

SHEEP HUSBANDRY.

CHAPTER 155.

[H. F. 24.]

INDEMNIFICATION FOR DAMAGE DONE BY DOGS.

AN ACT Entitled "An Act Indemnifying the Owners of Seeep in Case of Damage by Dogs, and Creating a Fund to Pay for the Same by a Tax on Dogs."

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

§ 1. ASSESSORS TO MAKE LIST.] That each county and township assessor in this State when making the assessment shall annually make a list of the names of all persons who own or keep a dog or dogs, and set opposite the name of such owner or keeper the number of dogs he or she has in his or her possession, or that is or are kept on his or her premises, which list shall be returned by such assessor to the auditor of the county in which said list is taken as soon as the assessment is completed.

§ 2. LICENSE FEE.] The county auditor shall charge upon the collector's book against the name of each person reported and returned as the owner or keeper of a dog or dogs, as a license fee the sum of one (1) dollar for each male and two (2) dollars for each female dog owned or kept by such person, which fee shall be collected at the same time and in the same manner as taxes upon personal property. In counties not under township organization, the collector shall pay the amount received from the license aforesaid to the treasurer of his county, and in counties under township organization the sum so collected in each town shall be paid by the collector to the supervisor of his town, who shall first give to the people of the State of North Dakota, for the use of the inhabitants of his town, a bond with at least two sureties to be approved by the board of supervisors of his county, in double the sum of such license fees in his town, conditioned that he will faithfully pay out said fund as hereinafter provided. Said bond shall be filed and remain in the office of the county auditor of the proper county.

§ 3. LICENSE FUND, HOW PAID OUT.] It shall be the duty of the county treasurers and supervisors having the custody of the funds collected as license fees as aforesaid, to pay the same out in the manner following:

First. By such county treasurers to the owners of sheep in

their respective counties and by the supervisors to the owners of sheep in their respective towns, who shall make proof to them before the first Monday of March in each year of loss or injury to sheep by dogs, other than their own, the full amount of the loss or injury so proved, if there are funds sufficient to pay the same; if there be not sufficient funds to pay such loss or injury in full, then the owners of sheep so sustaining loss or injury as aforesaid, and making proof thereof as in this act provided, shall be paid out of such fund in proportion to his or her loss or injury, or his or her pro-rata share thereof.

Second. If there be a balance of said license fund left in the hands of the county treasurer or town supervisor after paying the losses and injuries sustained as aforesaid, such balance shall be turned into the current county funds in counties not under township organization, and be appropriated as the county board may direct, and by the supervisors of the town in counties under township organization, into the general fund of the town, to be disposed of as such town shall see proper.

§ 4. PAYMENT NOT TO BAR ACTION—WHEN.] The payment to any owner of sheep of money for damages resulting from loss or injury to his or her sheep, shall not be a bar to an action by such owner against the owner or keeper of the dog or dogs committing such injury or causing such loss for the recovery of damages therefor. The court or jury before whom such action is tried shall ascertain from evidence what portion if any, of the damages sought to be recovered in such action has been paid to the plaintiff in such action by the county treasurer or supervisor of the proper county or town; and in case the plaintiff in such action recovers damages, the court shall enter judgment against the defendant in the name of the plaintiff, for the use of the proper county or town, as the case may be, for the amount which the plaintiff has received on account of such damages from the county treasurer, or supervisor of the proper county or town, if such recovery shall equal or exceed the amount so received by such plaintiff from the county treasurer or town supervisor of his county or town; and the residue of such recovery, if any there be, shall be entered in the name of the plaintiff in such action to his own use; if the amount of recovery in such action shall not equal the amount previously paid to the plaintiff on account of such damages by the county treasurer, or the town supervisors of the proper county or town, then the judgment shall be entered as aforesaid for the use of such county or town for the full amount of such recovery. Writs of execution issued upon such judgment shall show on their face what portion of the judgment is to be paid to the proper county or town, and what portion is to be paid to the plaintiff in such action, and the judgment when collected shall be paid over to the parties entitled thereto, in their proper proportions.

