

BILL

No. 75 of 1913 (Second Session.)

An Act respecting Brands.

(Assented to 1913.)

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

SHORT TITLE.

1. This Act may be cited as "*The Brand Act.*" Short title

INTERPRETATION.

2. In this Act unless the context otherwise requires the expression—

1. "Department" means the Department of Agriculture for Alberta; Department

2. "Minister" means the Minister of Agriculture for Alberta; Minister

3. "Horse" means any horse, mare, gelding, colt or filly, ass or mule; Horse

4. "Cattle" means any bull, cow, ox, heifer, steer or calf; Cattle

5. "Stock" means any horse or head of cattle; Stock

6. "Owner" means the owner, jointly or in severalty of any brand or vent recorded under this Act, and the authorized agent of such owner or transferee; Owner

7. "Brand" means any letter, sign or numeral or combination of the same recorded as allotted; Brand

8. "Vent" means— Vent

(a) Any vent brand allotted as having been recorded prior to March 1st, 1898;

(b) A second marking in a horizontal or lazy position immediately below the brand mark upon any stock of a letter or numeral forming part or the whole of such brand;

Any such brand denoting the fact of the proprietary rights in any stock bearing the same having passed from the owner to some other person.

9. "Recorded" means duly entered in the record to be kept in pursuance of this Act; Recorded

10. "Character" means any sign, letter or numeral. Character

BRANDS: THEIR NATURE, OWNERSHIP, DURATION, USE AND SIGNIFICANCE.

3. Subject to the provisions in subsection 2 of this section contained brands of any form or combination of characters may be allotted for any part of the body of any stock, subject to the approval of the Minister. Brands may be allotted

(2) Every brand for cattle allotted for the hip or thigh for the rib and for the shoulder or top of arm shall consist of three characters and the shape and pattern of such char- Form of brands

acters and the arrangement thereof shall be fixed and determined by the Minister:

Provided, that on the payment of an additional fee of fifty cents any person may have allotted to him any other brand, which may consist of less than three characters and which does not conflict with any brand already allotted.

4. All brands allotted under the provisions of this Act and all brands and vents allotted under the provisions of any other Act or Ordinance and, save as hereinafter provided, all rights of the owner thereto, therein or thereunder shall be cancelled and determined as and upon the several dates respectively hereinafter mentioned, that is to say:

Those allotted prior to January 1st, 1905, upon December 31st, 1914;

Those allotted during the years 1905, 1906 and 1907 upon December 31st, 1915;

Those allotted during the years 1908, 1909 and 1910 upon December 31st, 1916;

Those allotted during the years 1911, 1912 and 1913 upon December 31st, 1917;

Those allotted subsequent to the 31st day of December in the year 1913 upon the 31st day of December in the fourth year next following the year during which such brand was allotted:

Provided, that upon application during the year in which any brand would become cancelled hereunder the allotment and exclusive right to the use thereof may from time to time be renewed for a further period of four years from the end of such year:

Provided further, that the owner of any brand so cancelled may, upon application in writing, not later than three months next after the date of such cancellation procure the re-allotment to him of such brand.

(2) Save as herein provided no brand shall, after any cancellation thereof, be again allotted to any person until after the expiration of two years after the date of its cancellation.

5. Until the cancellation of the same the owner of any brand allotted under this Act or under any other Act or Ordinance shall have the exclusive right to the use thereof, and during such period the mark of any brand upon stock not bearing the mark of a subsequent vent by the owner of such brand shall be *prima facie* evidence in any court or tribunal in Alberta of the ownership by the owner of such brand of the animal bearing the same, but no such presumption of ownership shall arise or be given effect to in any case where the brand upon any such animal has not been recorded or has been cancelled prior to such evidence being tendered.

RECORD OF BRANDS.

6. The Lieutenant Governor in Council may appoint a Recorder of Brands, who shall be subject to the direction of the Minister and who shall keep in a book or books for that purpose a record of all brands allotted under this Act, or any other Act or Ordinance, and of their duration, renewal, re-allotment, cancellation and transfer, together with the dates thereof and the names of the owner or transferee thereof.

7. Any person shall be entitled to search or have the record searched and to obtain certified extracts therefrom during the regular business hours of the Department, upon payment of the fees prescribed in the tariff of fees appended hereto.

8. Any person requiring the allotment to him of a brand or the re-allotment or the renewal thereof, shall make application therefor to the recorder, which application shall be accompanied by the proper fee therefor as prescribed in the said tariff, and upon being satisfied that such application is in conformity with the provisions of this Act the recorder shall grant such application and enter such allotment, renewal or re-allotment in the record forthwith:

Provided, however, that the Minister may, if he deems it advisable, refuse any such application:

Provided also, that no brand shall be allotted to an Indian, whether living upon a reserve or not.

