hearing and inquiring into

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into the matter of such application, and examining witnesses on oath, if necessary, to adjudge such infected sheep, specified in such license, to be forfeited, and thereupon such Justices shall order them to be destroyed by the Inspector without compensation to the owner thereof or any person having interest therein; and the expense incident to such destruction shall be borne by such owner; and on such destruction of the said infected sheep the owner thereof shall not be liable to pay any penalty then due in respect thereof.

12 ANY Inspector may employ any person to assist him in destroying any sheep ordered to be destroyed under this Ordinance. And if any owner refuses to pay the expenses incident to such destruction, they may be recovered summarily in like manner as any penalty under this Ordinance.

Inspector may employ anyone to assist.

13 EVERY owner of infected sheep shall cause the same to be followed and kept in sight when depasturing throughout the day and to be kept within secure inclosures throughout the night; And any owner who shall neglect so to do shall incur a penalty, not exceeding Twenty-five pounds for every day or night he shall so neglect.

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

14 EVERY Inspector on being satisfied that any sheep are infected shall declare the run of the owner of such infected sheep whereon the same are for the time being depasturing, as and to be the boundary within which the whole of such infected sheep shall be kept in quarantine, until declared to be clean by a certificate under the hand of such or some other Inspector, which he is authorised to grant, and within which boundary no other sheep shall be admitted until such run shall be declared clean in like manner.

Quarantine for infected sheep.

15 EVERY such quarantine boundary shall be binding on the owner and all other persons whomsoever; and any owner who shall knowingly remove or cause to be removed beyond such boundary any sheep until he shall have obtained a certificate as aforesaid, shall be deemed guilty of a misdemeanor.

Penalties for infringing quarantine.

16 WHOSOEVER shall wilfully make any false report, or sign any false certificate respecting any sheep, shall be deemed guilty of a misdemeanor.

False report to be a misdemeanor.

17 ALL infected sheep above the age of three months shall be legibly branded with the letter S at least three inches in length, and shall remain so branded until declared clean by the Inspector as hereinbefore provided. And every owner neglecting any provision of

Branding infected sheep.

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of this section shall incur a penalty not exceeding One hundred pounds.

18 FOR the purposes of this Ordinance, all sheep branded as aforesaid shall be deemed to be infected sheep, and such brand shall be *prima facie* evidence of infection.

Brands evidence of infection.

19 AT any time within one month after any owner shall have obtained a certificate that his sheep are clean, he may apply in writing to the Inspector for authority to receive back any license fee, upon the ground that at the time of his paying the same, such sheep were, and had thenceforth continued to be, actually clean although according to the terms of this Ordinance he was not then yet entitled to such certificate. And if upon full enquiry by the Inspector it shall be satisfactorily shewn the fact was so, he may state it in writing. And the Colonial Treasurer upon the authority of such written statement, and with the approval of the Governor, shall pay to such owner the amount of such license fee.

Return of license fee under special circumstances.

20 ANY owner not having a certificate of an Inspector that his sheep are clean, or a written permission as aforesaid, who without reasonable excuse shall drive or conduct any sheep upon or across any run where other sheep are depastured and kept, or upon or along any public way which may intersect or form a boundary line of any such run, without having given not more than forty eight nor less than Twelve hours previous notice to the owner of such run, of his intention to drive or conduct such sheep as aforesaid, shall incur for every such offence a penalty not exceeding Fifty pounds; Provided that notice given at the house, homestead, or principal station of the owner, shall be deemed sufficient notice.

Persons driving sheep to give notice to occupier.

21 EVERY owner may examine any travelling sheep which may be driven through, over, or be found upon, any part of the Lands occupied by him; and if such sheep, or any of them, shall upon examination be found to be infected with the said disease, then if the owner of such travelling sheep shall not forthwith destroy all such sheep actually diseased with scab and drive the remainder back to the run from which they were first driven, along the same track by which they came, in such case the owner of such land may detain and keep possession, as well of the sheep so infected, 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; and the owner or person in charge of such sheep, shall forthwith give notice of such detention to the Inspector, who is hereby

Owner may examine sheep driven on his lands.