§ 5. PROOF OF DAMAGES—PROCEEDINGS BEFORE JUSTICE—FILING COPY OF JUDGMENT.] No person having sheep killed or injured as

aforesaid, shall be entitled to receive any portion of the funds herein provided for, unless he shall appear before the nearest justice of the peace who can be found, within three days from the time when such injury or damage is discovered, and make affidavit stating the number of sheep killed or injured, that the name of the owner or keeper of the dog or dogs which destroyed or injured the applicant's sheep is or are unknown, or if known, then stating the name, and that such owner or keeper is insolvent and that the applicant has recovered no compensation from the owner or keeper, or any other person for the damage sustained, and thereupon the said justice of the peace shall enter the same on his docket in the same manner as other suits are docketed, and shall proceed to hear testimony of one or more freeholders as to the number and value of the sheep killed or injured, and from such evidence shall find the damages sustained, and shall make a record of his finding as of judgments in other cases. He shall upon the request of the applicant in such proceeding, make a certified copy from his docket of said proceedings, and the same with the original affidavit of the applicant shall be filed with the county treasurer in counties not under township organization, and in counties under township organization with the supervisor of the town in which such sheep were injured or destroyed, within ten days thereafter, and when so filed shall be sufficient evidence of loss or damage by dogs as aforesaid, and the license fund as aforesaid, shall be paid out thereupon on the first Monday of March in each year as hereinbefore provided.

§ 6. FEES OF JUSTICES AND WITNESSES.] The justice of the peace before whom such application is made, shall receive for hearing and certifying the same the sum of one (1) dollar and the witnesses, not exceeding three, shall be allowed fifty (50) cents each. All fees given for services under this act shall be paid out of the fund created by this act prior to its disposition as provided in the third section of this act.

§ 7. MEANING OF DOG.] The word "dog" as used in this act shall be held and construed to mean all animals of the canine species, both male and female.

§ 8. OWNER LIABLE.] The owner of any dog or dogs shall be liable in an action on the case for all damages that may accrue to any person or persons in this State, by reason of such dog or dogs killing, wounding or chasing any sheep or other domestic animal belonging to such other person or persons; and when the amount of such damages does not exceed two hundred (200) dollars, the same may be recovered by an action before a justice of the peace.

§ 9. WHEN DOG MAY BE KILLED.] If any person shall discover any dog or dogs in the act of killing, wounding, or chasing sheep in any portion of this State, or shall discover any dog or dogs under such circumstances as to satisfactorily show that such dog or dogs has been recently engaged in killing or chasing sheep

for the purpose of killing them, such person is authorized to immediately pursue and kill such dog or dogs.

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

§ 11. EMERGENCY.] Inasmuch as there is no provision for the protection of sheep in the existing laws and an emergency existing; therefore, this act shall be in force from and after its passage and approval,

Approved March 31, 1890.

CHAPTER 156.

[H. F. 194.]

SHEEP INSPECTOR.

AN ACT to Amend Sections 1, 2, 3 and 4, of Chapter 135, of the General Laws of 1885, Entitled "An Act to Provide for the Appointment of Sheep Inspectors and to Provide for the Supervision of Sheep in Case of Infection."

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

§ 1. AMENDMENT.] That Section 1 of Chapter 135 of the General Laws of 1885 be amended to read as follows:

"Sec. 1. SHEEP INSPECTOR, HOW APPOINTED—TERM OF OFFICE.] The county commissioners of any organized county shall upon the presentation of a petition signed by ten wool growers of said county appoint a sheep inspector who is acquainted with the diseases to which sheep are subject and who shall be a citizen of the county for which he is appointed, who shall hold his office for two years, unless sooner removed, and any inspector may act in an adjoining county having no inspector, or any unorganized counties attached thereto for judicial purposes upon the request of the commissioners of said organized county. Such inspector may appoint as many deputies as he may deem necessary."

§ 2. AMENDMENT.] That Section 2 of Chapter 135 of the General Laws of 1885 be amended to read as follows:

"Sec. 2. DUTIES OF SHEEP INSPECTORS.] It shall be the duty of the sheep inspector whenever he has knowledge or information that any sheep within his jurisdiction have the scab or any other malignant contagious diseases, to inspect said flock, and report in writing the result of his inspection to the county clerk in which such inspection was made, to be filed by him for reference for the county commissioners or any party concerned, and if so diseased,

once every four weeks thereafter to reinspect said flock, and report in writing the result and treatment, if any, in the same manner until said disease is reported cured; *Provided*, That in case of the removal of the flock ten miles from the range of any other sheep as hereinafter provided, he shall only make one inspection every three months."

