



ANNO QUARTO

VICTORIÆ REGINÆ.

v. also for  
5th Sect. 80  
p 234 -

No. 6.

*AN ACT for preventing the Extension of the infectious Disease commonly called the Scab in Sheep or Lambs in the Province of South Australia.*

**W**HEREAS a certain infectious disease commonly called the scab has for some time been prevalent amongst sheep and lambs in South Australia and sheep and lambs infected with the said disease are frequently imported from the neighbouring colonies to the great injury of individuals and of the interests of the Province and it is expedient to prevent as much as possible the further communication of the said disease—

BE IT THEREFORE ENACTED by His Excellency Lieutenant-Colonel GEORGE GAWLER Knight of the Royal Hanoverian Guelphic Order Governor and Commander-in-Chief of Her Majesty's Province of South Australia by and with the advice and consent of the Legislative Council thereof as follows that is to say :

1. That it shall be lawful for the Inspector of cattle Brands for any district within the Province or such other person as may be appointed by the Governor which appointment His Excellency is hereby authorised to make alter cancel & renew from time to time as he may deem fit and such Inspector or other person is hereby required upon complaint made to or information lodged with him of the introduction into the colony of any sheep or lambs infected with the said disease subsequent to the tenth day of April next to inspect such sheep or lambs and report upon their condition to the Commissioner of Police and on its appearing that such sheep or lambs are so infected in whole or in part the proprietor of such sheep or lambs or the party under whose charge the same may be shall forfeit and pay a penalty of ten shillings for every sheep or lamb composing the flock in which such diseased sheep or lambs are found over and above any duty payable on the importation of stock into the colony and such penalty shall be recoverable at the suit of the said Commissioner of Police or any other officer who may be authorised by the Governor

introduction of  
scabbed sheep

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}

Governor/by summary proceeding before the Resident Magistrate or any two Justices of the Peace and shall be paid and applied in a manner hereinafter directed.

*Power of Inspector  
to inspect deathly  
flocks - & to give  
Not<sup>n</sup> to claim*

*at the end of 6  
months Penalty  
of disease -*

II. That from and after the commencement of this Act it shall be competent to the said Inspector or other person appointed as aforesaid, upon complaint or information lodged with him in regard to any sheep or lambs alleged to be in a diseased state from scab to visit and inspect such flock or flocks and upon his finding the same to be more or less in a diseased state to deliver to the proprietor thereof or to the person in whose charge the same are a notice in the form as nearly as may be of the schedule hereunto annexed specifying to the best of his judgment the number of sheep or lambs found in a diseased state and enjoining the said parties or either of them forthwith to use the usual and approved means to clean or cure the said sheep and if at the expiration of six months the said sheep or lambs shall still be found in a diseased state from scab after such inspection and injunction shall have been duly made the proprietor of such or the party representing him in this colony shall be liable in a penalty of two shillings and six pence for every sheep or lamb so found in a diseased state unless it shall appear to the satisfaction of the Commissioner of Police on the report of such Inspector or other person that the usual and approved means of cure have been used without success in which case a further period of six months shall be granted to complete the cure: Provided that on the expiration of the second period of six months no further extension of time shall be granted and a penalty of five shillings shall be exacted forthwith on the expiration of the said period and a similar penalty shall be incurred and exacted once in every year thereafter so long as any of the said sheep or lambs shall be found in a diseased state as aforesaid which penalties shall be recoverable in manner herein provided.

III. That the said Inspector or other person appointed as aforesaid shall and may cause such reports or abstracts of the particulars thereof to be from time to time published in the Government Gazette, and from and after such publication any person or persons purchasing any such flock in which diseased sheep or lambs may be contained shall be equally liable in the penalties before enacted as the principal proprietor would have been if such flock had remained in his possession and in any legal proceedings for the recovery of such penalties against such purchaser it shall be sufficient to prove the purchase of the diseased flock without evidence of the identity of the sheep referred to in such report or of their being actually at the time in the possession of such purchaser.

IV. That if any person shall turn out keep depasture drive or conduct or permit or suffer to be turned out kept depastured driven or conducted any sheep or lambs infected with the said disease upon any land whatsoever within the boundaries of the Province being the property of any party other than such person and not being received by him and not being waste or unappropriated land every such person shall upon the complaint of any proprietor or overseer in charge of any sheep or other person whatsoever and upon conviction before one or more Justice or Justices of the Peace for the said Province be liable to forfeit and pay for any such offence a penalty or sum not exceeding ten pounds nor less than ten shillings together with all reasonable costs and charges to be ascertained by the Justice or Justices before whom such conviction shall take place.

