



WESTERN AUSTRALIA.

ANNO QUADRAGESIMO TERTIO

VICTORIÆ REGINÆ.

No. XVI.

AN ACT to amend and consolidate the Laws
for preventing and exterminating the Scab
in Sheep.

[Assented to, 3rd September, 1879.]

WHEREAS it is expedient to amend and consolidate the Laws
for preventing and exterminating the Scab in Sheep,
and to make other provisions with reference thereto: Be it 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:—

Preamble.

1 THE following Acts are hereby repealed, except so far as
regards any proceedings commenced or offences committed, or the
recovery of contributions, or the appointment of any inspector or
other officer thereunder, namely:—

Repeal of Acts.

The 30th Victoria, No. 13.

The 36th Victoria, No. 6.

The 41st Victoria, No. 13.

Commencement.
Short title.

2 THIS Act shall commence and take effect on such day as the Governor in Executive Council shall by notice to be inserted in the *Government Gazette* appoint, and may be cited as "The Scab Act, 1879."

Interpretation.

3 THE following terms in inverted commas shall, for the purposes of this Act, 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; and in the absence of a quarantine boundary defined by an inspector in his declaration, includes the whole area of the land held in one block or in several contiguous blocks by an owner.

"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 or assistant inspector of sheep appointed under this Act.

"INFECTED SHEEP,"—Any sheep actually infected with the disease called scab, or any sheep which may have formed part of a flock one of which is infected, or which has been infected within the next preceding six months, and all infected sheep within the aforesaid definition, until declared clean.

"SUSPECTED SHEEP,"—Any sheep, other than sheep coming within the definition of "infected sheep" prescribed by this Act, which from having been in contact or associated with "infected sheep" from another flock, or from any other cause (although no certain indication of infection is observable on such sheep), may, by an inspector be reasonably supposed to be likely to become "infected."

"CLEAN,"—Free from scab under the certificate of an inspector.

"BRAND" or "BRANDED,"—To brand or be branded on the rump with some suitable composition.

"PUBLIC WAY,"—Any road within the meaning of "The District Roads Act, 1871," or any road or way dedicated to the public, or which shall have 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.

43° VICTORIÆ, No. 16.

The Scab Act, 1879.

“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.

4 THE Governor may from time to time, by writing under his hand to be notified 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 Act. And may from time to time appoint inspectors of sheep and assistant inspectors: Provided that the Governor may delegate the power of appointing assistant inspectors to any Government Resident or Resident Magistrate. And such inspectors and assistant inspectors shall hold office during the Governor’s pleasure.

Scab Districts.

Appointment of Inspectors.

5 EVERY inspector may at any time enter upon any run, and inspect and examine any sheep wherever 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 Act 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 the exercise of his powers and duties, or if the owner of such sheep shall not when required by an inspector forthwith discover and produce and drive or assist in driving them or cause them to be driven into some convenient place for examination, shall be deemed guilty of an offence.

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 be deemed guilty of an offence.

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 that portion of his run where such sheep are kept or depastured, 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

Public notice of scab breaking out.

fail or delay to cause such notice to be so affixed or kept affixed, and every person who shall wilfully tear, deface, or remove such notice, shall be deemed guilty of an offence.

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 or by telegraph, 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 be deemed guilty of an offence on 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 with or without any inspection or examination, irrespective of such notice, or in cases where such notice has not been received, that any sheep are infected, shall issue, as of course, to such owner a compulsory license to keep any infected sheep for the purpose of cleaning the same in quarantine.

Immediate notice of infection to Inspector and Resident.

Penalty on neglect.

A compulsory license for cleaning infected sheep to be issued.

Duration of compulsory licenses.

9 SUCH compulsory license shall enure for the following periods, or until such earlier period as the sheep shall be clean:

If issued in the months of May or June—for sixteen weeks;

If issued in the months of July or August—for twelve weeks;

If issued in the month of September—for eight weeks;

If issued in the month of October—until the 1st day of December;

If issued at any time between the first day of November and first day of May—for four weeks.

If such sheep shall not be “clean” on the expiration of such compulsory license, an inspector shall continue such license for a further period of eight weeks upon payment of three pence per head for such sheep.

10 IF upon the expiration of any continued (or second) compulsory license, the sheep specified in such license shall not be clean, the owner of the sheep specified in such license, not

43° VICTORIÆ, No. 16.

The Scab Act, 1879.

being the shepherd or mere servant in charge of such sheep, shall be guilty of an offence, and an inspector shall thereupon make complaint of the same to any justice; and any two or more justices, upon proof of the offence, shall, in addition to the penalty prescribed in this Act, order an inspector to enter upon the run of the owner of such sheep, and seize, take possession of, hold, and take such steps as he may think proper to, endeavor to clean the said sheep, and for that purpose an inspector may seize, take possession of, and use all tanks, implements, and medicines on the run; Provided, nevertheless, that the said justices may, in lieu of such order, adjudge the sheep specified in such license to be forfeited, and thereupon such justices shall order them to be destroyed by an 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 sheep the owner shall not be liable to pay any penalty then due in respect thereof.

