



SHEEP ORDINANCE, 1856.

IN THE TWENTIETH YEAR OF THE REIGN OF HER MAJESTY
QUEEN VICTORIA.

No. 12.

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Title. AN ORDINANCE to prevent the spread amongst Sheep of the Scab, or other Infectious Disease.

Preamble. WHEREAS an Ordinance was passed by the Superintendent and Provincial Council of the Province of Otago, intituled "The Scab and Catarrh Ordinance, Session I., No. 11 :—" And whereas it is expedient that the above recited Ordinance should be repealed, and that further provision should be made for preventing the spread of disease amongst Sheep ;

BE IT THEREFORE ENACTED by the Superintendent of the said Province, with the advice and consent of the Provincial Council thereof, as follows :—

Repeal of Scab and Catarrh Ordinance, Session I. No. 11.

1. From and after the passing of this Ordinance, the above recited Ordinance shall be, and the same is hereby repealed, except in so far as the same repeals any previous Ordinance.

Sheep above six months old to be ear-marked or branded.

2. All sheep above the age of six months, within the Province of Otago, shall be ear-marked or branded ; and every owner of any such sheep not being so marked or branded, shall be liable to a penalty not exceeding ten pounds ; and if such sheep shall exceed four hundred in number, such owner shall be liable to a further penalty of not less than threepence, nor more than sixpence for every such sheep not being so marked or branded.

Marks or Brands to be registered.

3. Every owner of sheep shall cause a correct description of his ear-mark or fire-brand to be registered in an office to be appointed by the Superintendent for that purpose ; and every owner neglecting so to register such description on or before the first day of May next, and every person thereafter becoming an owner neglecting so to register such description, shall be liable to a penalty not exceeding five pounds, and an additional penalty not exceeding five pounds for every week he shall continue such neglect after the first conviction.

Superintendent may appoint Registrar.

4. It shall be lawful for the Superintendent from time to time to appoint some fit person to be the Registrar of Marks and Brands, and with the advice and consent of the Executive Council, to make rules and regulations for the management of such Registrar's Office, and to fix the fees which shall be payable to such Registrar, and all such rules, regulations, and tables of fees, shall be published in the Government Gazette, and thereupon shall be binding upon all persons whom they may concern, and shall have the force of law.

Penalty for using the registered mark or brand of another.

5. After any person shall have so registered a mark or brand, it shall not be lawful for any other person, if the runs of both are situated within thirty miles of each other, to mark or brand any sheep with the same mark or brand, or one so nearly similar as, in the opinion of the said Registrar, to be not readily distinguishable therefrom ; and any person offending against this enactment shall be liable to a penalty not exceeding fifty pounds.

Penalty for unauthorisedly branding, &c., Sheep.

6. If any person shall mark or brand any sheep, or shall deface or efface any mark or impression upon any sheep without the authority of the owner thereof, he shall be liable to a penalty not exceeding one hundred pounds.

Owners of Sheep yearly to give a return of the number of their Sheep, and whether they are clean.

7. Every owner of sheep shall, in the month of September in every year, deliver in writing to the Inspector of the District in which such sheep shall be depasturing, a return of the number of sheep above three months old owned by him, or under his charge, and certifying whether the said sheep are free from disease ; and shall append thereto a declaration that such return is true, to the best of his knowledge and belief ; and every such person neglecting to make such return and declaration, or making a false return or declaration, shall forfeit and pay a penalty not under ten nor more than fifty pounds.

8. From and after the first day of May next every owner of any sheep infected with the disease called "Scab," or other disease of an infectious nature, shall be liable to a fine of not less than one shilling nor more than five shillings for every such infected sheep; Provided, that no person who shall have been convicted under this enactment shall be liable to pay any further penalty under the same, on account of said disease in the same sheep, until the expiration of four months after the date of such conviction as aforesaid. And if it shall appear to the satisfaction of the Justices before whom any conviction under this enactment shall take place, that such sheep had been free from the said disease at any time within two months previously to such conviction, or that the owner had been using proper and adequate means, in the judgment of the Inspector, for curing such sheep of such disease, it shall be lawful for such Justices to require the person so convicted to enter into a bond or bonds, in the form set forth in Schedule A to this Ordinance, to the amount of the penalty in which he shall have been convicted, and if it shall appear upon the report of an Inspector that during four months thereafter all adequate means have been employed and that the sheep are still diseased without any fault attributable to the owner, a further period of four months may be allowed for effecting their cure, and if at any time within either the said first period of four months, or second period of four months if allowed, such sheep shall appear, upon the report of an Inspector, to be free from such disease, such bond shall be cancelled; but if it shall not so appear, then such bond shall be enforced in a summary way.