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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 the said disease, and if upon such examination the said sheep or any of them shall be found by the Inspector to be diseased, then the owner of such sheep shall be liable to a penalty of not less than Fifty pounds or more than Two hundred, a moiety whereof shall be paid to the owner of the run on which the said sheep are detained, as compensation. And immediately on finding any of the said travelling sheep actually diseased with scab, such Inspector shall destroy all that in his opinion are so actually diseased as aforesaid, without any compensation to the owner thereof, and shall, if he deems it necessary or proper so to do, require the owner or person then in care of such travelling sheep, with all possible expedition, to drive the remainder thereof back to the run from which they were then first driven, which he may do without being liable to further examination and detention under this section, and on failure to comply with such request, such, or any other Inspector, is hereby authorised to destroy the same, without compensation as aforesaid; and the owner of the run on which such sheep are so detained, notwithstanding this ordinance, shall not be prejudiced as to any civil proceedings against the owner of such travelling sheep. Provided that if upon examination by the Inspector the sheep detained shall be found not to be so infected with the said disease, then the owner or 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, or shall not if required assist such Inspector in destroying such sheep, the owner of such sheep shall forfeit and pay the sum of One hundred pounds: Provided further that, with the consent of the owner of any infected run, any infected sheep may travel over the same. Provided that any sheep not being infected sheep driven from one run to any other run of the same owner, not being more than Twenty miles, shall not be deemed travelling sheep within this Ordinance.

22 ANY owner may seize and destroy any infected sheep which he finds off their own runs without a shepherd: Provided that unless when practicable such owner shall within three days thereafter deliver in writing or send by registered letter through the post a notice thereof with particulars of the sheep destroyed to an Inspector of the district, he shall incur a penalty not exceeding One hundred pounds.

Infected sheep loose may be killed.

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

23 EVERY owner of sheep imported into any seaport either coastwise or from parts beyond the seas, shall report in writing the fact of such importation as soon as practicable after their arrival to some Inspector or Resident Magistrate at or near to such seaport, and shall not remove such sheep from such seaport until they shall have been declared clean by the certificate of an Inspector or of any other person appointed by the Governor for that purpose. And every owner, any of whose sheep so imported, shall be so removed without such certificate being first obtained, shall for every sheep so removed incur a penalty not exceeding Five pounds.

Communicating scab, a misdemeanor.

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

Shepherd punishable for misconduct.

25 ANY person employed in the capacity of a shepherd, who on the disease called Scab breaking out in any flock of sheep in his charge as such shepherd, shall omit or neglect forthwith to inform his master or employer thereof, or shall carelessly neglect any sheep in his care, whereby they may become scabbed, every such offender shall on conviction before two Justices forfeit any reasonable damages for such sheep so neglected or scabbed as aforesaid, to be recovered in a similar manner to penalties under this Ordinance, and in default of sufficient distress shall be committed to Gaol by the convicting Justices for any period not exceeding six calendar months, with or without hard labor, at the discretion of the said Justices; and the master or employer of such shepherd so convicted may deduct the amount of such damages from the wages for the time being due to such shepherd, or apply the whole thereof towards satisfaction of such damages, as the case may be.

Casting carcasses of infected sheep into stream or waterhole.

26 WHOSOEVER shall cast or cause to be cast into any stream or waterhole the carcass of any infected sheep shall incur for every infected sheep so cast a penalty of Ten pounds.

Slaughtering or exposing for sale.

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

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28 WHOSOEVER shall remove or carry away the wool or skins of any infected sheep otherwise than in bags or bales, securely packed and sewed up, shall for every such offence incur a penalty not exceeding Fifty pounds. Wool or skins of infected sheep not to be removed

