

DOMESTIC ANIMALS.

CHAPTER 69.

[S. B. 126.]

RELATING TO DOMESTIC ANIMALS.

AN ACT Prescribing the Obligations of Drovers and Herders of Domestic Animals, and the Remedies for Their Violations.

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

§ 1. THE TERM DROVER DEFINED.] For the purpose of this act every person having charge or control of any herd of neat cattle, horses or mules, numbering five or more, or any flock of sheep numbering twenty-five or more, as owner, agent or employe, while the same is being driven from one place to another not within the same range or neighborhood, is deemed a drover; and every person having charge or control of any such herd or flock while subsisting on any public or other range land to which he has no right of possession, is deemed a herder, whether personally present with such herd or not.

§ 2. SHALL NOT ENTICE ANIMALS AWAY.] No drover or herder of any such herd or flock, or assistant of such drover or herder, shall drive or entice any animal of like kind, without the owner's consent, away from his premises or the range or other place usually frequented by such animal or suffer such animal to be driven or enticed away, or to follow, join or remain with such herd; and if necessary, in order to prevent any such animal belonging to another person from being so driven or enticed away or from following, joining or remaining with such herd, it is the further duty of every person aforesaid to deliver such animal without delay to the owner thereof, if known, or if unknown, to some resident of the neighborhood or peace officer of the county to be by him returned to the owner or disposed of as an stray according to law.

§ 3. UNIFORM BRAND.] It is also the duty of every drover to have all animals in his charge or control branded or marked with one uniform brand or mark. All such horses, mules and cattle shall be branded on a conspicuous place on each, with one distinct branch or road brand of the owner; and all such sheep shall be marked distinctly with a mark or device sufficient to distinguish the same readily from other sheep.

§ 4. PRESUMPTIVE EVIDENCE.] Whenever any animal mentioned in this act shall be found with any herd or flock of like

kind, as defined by section one of this act, proof of such finding, in addition to the fact that such animal was there without the owner's consent, shall be deemed presumptive evidence of a wrongful violation of the provisions of section two of this act, by each drover, herder or assistant having charge or control of such herd at the time of the finding, and shall be admissible as such in any action herein contemplated.

§ 5. COSTS A LIEN.] Every person wrongfully violating any of the restrictions or requirements prescribed by section two of this act, is responsible to each person injured thereby, to the extent of his damages; which shall include the reasonable expenses incurred in searching for and recovering such animal; and whenever judgment is recovered therefor such judgment and costs shall be enforceable as a lien upon the interest of the defendant in the animals constituting such herd or lien.

§ 6. PENALTY.] Whoever shall wrongfully violate any of the provisions of section two of this act, or fail to observe and fulfill the requirements of section three of this act, shall for each delinquency forfeit and pay into the court rendering judgment therefor a penalty of not less than \$50 nor more than \$200, one-half of the sum collected to be paid over to the person complaining or informing of such delinquency and the remainder into the general fund of the county treasurer. Such penalty may be recovered in a civil action before any justice of the peace of the proper county, and such justice shall have power to hear and determine the same and enforce the judgment in the same manner as other courts of competent jurisdiction.

§ 7. EMERGENCY.] *Whereas*, an emergency exists by reason of the fact that the existing law is inadequate for the correction of the evils herein contemplated, *therefore*, this act shall take effect and be in force from and after its passage and approval.

Approved March 10th, 1897.

CHAPTER 70.

[H. B. 118.]

LARCENY OF DOMESTIC ANIMALS.

AN ACT to Amend Section 7506 of the Revised Codes of North Dakota Relating to the Unlawful Marking, Branding, Killing, Selling and Larceny of Domestic Animals.

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

§ 1. AMENDMENT.] That section 7506 of the Revised Codes of North Dakota be, and the same is hereby amended to read as follows:

§ 7506. UNLAWFULLY BRANDING OR STEALING STOCK.] Every person who willfully and unlawfully marks, brands, kills or sells,

or caused to be marked, branded, killed or sold, any horse, mule, cow, calf, or other neat cattle, or any sheep or swine, the property of another, is guilty of a felony, and upon conviction thereof, is punishable by imprisonment in the penitentiary for not less than one and not exceeding five years, or by fine of not less than five hundred dollars, and not exceeding one thousand dollars or by both. Every person who commits grand larceny of any animal above specified, the property of another, shall, upon conviction thereof, be punished by imprisonment in the penitentiary not less than one and not exceeding ten years, or by a fine of not less than five hundred dollars and not exceeding one thousand dollars, or by both such fine and imprisonment.

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

Approved, March 9, 1897.

DEPOSITIONS.

CHAPTER 71.

[S. B. 26.]

TAKING OF DEPOSITIONS.

AN ACT Relating to the Taking of Depositions.

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

§ 1. DEPOSITIONS.] Whenever a notice to take depositions contains a notice that the testimony of other witnesses than those named or that the testimony of witnesses generally, without naming any witnesses, will be taken such notice will be sufficient to justify the taking of the depositions of unnamed witnesses, but the adverse party shall have the right within ten days after such depositions are filed in the proper office and notice of the filing thereof is given to him, in which to serve notice upon the party on whose behalf such witnesses were sworn that he will cross-examine such witnesses at a time and place therein specified. Such notice shall be in substance the same as a notice to take depositions. Such witnesses may be cross-examined before the same or another officer.

Approved, February 4th, 1897.