Persons having
Sheep infected with
disease to be fined.

9. For the purpose of securing the services of two persons of superior intelligence and trustworthiness to perform the duties of Sheep Inspectors and assist generally in carrying out the provisions of this Ordinance, to which duties exclusively they shall devote themselves, it shall be lawful for the Superintendent from time to time to appoint two such Inspectors, and to remove them and to appoint others in their stead; and one of said Inspectors shall be appointed for and over that portion or division of the Province North of the Clutha river, and the other for and over that portion of the Province South of the said river, and the yearly salary of each of the said two Inspectors shall be of an amount to be fixed by the Superintendent not exceeding Four Hundred Pounds.

Inspectors of Sheep
to be appointed.

10. That there may be always a competent authorised person near at hand for the inspection of sheep intended to be landed, and in cases of emergency during the absence or sickness of the Chief Inspector, it shall be lawful for the Chief Inspector for the Northern District from time to time to appoint two Sub-Inspectors, the residence of one of whom shall be at or near Port Chalmers; and for the Chief Inspector for the Southern District from time to time to appoint two Sub-Inspectors, the residence of one of whom shall be at or near Invercargill, and the Inspector nominating any such Sub-Inspector shall be responsible for him. And it shall be the duty of such Sub-Inspector to inspect all sheep on board of any ship, boat, or other vessel, intended to be landed, and also to inspect, in absence of the Chief Inspector, any other sheep which any person interested may desire to have inspected immediately and in absence of the Chief Inspector; and such Sub-Inspector shall, in the inspection of all such sheep, act conformably to the provisions of this Ordinance, and such regulations as may be made in pursuance thereof, and immediately report his proceedings to the Chief Inspector, who shall thereupon issue such orders as he shall think necessary, to which the Sub-Inspector shall conform; and such Sub-Inspector shall be allowed and paid by the person employing him remuneration and travelling expenses at the rate of fifteen shillings per day during the time in which he shall have been reasonably employed in any such inspection, including the time occupied in travelling from his usual place of abode and returning thereto, over and above any fixed allowance or salary.

Sub-Inspectors to
be appointed by
Chief Inspector.

11. If any such Inspector or Sub-Inspector shall, under colour of his office or employment, exact or accept any fee or reward whatsoever other than his proper salary or allowance as hereby provided, he shall be incapable of afterwards holding or continuing in any office or employment under this

Inspectors prohi-
bited from taking
any fee other than
as provided.

Ordinance, and shall forfeit and pay the sum of fifty pounds; and it shall be lawful for the Superintendent to make regulations for the guidance of such Inspectors in the execution of their duty, and for carrying this Ordinance into effect, which regulations shall be published as hereinafter enacted.

The salaries and allowances of Inspectors to be paid by assessment.

12. To provide a fund for the payment of the salaries of said Chief Inspectors and Sub-Inspectors, it shall be lawful for the Superintendent to make and levy a rate yearly, upon all sheep depasturing upon the Waste Lands of the Crown within the Province, which rate shall be of such amount as, together with all fines and penalties recovered in virtue of this Ordinance, will be sufficient to pay the said salaries, and the expenses incidental to the laying on and collecting of such rate: and every owner of such sheep shall make payment of the amount for which he is rated within a time and at a place to be notified, under a penalty of one-half more; and it shall be lawful for the Superintendent from time to time to appoint assessors and collectors of such rate, and to regulate the duties of such assessors and collectors, and also the mode of making such assessment, and of collecting and enforcing payment of said rate: Provided always that no regulations by this Ordinance authorised to be made shall have force until after they shall have been published in the Provincial Government Gazette.