29 FOR defraying the cost and expense of carrying this Ordinance into effect, there shall in each year on and after the First day of January, One thousand Eight hundred and Sixty-eight, be levied and paid upon and in respect of all sheep depastured and kept in any part of the Colony, for every One thousand sheep, a contribution of Two pounds, and so in proportion for any greater or smaller number possessed by one owner, such contribution to be paid on or before the First day of January in each year, at the Office of the Colonial Treasurer in Perth, or to such other officer, and at such other place, as the Governor may appoint, and all such contributions shall by the said Colonial Treasurer be carried over to a separate account which shall be kept in the Books of the Treasury of all monies so carried over in respect of such contributions and otherwise under this Ordinance, and of all monies paid thereout under and for the purposes of this Ordinance: Provided that if at any time it shall appear upon balancing such account that the monies so carried over exceed the requirements of this Ordinance, the Governor shall reduce or remit such contributions for any period to be specified by proclamation or notice in the Government Gazette: And if it shall appear from time to time and at any time after such reduction or remission, such monies are insufficient for such requirements, for the time being, the Governor shall increase such reduced sum to an amount equal to such requirements in manner aforesaid, so as in no case to exceed the proportion aforesaid. Yearly contribution on sheep.

30 EVERY owner of sheep depastured and kept in the Colony shall make to the Clerk to the Resident Magistrate for the District in which the said sheep are depastured, a return on the First day of November, One thousand eight hundred and sixty-seven, and on the First day of October in each succeeding year, or within fourteen days thereafter in each year, of all sheep so kept and depastured, and any owner who shall fail to make such return at the time so appointed, shall incur for every such offence a penalty not exceeding Ten pounds. Returns of sheep.

31 EVERY owner making such return shall if required verify the same by a solemn declaration made before any Justice, to the effect that the several matters and things contained in such return are true to the best of his knowledge and belief, and any owner who shall Returns to be verified

shall wilfully make therein any false statement shall be deemed guilty of a misdemeanor.

Annual return of contribution to be made.

32 THE several Clerks to the Resident Magistrates shall within Twenty-one days after the First day of October in each year from such returns calculate the amount of contribution to be made by the several owners within their respective districts, and shall on or before the First day of December then next, make a return thereof to the Colonial Treasurer, according to which return the contribution hereinbefore mentioned shall upon notice as hereinafter provided be due and payable as aforesaid by the owners therein named, except in so far as the same may be affected by any order made on appeal as hereinafter provided.

Notice of calculation of contribution.

33 THE said several Clerks to the Resident Magistrates shall also, not less than One month previous to such contribution becoming due, cause a list of the amount of contribution to which each owner is liable to be affixed at some conspicuous part of the Police office of his district, and requiring him to pay the same at the office of the Colonial Treasurer, or such other office as the Governor shall appoint to receive the same, from time to time, on or before the First day of January then next ensuing.

Appeal against contribution.

34 ANY owner liable to contribute as aforesaid, who shall consider himself aggrieved by the amount charged to him, may appeal to the Petty Sessions of his district on giving Ten day's notice of his intention to appeal, and the Petty Sessions shall determine the matter of the appeal.

Payment, how enforced.

35 IN the absence of any such appeal within the time limited, or in the case of such appeal being decided against the appellant, if the owner liable to pay such contribution shall not on or before the First day of March pay the same to the Colonial Treasurer or other Officer as aforesaid, the same, together with an additional sum equal to one-fourth part thereof by way of penalty, may be recovered summarily in like manner as any penalty under this Ordinance.

Regulations.

36 THE Governor may make all necessary regulations respecting the duties of Inspectors; and may make any special arrangements necessary to prevent the occurrence of any serious public inconvenience by reason of the establishment of any Quarantine boundary or otherwise: and as to all other matters of detail for carrying this Ordinance into full effect so far as the same are consistent herewith and

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and are not herein provided for by express enactment, and such regulations, being published in the Government Gazette, shall have the force of Law.

37 ALL penalties under this Ordinance may be recovered in a summary way before any two or more Justices on the complaint of an Inspector. Penalty, how recovered and applied.

38 EVERY person deemed guilty of a misdemeanor under this Ordinance shall be liable to be imprisoned with or without hard labor for any period not exceeding two years. Misdemeanor.

39 SECTIONS A. D. G. H. and I. of the "Shortening Ordinance 1853" shall be incorporated with and taken to form a part of this Ordinance to all intents and purposes, and in as full and complete a manner as if the said section or sections had been introduced and fully set forth in this Ordinance. Shortening Ordinance.

J. S. HAMPTON,

GOVERNOR AND COMMANDER-IN-CHIEF.

(I.S.)

*Passed the Legislative Council,
this 17th day of December, 1866.*

G. S. PASCOE,

Acting Clerk of Council.