11 SUSPECTED sheep shall, on the written order of an inspector delivered to the owner, be kept by such owner isolated and free from contact with other sheep, for a period not exceeding thirty days. And every owner not complying with the terms of such order shall be guilty of an offence.

12 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.

Penalty on unlicensed owners of infected sheep.

13 SUCH license may be declared by any inspector in writing (delivered to the owner of the sheep specified in such license) to be, and shall thereupon be absolutely void, if during the continuance thereof such owner shall not have taken measures, to the satisfaction of such inspector, for the cleaning of the sheep mentioned therein, and any owner whose license shall have been so declared void, shall incur a penalty of not less than Sixpence, nor exceeding One shilling, in respect of every sheep so infected; provided that 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 declaration of avoidance to be annulled; and provided that on any such declaration of avoidance by an inspector it shall be lawful for two or

License may be avoided by Inspector.

more Justices, on the application of an inspector, and after hearing and enquiring into the matter of such application, and examining witnesses on oath if necessary, to order such inspector by writing under their hands, delivered to such inspector, thereupon to enter upon the run, seize, and take possession of, hold, and endeavor to clean the sheep specified in such license, by such means as he may think proper, and for that purpose the inspector may seize, take possession of, and use all tanks, implements, and medicines on the run; provided, nevertheless, that the said Justices shall have power, in lieu of making the order aforesaid, to adjudge the sheep specified in such license to be forfeited, and thereupon such Justices shall order them to be destroyed by an 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 sheep the owner thereof shall not be liable to pay any penalty then due in respect thereof.

Inspector may employ any-one to assist.

14 AN inspector may employ any person to assist him in cleaning or destroying any sheep ordered to be cleaned or destroyed under this Act. And if any owner refuses to pay the expenses incident to such cleaning or destruction, they may be recovered summarily in like manner as any penalty under this Act.

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

15 EVERY owner of infected sheep, not depasturing within secure enclosures, shall cause the same to be followed and kept in sight when depasturing throughout the day, and if an inspector by writing under his hand delivered to such owner shall so order, to be kept within secure enclosures 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.

Quarantine for infected sheep.

16 EVERY inspector on being satisfied that any sheep are infected shall, by writing under his hand delivered to the owner of such sheep, declare the run, or any portion thereof to be defined in such writing, as and to be the boundary within which the whole of such infected sheep shall be kept in quarantine, until clean, and within such boundary no other sheep shall be admitted until such run shall be clean; Provided, nevertheless, that an inspector may, subject to such conditions as he may deem necessary, permit infected sheep to be removed from one quarantine boundary to another, and for such purpose shall in granting such permission deliver to the owner an instrument in writing under his hand, defin-

43° VICTORIÆ, No. 16.

The Scab Act, 1879.

ing the route over and the conditions under which such sheep shall be taken or driven during such removal; Provided, however, that nothing herein contained shall empower an inspector to permit such sheep to be driven across lands or runs other than those belonging to or in the occupation of the owner of such sheep, nor over nor upon public roads intersecting or bounding lands other than those of the said owner, except with the consent of the owner or owners of such other lands, and except over waste lands of the Crown not held under lease or license; and any owner wilfully infringing the terms of such instrument shall be guilty of an offence.

17 EVERY such declared 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 not clean, or who shall knowingly infringe any of the provisions of the last preceding section, shall be deemed guilty of an offence.

Penalties for infringing quarantine.

18 WHOSOEVER shall wilfully make any false report, or sign any false certificate or return respecting any sheep, shall be deemed guilty of an offence.

False report to be an offence.

19 ALL infected sheep above the age of three months shall be legibly branded by the owner with the letter S, at least three inches in length, and shall be kept by him so branded until clean. And every owner neglecting any provision of this section shall be deemed guilty of an offence.

Branding infected sheep.

20 FOR the purposes of this Act, 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.

21 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 an 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 Act he was not then yet entitled to such certificate. And if upon full inquiry by the inspector it shall be satisfactorily shown the fact was so, he shall 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.

Persons driving sheep to
give notice to occupier.

22 ANY owner not having a written permission therefor from an inspector, who shall drive or conduct any sheep upon or across any run, or upon or along any public way which may intersect or form a boundary line of any 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 be deemed guilty of an offence; Provided that notice given at the house, homestead, or principal station of the owner, shall be deemed sufficient notice. And such permission shall be applicable only to the particular sheep so mentioned therein and so being driven or conducted; and shall not enure for a longer period than shall elapse from the time when such sheep shall leave their run until they shall be expected to arrive at their place of destination, computing five miles a day as the rate at which, if driven, such sheep shall travel.

Owner may examine sheep
driven on his lands.