V. That wherever any sheep or lambs infected with the said disease called the scab shall be turned out kept or depastured upon any land whatsoever within the limits



Timely should attack of scabbs that approach  
within  $\frac{1}{2}$  a mile of the run of any other  
proprietor of sheep - This des advantage will  
not only protect the clean flock from -

limits of the Province which may be intersected or crossed by any public road or way used as a public way for driving sheep from one part of the said Province to another it shall be the duty of the proprietor or person in charge of such sheep or lambs or of his or her overseer or manager to cause notice of such infection to be publicly given by affixing the same in distinct legible characters at some conspicuous place at each end of such public road or way that is to say one such notice shall be affixed at the end of such road or way where it enters such land and the other at the end where the said road leaves such land and every such notice shall by such proprietor or person in charge or his or her overseer or manager be renewed and replaced as often as occasion shall require and shall be there continued so long as any sheep or lambs so infected as aforesaid shall be kept or depastured upon such land and if any proprietor or person in charge of such infected sheep or lambs or his or her overseer or manager shall willfully omit or neglect to cause such public notice to be given according to the form and manner hereby provided and directed or shall omit or neglect to renew and continue the same in such and the like manner and so long as such sheep or lambs shall remain infected according to the intent and meaning of this act every such person so offending shall be liable for every such omission or neglect upon complaint made upon oath by any other proprietor or overseer in charge of any sheep and upon conviction by one or more Justice or Justices of the Peace to pay a penalty or sum of ten pounds.

VI. That if any person shall wilfully set at large and abandon any sheep or lamb infected with the said disease called the scab to the danger of infecting other sheep with such disease every person so offending shall be liable upon complaint made upon oath by any proprietor or overseer in charge of any sheep and upon conviction before any one or more Justices of the peace, to forfeit and pay a penalty of twenty pounds.

VII. That if any proprietor or person having the charge and management of any sheep or lambs infected with the said disease called the scab, shall knowingly and wilfully turn out keep depasture drive or conduct or permit or suffer to be turned out kept depastured driven or conducted any such sheep or lambs so as that such diseased sheep or lambs shall interfere with or approach near to clean flocks belonging to any other person or persons or otherwise act contrary to the provisions of this act and if such infected sheep or lambs shall, thereby communicate the said disease to any sheep or lambs of any other person or persons then and in every such case such proprietor or person having the charge or management of sheep or lambs so infected as aforesaid shall be subject and liable over and above any other penalty imposed by this act to forfeit and pay to the person or persons to whose sheep or lambs such disease shall be so communicated such sum of money as in the judgment and discretion of the Justices before whom complaint shall be made as hereafter mentioned shall be sufficient to reimburse such person or persons for the losses and expences he she or they shall have incurred or been put to thereby so as that such sum shall not in any one case, exceed the sum of fifty pounds to be recovered upon complaint brought by and on behalf of the injured person or persons and duly proved before any Resident Magistrate or three or more Justices of the Peace not interested in the dispute such Magistrate or Justices exercising always their discretion in determining whether the distance within which such diseased flocks approached the ordinary runs of such clean flocks were nearer than what was reasonable and necessary or otherwise: Provided always however that no action or suit at law shall be brought in any court in the said province for or in respect of any loss expense or damage which shall or may be incurred as aforesaid

said after the cause shall have been heard and determined in a summary way as hereby provided and if any such action or suit shall be brought for such cause it shall be lawful for the defendant or defendants to apply to the court wherein such action or suit shall be brought to stay proceedings and such court is hereby required to stay such proceedings accordingly and to award such reasonable costs as shall be thereby incurred by such defendant or defendants.

VIII. That upon information made before any Justice of the Peace by any proprietor or overseer in charge of sheep or lambs or other person that flocks are infected with the said disease and are turned out kept depastured driven or conducted contrary to the provisions of this act it shall be lawful for such Justice to grant a warrant under his hand to some fit and proper person to be named by such Justice in the warrant to authorise him (and the Inspector of the district or other person appointed as aforesaid) is hereby authorised to examine such flocks and if necessary to cause the same to be driven to the nearest pen where the same are ordinarily kept for examination and any proprietor or person in the charge of such sheep or lambs who shall refuse to allow the same to be examined or shall refuse or neglect when so required to cause them to be driven to the nearest pen for examination shall be subject to such and the like fines and penalties as by this act are imposed and inflicted for turning out keeping depasturing driving or conducting any sheep or lambs contrary to the provisions hereof.

and such Person

IX. That every person within the Province owning or having in his possession on the first days of June and November respectively in any year any number of sheep whatsoever shall at least once in every half-year on or within one month before the 1st day of July and 1st day of January respectively transmit to the nearest Inspector of the district or other person appointed as aforesaid a correct return certified by his signature of the number of sheep so owned or possessed by him with a particular description thereof specifying the brands or marks of such sheep and if any person shall possess any number of sheep without so transmitting such return he shall for every such offence forfeit and pay a penalty of Five Pounds: Provided always that the Commissioner of Police or other officer appointed as aforesaid shall cause to be inserted at least once in the *Government Gazette* and in each of the newspapers published in Adelaide at least a month before each of the first days of January and July respectively a notice intimating that the returns hereby required will be due and calling upon all parties concerned to furnish such returns in terms of this Act.

