

BRANDS AND EARMARKS.

CHAPTER 40.

[S. B. No. 122.]

REGULATING USE OF BRANDS AND EARMARKS.

AN ACT to Regulate the Use of Marks and Brands and Trade Marks.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. CREATING GENERAL OFFICE FOR RECORDING BRANDS.] A general office for recording marks and brands, and trade marks, shall be maintained at the seat of government, and the duties thereof shall be performed by the Secretary of State. The office of the register of deeds of every county, in this State shall be an auxiliary to said office, and the duties thereof shall be performed by the register of deeds.

§ 2. HOW BRANDS MAY BE OBTAINED AND RECORDED.] Whenever any person, firm or corporation, desires the exclusive use of any mark or brand, or trade mark he, they or it shall make application therefor to the Secretary of State direct, or through the register of deeds of the county in which they reside or do business, or in which the stock to be branded or marked are situated, upon a blank to be furnished by said Secretary, and it shall be the duty of said Secretary to record said mark or brand or trade mark, designating the particular mark or brand or trade mark to be used by said applicant, and to define the place and position such mark or brand shall occupy on the animal, consulting always the choice and convenience of the applicant therefor, so far as may be, without conflicting or interfering with any previously recorded mark or brand.

§ 3. SECRETARY OF STATE MUST RECORD BRANDS.] The Secretary of State shall procure and keep a record of all marks and brands and trade marks, showing the names and residence of the person, firm or corporation owning the same, together with a description and *fac simile* of such mark, or brand, or trade mark, and in the case of live stock, the range occupied by said stock, as as near as may be, which record shall be open to inspection of any person interested, and he shall deliver to the owner or owners of said mark or brand or trade mark a certificate thereof, which certificate shall be deemed evidence in law of such ownership, for which he shall demand and receive a fee of one dollar. Said certificate shall also be recorded in the office of the register of deeds

of the county in which said owners reside, or in case of non-resident owners, the county in which the person or persons having said cattle in charge reside, or where said cattle may be situated, and may demand and receive a fee of one dollar.

§ 4. DUTY OF REGISTER OF DEEDS.] The register of deeds may receive and forward to said Secretary of State all applications for recording marks, brands or trade marks, and shall collect therefor the fee for the Secretary of State in addition, which fee shall be forwarded to said Secretary with the application, but such certificate shall not be recorded by the register of deeds until it has been first recorded by the Secretary of State. The register of deeds shall furnish the owner or owners of all brands, marks or trade marks with a certificate showing the record thereof in his office.

§ 5. PENALTY FOR USING LIKE BRANDS.] Any person using a like brand, in the position, or on the place recorded by another, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than one hundred (100) dollars.

§ 6. BRANDS MUST BE VENTED.] It shall be, and it is hereby made the duty, of all persons who sell live stock of any kind to another, to vent their brand on the part of the animal which the purchaser or purchasers may determine; *Provided*, That said vent brand shall be upon the same side of the animal as the original brand, either by inverting the original brand, or by a vent brand prepared for that purpose. Said vent brand shall be not less than one-half the size of the original brand, and shall be of the type of the original brand, and such venting, as above provided, shall be prima facie evidence of the sale or transfer of said stock.

§ 7. WHEN SIMILAR BRANDS MAY BE RECORDED.] The Secretary of State shall refuse to receive for record any brand, that being the same as any previously recorded, shall have added thereto any or either of the following, to-wit: A bar, a circle, a half circle, a quarter circle, a diamond or a half diamond; *Provided, however*, That a similar device, figure, or letter, but placed on a different part of the animal, may be so received and recorded.

§ 8. REGISTERS OF DEEDS TO CERTIFY BRANDS WHEN.] It is hereby made the duty of the register of deeds of any county in this State having any marks, brands, or trade marks recorded in his office, to prepare a duly certified copy of such records, and transmit the same to the Secretary of State, within thirty days after the taking effect of this act, and said register of deeds shall be allowed a fee of twenty-five (25) cents for each brand so certified, which fee shall be allowed by the board of county commissioners of said county.

§ 9. WHO HAVE RIGHT TO RECORDED BRANDS.] All persons who have heretofore recorded any mark, brand or trade mark, in any county of this State, shall have the prior right to the exclusive

use of said marks, brands or trade mark; *Provided*, Where two or more of such marks or brands conflict with each other, the one first recorded shall have priority; *Provided, further*, That all stock brands recorded in the office of the Secretary of State, under the provisions of Chapter 37, of the Laws of 1890, shall be in no wise invalidated by any of the provisions of this act. The provisions herein contained affecting the priority of right to any brand, shall not apply or be in force after the 1st day of December, 1891.