23 EVERY owner or inspector 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 part of them, shall upon examination be found to be infected, then if the owner of such travelling sheep shall not forthwith destroy all such infected sheep 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 an 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 an 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 the said disease; and if upon such examination the said sheep or any of them shall be found by the inspector to be infected, 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 infected, such inspector shall destroy all that in his opinion are so infected 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

43° VICTORIÆ, No. 16.

The Scab Act, 1879.

liable to further examination and detention under this section; and on failure to comply with such request, any inspector is hereby authorised to destroy the same, without compensation as aforesaid. 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 be deemed guilty of an offence. 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 be deemed guilty of an offence. 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 Act.

24 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 be deemed guilty of an offence.

Infected sheep loose may be killed.

25 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.

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

26 WHOEVER shall wilfully or negligently communicate or cause to be communicated to any sheep the disease called scab, shall be deemed guilty of an offence.

Communicating scab, an offence.

27 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

Shepherd punishable for misconduct.

43° VICTORIÆ, No. 16.

The Scab Act, 1879.

in his care, whereby they may become infected, every such offender shall on conviction before two Justices forfeit any reasonable damages for such sheep so neglected or infected as aforesaid, to be recovered in a similar manner as penalties under this Act, 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.

28 WHOSOEVER shall cast or wash, or cause to be cast into or washed, in any stream or waterhole or well, any infected sheep, or the carcass or portion of the carcass of any infected sheep, shall incur for every such infected sheep or carcass or portion of the carcass a penalty of Ten pounds.

Slaughtering or exposing for sale.

29 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 carcass or any part thereof in any public place, shall be deemed guilty of an offence, and the convicting Justices shall direct that the flesh of all such infected sheep so slaughtered or exposed shall be seized and destroyed.

How wool or skins of infected sheep to be removed.

30 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 be deemed guilty of an offence.

Yearly contribution on sheep.

31 FOR defraying the cost and expense of carrying this Act into effect, there shall in each year, on and after the first day of January 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 April in each year, at the Office of the Colonial Treasurer in Perth, or the Resident Magistrate of the district, or to such other officer, and at such other place, as the Governor may appoint.

Returns of sheep

32 EVERY owner of sheep shall, on or within fourteen days before the first day of January in each year, make to the Resident Magistrate for the district in which the said sheep are depastured, a

43° VICTORIÆ, No. 16.

The Scab Act, 1879.

return in writing, signed by him, of all sheep so kept and depastured; and any owner who shall fail to make such return shall be deemed guilty of an offence. Provided that in such case the word "owner" shall not include a mere shepherd, or a servant in possession or charge of any sheep.

33 THE several Resident Magistrates shall within Twenty-one days after the First day of January 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 March 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 effected by any order made on appeal as hereinafter provided.

Annual return of contribution to be made.

34 THE said several 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 said Resident Magistrate or Colonial Treasurer, or of such other officer as the Governor shall appoint to receive the same, from time to time, on or before the First day of April then next ensuing.

Notice of calculation of contribution.

35 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 to the Resident Magistrate, by notice in writing, to be left for him at the Court House or Justices' Room of the district, or given to him in person, or sent to him through the post, Ten days' notice of his intention to appeal, and the Petty Sessions shall determine the matter of the appeal.

Appeal against contribution.

36 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 Fifteenth day of April 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 Act.

Payment, how enforced.

37 THE Governor may, by writing under his hand, make all necessary regulations respecting the duties of inspectors; and may

Regulations.

43° VICTORIÆ, No. 16.

The Scab Act, 1879.

make any special arrangements necessary to prevent the occurrence of any public inconvenience by reason of the establishment of any Quarantine boundary or otherwise; and as to all other matters of detail for carrying this Act into full effect so far as the same are consistent herewith and are not herein provided for by express enactment, and such regulations, being published in the *Government Gazette*, shall have the force of Law; and any person guilty of a breach or nonobservance thereof, shall be deemed guilty of an offence.

Evidence of appointment. **38** THE notification in the *Government Gazette* of the appointment of any inspector under this Act, shall be sufficient evidence of such appointment.

Penalties for offences. **39** ALL offences under this Act shall, in the absence of a specific penalty, render the offender liable to a penalty not exceeding One hundred pounds; and a conviction for an offence shall not prejudice the right of any person aggrieved by the Act constituting such offence, to recover damages in a civil action.

Penalty, how recovered and applied. **40** ALL penalties under this Act may be recovered in a summary way before any two or more Justices on the complaint of an inspector. And such penalties shall in all cases go to the use of Her Majesty, her heirs and successors, for the public uses of the Colony, and the support thereof; but the same may, to the extent of one moiety in each case, be paid and applied to the informer or complainant, as the Governor may direct.

Shortening Ordinance. **41** SECTIONS A, D, F, G, H, and I, of "The Shortening Ordinance, 1853," shall be incorporated with and taken to form a part of this Act 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 Act.

In the name and on behalf of the Queen I hereby assent to this Act:

H. ST. GEORGE ORD, Governor.