X. That such Inspector or other officer shall so soon as conveniently may be after the certified returns are lodged cause to be entered in a book to be kept for that purpose correct copies of the same for public inspection the said entries to be made in alphabetical order according to the first letter of the surname of the party owning or possessing such sheep and shall file and carefully keep the originals and produce the same or the copies thereof whenever required by any party having interest on payment of a fee of Five Shillings.

XI. That all offences against this act shall be heard and determined and all fines and penalties incurred under the same shall be levied and recovered in manner directed by an Act of the Governor in Council passed in the Third year of Her Majesty's Reign No. 10 intituled "An Act for declaring the law in certain cases and for amending an Act of Council passed in the first year of Her present Majesty's Reign intituled an Act for regulating the constitution of Juris and'

and for preventing the failure of justice in case of summary proceedings before Justices of the Peace." And in all such proceedings it shall be unnecessary to lead evidence as to the indentify of the sheep alleged to have been found diseased and uncured at the respective times mentioned in the said proceedings but it shall be sufficient to prove the possession by the party complained against of a diseased flock and the number of diseased or uncured sheep and lambs found therein at the respective times mentioned as aforesaid.

XII. That if any person convicted of any offence or offences punishable by this Act before any one or more Justice or Justices of the Peace as aforesaid shall think himself or herself aggrieved by the judgment of such Justice or Justices such person shall have liberty to appeal from such conviction to the next Court of Quarter Sessions of the Peace which shall be held nearest to the place where such offence shall have been committed and that the execution of any judgment so appealed from shall be suspended in case the person so convicted shall with two sufficient sureties immediately before such Justice or Justices enter into a bond or recognizance to Her Majesty her heirs and successors in the penal sum of double the amount of the penalty so incurred or forfeited which bond or recognizance respectively such Justice or Justices is and are hereby authorised and required to take and such bond or recognizance shall be conditioned to prosecute such appeal with effect and to be forthcoming to abide the judgment and determination of the said Court of Quarter Sessions and to pay such costs as the said Court shall award on such occasion and the Justices at the said Court of Quarter Sessions are hereby authorised and required to hear and determine the matter of the said appeal and to award such costs as to them shall appear to be just and reasonable to be paid by either party and such decision shall be final between the said parties to all intents and purposes: Provided always that no appeal shall be allowed from any conviction under the provisions of this Act in any case wherein the penalty or sum awarded to be paid shall not exceed the sum of ten pounds.

XIII. That no conviction shall be had under this Act in any case happening more than one month before the time of laying the complaint.

XIV. That no action at law shall lie against any Justice of the Peace or Constable for any matter or thing which may be done or commanded by them or any of them in pursuance of the provisions of this Act unless there be direct proof of corruption or malice and unless such action be commenced within one calendar month after the cause of action or complaint shall have arisen and if any Justice or Constable shall be sued for any matter or thing done in pursuance of this Act the defendant or defendants in any such action may plead the general issue and give this Act and the special matter in evidence.

XV. That no order or judgment or other proceedings made touching and concerning any of the matters aforesaid or touching and concerning the conviction of any offender or offenders against this act shall be quashed or vacated for want of form only or be removed or removable by *certiorari* or any other writ or process whatsoever into the Supreme Court.

XV. That all fines and penalties which shall be levied under this act shall be paid as follows that is to say one third part to the Inspector or other person appointed as aforesaid if informing and leading to the conviction and the remaining

remaining two thirds to the Colonial Treasurer and in case of there being no such information then the whole to the Colonial Treasurer for behoof of Her Majesty her heirs and successors to be applied to the public uses of the Province and the support of the Government thereof: Provided always that it shall be lawful for the Governor to remit all such fines and penalties in whole or in part.

XVII. That except as is before provided this act shall commence and take effect on the 1st. day of January One Thousand Eight-hundred and forty one.

GEORGE GAWLER.

Passed in Council this eighth day  
of December 1840.

GEORGE HALL,  
*Clerk of Council.*

SCHEDULE REFERRED TO IN THE FOREGOING ACT.

*Notice by Inspector of Diseased Flocks.*

Take notice that in terms of an Act of the Governor in Council, 4th, Victoria No. 6. "for preventing the extension of the infectious disease called the scab in sheep or lambs" I having visited and inspected the flocks belonging to  
now depasturing at  
under the charge of find to the best of my judgment that  
the said flocks contain sheep and lambs diseased from scab to the number of

And I enjoin you forthwith to use the usual and approved means to clean or cure the said sheep: and if at the expiration of six months the said sheep or lambs shall still be found in a diseased state from scab the proprietor of the said sheep or the party representing him in this colony will be liable in a penalty of one shilling for every sheep or lamb so found in a diseased state unless it shall appear that the usual and approved means of cure have been used without success.

Dated

Signed

Inspector

To,

Shepherd or Agent.

For Mr.

Proprietor of the flock at