Diseased Sheep not to be kept on any land except in their owner's exclusive occupation.

13. If any owner shall suffer to stray, turn out, drive, keep, or depasture, upon any land not lawfully in his own exclusive occupation, or within one mile of any such land or of any main road or highway, any sheep infected as aforesaid, every such owner shall forfeit and pay for every such offence any sum not more than One Hundred Pounds; and every twenty-four hours any such sheep shall be suffered to stray, kept, or depastured, upon or within one mile of any such land, main road, or highway, shall be deemed a separate offence.

Not to be driven on highways

14. If any owner shall suffer any sheep, infected as aforesaid, to stray, or, without having obtained a certificate as hereinafter mentioned, shall drive or conduct any such sheep or permit or suffer any such sheep to be driven or conducted upon any highway, or to be conveyed across any ferry in the boats used at such ferry, every such owner shall forfeit and pay for every such offence any sum not less than Five Pounds nor more than One Hundred Pounds: Provided always, that nothing herein contained shall prevent infected sheep from being conveyed on any highway in covered vehicles; and that it shall be lawful for any person upon whose land any sheep are trespassing, to remove the same therefrom, and to drive or conduct any such sheep, or to cause, permit, or suffer, any such sheep to be driven or conducted to the place of abode of the owner thereof, or to such place from whence they have strayed.

Mode of proceeding when Sheep to be driven through a Run.

15. Any person about to drive any sheep through, or across any lawfully occupied land or run shall first obtain either the consent in writing of the occupier of the run, or, after inspection, a certificate from an Inspector of Sheep, in the form or to the effect hereinafter enacted, which certificate shall be sufficient authority so to drive such sheep at any time within the period therein specified: Provided that there shall be given to such occupier at least twenty-four hours' previous notice in writing of the day on which such sheep are so to be driven, either by delivering such notice to him personally, or by leaving the same at the principal house or station on such run, with an adult inmate of such house or station, or, if no such inmate be found, leaving the same either within the said house or station, if patent, or below or affixed to the door thereof; and such inspection, certificate, and notice shall be renewed unless the sheep shall be so driven within the time above specified. And every person offending against the provisions of this enactment shall be liable to a penalty of not less than sixpence, nor more than one shilling, for every sheep so driven; and such penalty shall be incurred, and may be levied, over and above any penalty incurred in virtue of any other provision herein contained.

16. Nothing herein contained shall prevent separate informations being laid and prosecuted by every occupier of land upon which sheep infected as aforesaid shall have been driven, depastured, or suffered to stray, without the owner having obtained either the written consent of the occupier, or a certificate as hereinbefore enacted, and by every occupier of land through or adjacent to which any public way shall lie, upon or along which public way any such infected sheep shall have been suffered to stray, or been driven or depastured, and any Inspector shall have the same power to prosecute which is hereby made competent to every occupier.

Separate informations may be laid by every person whose Run is crossed, &c.

17. Every occupier of land or of a right of pasturage may, without any warrant, examine or cause to be examined, any sheep which shall be found upon the land or run in his occupation, or upon any part of a highway passing through or lying adjacent to such land or run.

Sheep may be examined without warrant by occupier of Run on which found.

18. Every Inspector or Sub-Inspector upon being required by notice in writing from any occupier of land, or of a right of pasturage, or any owner of sheep, and served personally, or left at such Inspector's usual place of abode, shall attend at any place appointed within or not exceeding five miles from his district, within a reasonable time after the service of such notice, for the purpose of examining any sheep which are diseased, or which are to be removed to, from, or within his district, with a view to decide whether he shall grant a certificate as herein provided, and in default of so attending shall forfeit and pay any sum not exceeding Fifty Pounds.