§ 3. AMENDMENT.] That Section 3 of Chapter 135 of General Laws of 1885 be amended to read as follows:

"Sec. 3. ARRIVAL OF FLOCKS OF SHEEP IN STATE TO BE NOTIFIED TO INSPECTOR—PENALTY.] And upon the arrival of any flock of sheep into the State the owner or agent thereof shall immediately report them to the inspector of the county in which such sheep are located for inspection, and the inspector shall inspect and report as provided in Section 2 of this act, and in case of failure from any cause of the owner or agent of such flock of sheep to report them for inspection, a penalty of one hundred (100) dollars shall be imposed on said owner or agent for each offence, by any court of competent jurisdiction, which penalty when collected shall be paid into the county treasury for the use of the sheep inspector's fund, and any judgment for such penalty shall be a lien upon such flock."

§ 4. AMENDMENT.] That Section 4 of Chapter 135 of the General Laws of 1885 be amended to read as follows:

"Sec. 4. DUTY OF OWNER OR AGENT OF DISEASED FLOCK.] The owner or his agent of any flock reported by the inspector to be so diseased, shall immediately herd them so that they cannot range upon or within one mile of any grounds accustomed to be ranged upon by any other sheep, or shall restrain them from passing over or traveling upon or within one mile of any public highway or road, and in case this cannot be done, he shall immediately remove said sheep to a locality where they shall not be permitted to range within less than ten miles of any other flock of sheep, and said sheep shall continue to be herded under the above restrictions until upon inspection they shall be reported free from such diseases.

§ 5. SCABBY SHEEP NOT TO ENTER STATE OR BE REMOVED FROM ONE COUNTY TO ANOTHER—PENALTY.] In no case shall any scabby sheep be allowed to be removed from anyone point to another within any of said counties, or from one county to another, or any sheep that have within one year been scabby, without a written certificate from the said sheep inspector; *Provided*, Such sheep may be transferred and removed with the written consent of all sheep owners or managers along the route, and in the vicinity of the proposed location except those mentioned in the preceding section; *Provided*, That in no case shall any sheep infected with scab or any infectious diseases be allowed to enter the State, and any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not

less than fifty (50) dollars, nor more than two hundred (200) dollars for each and every offense.

Approved March 31, 1890.

CHAPTER 157.

[H. F. 31.]

BOUNTY FOR WOLF SCALPS.

AN ACT to Amend Sections 1, 2 and 3 of Chapter 63 of the General Laws of 1881, Relating to Sheep Husbandry.

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

§ 1. AMENDMENT.] That Sections 1, 2 and 3 of Chapter 63 of the General Laws of 1881 be amended to read as follows:

Sec. 1. BOUNTY FOR KILLING WOLVES.] The county commissioners of each county in the State of North Dakota may upon the petition of fifty stock raisers offer a bounty not to exceed three (3) dollars and not less than one (1) dollar for each and every wolf killed within the limits of their county.

Sec. 2. CLAIMANT TO MAKE AFFIDAVIT AND PRODUCE SCALP.] Before payment of said bounty the applicant therefor must subscribe and make oath before the county clerk of the county in which the wolf was killed, setting forth that the wolf was killed within said county, giving the date thereof, and by whom, and that the two ears of the scalp thereof which are produced before said county clerk are the ears of such wolf; *Provided*, No claim shall be allowed unless the applicant exhibits and furnishes to such county clerk at the time of making such affidavit, the two ears of the wolf killed attached to such skin which shall then and there in the presence of such county clerk be detached from such wolf skin.

Sec. 3. COUNTY CLERK TO RETAIN AFFIDAVIT—DESTRUCTION OF SCALP.] The county clerk shall retain said affidavit until the next regular meeting of the board of county commissioners, when the board shall audit the claim and order a warrant drawn upon the county treasurer for the bounty in favor of the party killing such wolf. The county treasurer is further required forthwith to destroy said ears by burning the same.

§ 2. EMERGENCY.] Whereas, an emergency exists in that there is now no protection to sheep growers from the ravages of wolves; therefore, this act shall take effect from and after its passage.

Approved March 20, 1890.