§ 10. HOW TO OBTAIN EXCLUSIVE BRAND.] Any person, firm or corporation desiring to secure within this State the exclusive use of any name, mark, brand, print, designation, or description for any article of manufacture or trade, or for any mill, hotel property, machine shop, or other business, shall deliver or cause to be delivered to the Secretary of State a particular description or *fac simile* of such mark, brand, name, print, designation or description, as he or they may desire to use, and if there be not already a claim filed for the same or a similar mark, brand, name, print, designation or description, he shall immediately record the same in a book to be provided and kept for that purpose, which book shall be at all times subject to public inspection and examination, and after the same shall have been recorded as herein provided, the person, firm or corporation causing the same to be recorded shall have the exclusive right to the use thereof; *Provided*, That nothing herein contained shall be construed to authorize the use of figures, letters or Roman numerals.

§ 11. PENALTY FOR IMITATING BRAND.] Any person, firm or corporation that shall use or cause to be used any brand, mark, name, print, designation or description, the same as or similar to any recorded to any other person or persons for the purpose of deception or profit, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than one hundred (100) dollars nor more than \$1,000.

§ 12. PENALTY FOR USING BRANDS.] Any person, firm or corporation that shall use or cause to be used any second hand sack, box, barrel, can, package or other article on which has been placed any brand, mark, name, print, designation or description, the property of another, for the purpose of deception, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than one hundred (100) dollars nor more than \$1,000.

§ 13. FEE OF SECRETARY OF STATE.] The Secretary of State shall be entitled to a fee of one (1) dollar for each brand, mark, name, print, designation or description so recorded.

§ 14. REPEAL.] All acts and parts of acts in conflict with the provisions of this act, be and the same are hereby repealed.

§ 15. EMERGENCY.] Whereas, an emergency exists, in that the brand law heretofore and now in force is defective, and that many persons cannot have such brands as are necessary recorded

by reason thereof; therefore, this act shall be in full force and effect from and after its passage and approval.

Approved March 9, 1891.

CHAPTER 41.

[S. B. No. 45.]

PREVENTING BRANDING DURING CERTAIN SEASONS OF THE YEAR.

AN ACT Entitled "An Act to Prevent the Branding of Horses, Mules, Asses and Cattle During Certain Seasons of the Year."

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. WHEN UNLAWFUL TO BRAND STOCK.] It shall be unlawful for any person to brand or mark any horses, mules, asses or cattle that are running at large between the 1st day of November of each year and the 1st day of the month of May following; *Provided*, Any owner of stock may brand his own stock on his own premises, at any time, in the presence of two or more responsible citizens. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor, and on conviction before any court of competent jurisdiction shall be punished by a fine of not less than twenty five (25) dollars nor more than one hundred (100) dollars, for each and every animal thus branded, or by imprisonment in the county jail for a term not exceeding thirty days, or may be punished by both such fine and imprisonment, in the discretion of the court.

§ 2. REPEAL.] All acts and parts of acts in conflict with the provisions of this act, be and the same are hereby repealed.

Approved February 25, 1891.

CHAPTER 42.

[S. B. No. 55.]

TO PREVENT ILLEGAL BRANDING OF STOCK.

AN ACT Entitled "An Act to Prevent the Illegal Branding, Killing, Stealing, Maiming or Driving Stock, the Property of Another Person, From Their Accustomed Range, in the State of North Dakota."

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. PENALTY.] If any person or persons shall hereafter mark, brand, kill, steal or sell, or cause to be marked, branded,

killed, stolen or sold, any horse, mule, cow, calf, sheep, swine, or other animal, the property of another person, such person or persons so marking, branding, killing, stealing or selling any such animal, or causing the same to be done, shall be deemed guilty of a felony, and upon conviction thereof before any court of competent jurisdiction may be fined not less than five hundred (500) dollars nor more than \$1,000 or may be imprisoned in the State Penitentiary for a period not less than one year nor more than five years, or by both such fine and imprisonment, at the discretion of the court.

§ 2. PENALTY FOR MAIMING.] That if any person or persons shall cut off either or both ears close to the head of any horse, mule, cow, calf, ox, sheep or swine, he or they shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in any sum not less than twenty-five (25) dollars nor more than one hundred (100) dollars for each and every animal so maimed, or by imprisonment in the county jail for a period not more than thirty days or by both such fine and imprisonment, at the discretion of the court.

§ 3. PENALTY FOR DRIVING STOCK OFF OF RANGE.] That any person or persons who shall drive or cause to be driven any cattle, horses, mules, sheep or swine from their customary range without the permission of the owner or owners thereof shall be deemed guilty of a misdemeanor, and on conviction thereof before any justice of the peace in the State of North Dakota, may be fined in any sum not less than fifty (50) dollars nor more than one thousand [hundred] (100) dollars, or may be imprisoned in the county jail for a period not more than thirty days, or by both such fine and imprisonment, at the discretion of the court.

§ 4. REPEAL.] All acts and parts of acts in conflict with the provisions of this act be, and the same are hereby repealed.

Approved March 9, 1891.

CITIES.

CHAPTER 43.

[H. B. No. 208.]

AMENDING LAW OF 1887 FOR INCORPORATION OF CITIES.

AN ACT to Amend Article 15, of Chapter 73, Laws of 1887, Entitled "An Act to Provide for the Incorporation of Cities."

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Article 15, of Chapter 73, of the Laws of the Seventeenth Session of the Legislative Assembly of