Inspectors, when required, to attend and examine Sheep

19. There shall be, at some convenient place on every run, an enclosed yard and pen, for the greater facility of examining sheep, into which the Inspector may require the owner to drive them for that purpose; and every owner who shall neglect to construct and maintain in sufficient condition such yard and pen or shall refuse to allow inspection to be made by any Inspector or occupier as aforesaid, or shall refuse or neglect to muster his sheep for inspection; in such manner as shall be required by such Inspector, or shall obstruct or refuse to afford to such Inspector all reasonable facilities for making such inspection, shall be subject to a fine not exceeding One Hundred Pounds.

A yard for inspecting Sheep to be upon every Run. Penalties for resisting inspection.

20. After examining, when requested as aforesaid, any sheep which it is intended to remove from one run to another not contiguous, the Inspector shall, if such sheep be free from disease, grant a certificate in the form or to the effect hereinafter enacted, which certificate shall be a sufficient authority for the removal of such sheep by the owner at any time within the period and in the way and manner prescribed by the said certificate.

If sheep free from infection, Inspector to grant certificate.

21. Provided always that it shall be lawful for such Inspector to defer granting such certificate for fourteen days in cases where he has just grounds for suspecting that such sheep have incurred risk of infection; and also provided that if any such sheep have been infected with disease he shall not be at liberty to grant such certificate until the expiry of three months after the time they shall be proved by solemn declaration before a Justice of the Peace to have last received a dressing for the cure of such disease.

In certain cases may defer granting certificate.

22. Any master, owner, or supercargo of any ship or boat, or any other person who shall authorise or permit any sheep to be removed beyond two miles from the place at which they were landed before they shall have been inspected by an Inspector, duly authorised under the provisions of this Ordinance, and before a certificate shall have been granted by him to that effect, shall be liable to a penalty of not less than Twenty Pounds nor more than One Hundred Pounds; and if such sheep shall be proved, by the oath of any such Inspector to be infected as aforesaid, such master, owner, supercargo, or other person, shall be liable to a further penalty of four shillings for every sheep so removed.

Penalty for removing sheep beyond certain limits of the landing place without inspection.

Sheep on board ship to be dressed, and penalty for so removing them.

23. If, on examination of any sheep which have been landed, the Inspector shall find such sheep to be infected as aforesaid, he shall require the owner of such sheep, or the owner, master, or supercargo, of the ship, boat, or other vessel from which they have been landed, to dress or dip the said sheep with a dressing, or in a bath to be approved of by such Inspector, and such Inspector shall grant a certificate, authorising such sheep to be driven, or conducted, as in such certificate shall be specified, to the nearest convenient place where they can be kept, provided the same can be done without danger to other sheep; and the owner of such sheep, and the owner, master, or supercargo, of such ship, shall be liable in a penalty of two shillings for every sheep so driven or conducted.

Penalty for introducing any Sheep into Province by land without inspection, and for introducing diseased Sheep.

24. If any owner or other person shall introduce or cause to be introduced into the Province of Otago, by land, any sheep, unless within fourteen days previous to such introduction they shall have been inspected by an Inspector appointed under the provisions of this Ordinance, and unless a certificate shall have been granted by him in the form or to the effect herein enacted, such owner or other person shall be liable to a penalty of One Hundred Pounds; and if such sheep so introduced shall exceed one hundred in number, he shall be liable to a further penalty of not less than one shilling nor more than five shillings for every sheep in excess of the said number.

Inspector's certificate to be in a certain form.

25. Every Certificate granted by an Inspector with a view to the removal of sheep, shall be in the form and to the effect set forth in schedule B hereunto annexed, and shall authorise the driving, conducting, or removal, of the sheep therein mentioned, within a time to be therein fixed, and by such road as shall appear to such Inspector to be best adapted for that purpose.

Penalty for Inspector granting false certificate.

26. If any Inspector shall knowingly grant in a manner not authorised by this Ordinance any certificate for the removal of sheep, or any certificate containing any statements or particulars which are not true, such Inspector shall forfeit and pay for every such offence any sum not less than Ten Pounds, nor exceeding One Hundred Pounds.

Owner to give notice of Sheep infected, or suspected to be so.

27. Whenever the owner of any sheep shall become aware, or shall have reasonable grounds to suspect, that the same are infected with disease as aforesaid, he shall within twenty-four hours thereafter, give notice thereof in writing to the adjoining sheep owners in the manner hereinbefore prescribed for the notice required by section 15 hereof, and within ten days shall give similar notice to the Inspector of the district in which such sheep are, either by delivery of such notice to him personally, or by leaving the same at such Inspector's place of abode, and in default thereof, such owner shall forfeit and pay for any such offence any sum not exceeding Twenty Pounds.

All Sheep in a flock to be deemed infected if one is so, or if Sheep have mixed with infected Sheep.

28. All sheep shall be deemed to be infected as aforesaid, within the meaning and for the purpose of this Ordinance of which one is so infected, or which shall be known by the owner thereof to have mixed with other sheep infected as aforesaid; and if any owner shall lodge written information to that effect with the Chief Inspector, he shall be bound to institute enquiry into the truth of the information; and every owner shall be deemed to know that his sheep have so mixed whenever a written notice to that effect, signed by an Inspector, shall have been served on such owner personally, or have been left at his last usual place of abode for twenty-four hours.

Penalty for abandoning diseased Sheep.

29. If any owner or other person shall wilfully set at large or abandon any sheep infected as aforesaid, he shall forfeit and pay for every sheep so set at large and abandoned any sum not less than one pound or more than five pounds: Provided that such penalty inflicted for any number of sheep at one time shall not exceed One Hundred Pounds. And it shall be lawful for any

Inspector to destroy any sheep infected as aforesaid which shall be wandering at large, and the owner whereof is unknown, and cannot be ascertained after reasonable enquiry.

30. Every occupier of a Run, within ten days after becoming aware, or being informed, that stray sheep have mixed with his flock, shall give notice thereof in writing to such owner, if known, and in such notice shall appoint a time not less than one week, nor more than one month, from the delivery of such notice, for the owner of such stray sheep removing the same to his own run; and the one failing to give such notice, and the other when such notice is given failing to attend at the time and place appointed and to remove such sheep, shall be liable in a penalty not exceeding ten pounds. If the owner of such stray sheep be unknown, a similar notice shall be given to the Inspector.

Occupiers of Runs to give notice when stray Sheep mix with their flocks.

31. It shall be lawful to any sheep owner who has reason to believe that any of his sheep have strayed to and upon any other person's run, to request the Inspector, and thereupon it shall be the duty of the Inspector to require such person, and such person shall be bound under a penalty of not less than five pounds, to muster his sheep in a pen at a time to be fixed with the Inspector and intimated to the owners of such stray sheep, which shall be within two months after such requisition, for the purpose of delivering over such stray sheep to the owner, provided always that he shall satisfy the person upon whose run they are for any expense thereby occasioned, which the said Inspector shall consider reasonable: And provided also that a certificate under the hand of the Inspector to the effect that the flock with which such stray sheep have mixed is not in a condition to be moved, shall be a valid excuse for postponing the delivery of such stray sheep.

Strayed Sheep how to be recovered.

32. If the occupier of any run or any other person shall fraudulently or maliciously clip, take, or remove, from any sheep not belonging to him the wool of such sheep, he shall be liable to a penalty of not less than ten shillings for every fleece or part of a fleece so clipped, taken, or removed, over and above the value thereof.

Penalty for clipping or taking wool from Sheep.

33. Every person who shall drive or remove any sheep not belonging to him or under his charge from a run in the occupancy of another, or cause such sheep to be driven or removed therefrom without the consent of the occupier of such run, shall be liable in a penalty of not less than ten pounds for every such offence.

Penalty for removing Sheep without consent of owner.

34. The owner who shall fail to consume by fire, or to bury at least three feet under ground, within twelve hours after death, the carcass of any sheep or other animal which shall have died within half-a-mile of any road or thoroughfare, shall be liable to a penalty of not less than ten shillings nor more than five pounds for each carcass not so buried or destroyed.

Penalty for not burning or burying carcass of infected Sheep.

35. If any person by himself, his servant, or agent, shall cast or cause to be cast, the carcass of any sheep or other animal into any stream or pond, or other water, he shall be liable to a penalty of not less than five pounds nor more than twenty pounds.

Penalty for casting such carcass into any water.

36. If any person shall slaughter and expose for sale, or shall have in his possession for the purpose of slaughtering and exposing for sale, any sheep or other animal infected with disease, or shall expose for sale the carcass, or any part thereof, of any sheep or other animal so infected, he shall be liable for each such offence to a fine of not less than one pound nor more than five pounds, one-half of such fine to be paid to the informer; and such infected carcass, or such part thereof, shall be thereupon destroyed, in such manner as any Justices of the Peace may direct.

Penalty for exposing for sale any diseased animal.

Persons interested or Inspectors to prosecute. Informations may be laid before one Justice of the Peace; hearing by two.

37. It shall be lawful for any occupier of land, or other person interested, and also for any such Inspector, and any such occupier or person interested not prosecuting, such Inspector is hereby required to prosecute for any fines or penalties incurred by any breach of this Ordinance, and no abandonment of any such prosecution, or compromise made by any private party, shall affect the Inspector's power to prosecute for and recover any such fine or penalty. And every information under this Ordinance may be laid before, and a summons thereupon issued by, one Justice of the Peace; but the same shall be heard and determined by at least two Justices of the Peace.

Owners of diseased Sheep to be liable in damages to parties injured.

38. Over and above any other penalty imposed by this Ordinance, and to which any person convicted of infringing the same shall be subjected, he shall also be liable to pay to the owner of any sheep to which any disease shall have been communicated by his unlawful act or omission such sum or sums of money if demanded by the owner, as, in the judgment of any two Justices of the Peace, may be sufficient to reimburse such owner for any expense, loss, or damage, which he may have in consequence incurred or sustained, so that such sum, or each of such sums, shall not in any case exceed the sum of Fifty Pounds: Provided always that nothing in this Ordinance shall be construed to limit or deprive any person suffering any such loss or damage of any remedy which he might have had at law or otherwise, for recovering the same, if this Ordinance had not been passed.

Fines, penalties, and damages recoverable in a summary way.

39. All fines, penalties, and damages, imposed or awarded under the authority of this Ordinance, shall be recoverable in a summary way; and such fines and penalties shall be paid into the Public Treasury of the Province, and shall be applied towards payment of the salaries of the Inspectors and Sub-Inspectors; and such damages, when awarded at the suit of a private party, shall be paid to such private party.

Interpretation clause.

40. In the interpretation of this Ordinance the word "owner," when used in the sense of owner of sheep, shall be held to include the person having the charge, control, or management, of such sheep; and the word "sheep" shall include rams, ewes, wethers, and lambs.

Short title and commencement of Ordinance.

41. This Ordinance shall be intituled and may be cited and referred to as the "Sheep Ordinance, 1856," and shall come into operation on the first day of May, One Thousand Eight Hundred and Fifty-seven.

Passed the Provincial Council this 11th day of December, 1856.

JAMES MACANDREW,
Speaker.

ROBERT CHAPMAN,
Clerk of Council.

Assented to, on behalf of the Governor, at Dunedin, the Eleventh day of December, One Thousand Eight Hundred and Fifty-six.

W. CARGILL,
Superintendent.

SCHEDULES TO THIS ORDINANCE.

SCHEDULE A.

WHEREAS (here shortly narrate the complaint and judgment) I,
 hereby undertake, four months from the
 date hereof, to pay to Clerk to the
 Bench at the sum of
 and in default thereof I consent that the said sum, together with
 the costs incurred by such default, shall be levied by distress and sale of my goods
 and effects, wheresoever found, any law or Ordinance to the contrary not-
 withstanding.

Dated at this
 day of 185

(Signed)

 SCHEDULE B.

FORM OF CERTIFICATE TO BE GRANTED BY INSPECTOR.

I do hereby certify that I have authorised (name, residence, and description of
 owner) to drive or conduct (number of sheep and marks or other description) sheep
 from (description of place where from) to (description of place whereto), by the
 road (description of road) the said sheep being free from disease (or having been
 dressed to my satisfaction as the case may be).

This certificate to be in force for (number of days) days from the date
 hereof.

H. B.,

Inspector of Sheep.