9. Upon the recording of the allotment, renewal or re-allotment of any brand as aforesaid the person in whose name the same is last recorded shall become the owner thereof and of all rights thereto and therein and the recorder shall deliver or transmit to such person a certificate of the allotment, renewal or re-allotment thereof and of the recorded entry of the same, and the production of any certificate purporting to be a certificate signed by the recorder under the provisions of this section in any court or tribunal in Alberta shall be *prima facie* evidence of the ownership of such brand without any further proof of signature.

10. The Minister may at any such time and in such manner as to him may seem advisable cause to be published from time to time a complete list of the brands recorded under this Act and may make a reasonable charge for the volume containing the same.

CHANGE IN RECORD.

11. The recorder may, upon the application of any owner, accompanied by the fee prescribed in the said tariff, make changes in any brand or form or position thereof not inconsistent with the provisions of this Act.

NOTICE OF EXPIRATION.

12. It shall be the duty of the recorder in each year to notify the owners of all brands which would expire and become cancelled at the expiration of such year of the date upon which the same will become cancelled, unless previously renewed, and such notice shall be given by registered letter, postage prepaid and addressed to such owners respectively at their respective post offices as entered in the said record.

CANCELLATION BY THE MINISTER.

13. If any two or more owners of stock have the same or conflicting brands recorded the Minister may, if he deems it advisable, authorize the cancellation of the brand

last recorded or (with the sanction of the owner) of any brand previously recorded, and may allot another in lieu thereof, without charge.

TRANSFER OF BRANDS.

14. Any person wishing to transfer the ownership in any brand recorded under the provisions of this Act shall make and sign in the presence of a commissioner for oaths, who shall affix his signature thereto as such commissioner, as a witness, a memorandum in form A in the schedule hereto, and shall transmit the same to the recorder with the proper fee chargeable upon such transfer, as prescribed in the said tariff; and the recorder, upon the receipt of such memorandum and fees, shall make an entry in the record opposite to the entry of the original allotment thereof, setting forth the fact of such transfer of such brand to the transferee, together with his post office address and the date of such entry; and such transferee shall thereafter be deemed to be the owner of and to have the exclusive right to the use of such brand and to the same benefits and rights in respect thereof as before such transfer was held by the transferor hereunder.

(2) In case of death or absence of the owner a declaration made by the transferee in form B in the schedule hereto appended may, subject to the approval of the Minister, be accepted in lieu of the memorandum in form A:

Provided, that such transfer shall not be recorded until thirty days after notice thereof has been published in one issue of the Official Gazette and in two successive weekly issues of a newspaper to be named by the Minister.

15. Upon every transfer for value of any stock marked with the recorded brand of the transferor the transferor shall also mark his vent on the stock so transferred unless at the time of such transfer the said brand is transferred to the transferee of such stock:

Provided, however, that with the transferee's consent it shall be a sufficient compliance with requirements of this section if the transferor shall give to the transferee, when so taking possession of such stock, a statement according to form C in the schedule appended hereto, and thereafter such statement shall, for the space of thirty days next after the date thereof, be accepted in any court or tribunal in Alberta as evidence of the transfer of such stock according to the purport thereof.

DROVERS.

16. Whenever the owner of any stock, or his agent, is removing such stock from one point of the province to another, distant twenty miles or more from his home, or to a point beyond the province, he shall provide himself with the brand recorder's certificate of the brand of such stock as a proof that the said stock are properly in his possession; or such proprietor shall make a declaration before anyone empowered to take affidavits, showing the number and class of stock which are being removed and the recorded brands on the same, which declaration he shall give to the person in charge of such stock; and any person who may have purchased stock and is driving the same or having them driven from one point in the province to another, or to a point beyond the province, which stock

are not branded with the purchaser's recorded brand, shall have in his possession or give to the person in charge thereof a bill of sale of such stock from the vendor thereof, showing the number and class of the same and the last recorded brand on them. Any person shall have the right to inspect such travelling stock and compare the brands thereon with such brand certificate, declaration or bill of sale; and the person in charge of such stock shall, when required, produce and submit the same to inspection, and shall also submit all stock in his charge to inspection. Any owner or drover or person in charge of such stock failing to comply with any of the requirements of this section or anyone who interferes or in any way tries to prevent the inspection of such stock, shall be guilty of an offence under this Act.

(2) The provisions of this section shall not apply to any person driving stock for the purpose of shipment or bringing the same away from any railway shipping point within the province reasonably close to the place from or to which such stock are being brought, nor to the driver of any animal which has strayed.

BRAND COMMISSIONERS.

17. The Lieutenant Governor in Council may appoint a board of brand commissioners, to consist of three persons, each of whom shall be the owner of horses or cattle and of at least one brand allotted under this Act, and shall be a resident of Alberta.

(2) The said board shall meet at such times and places as the recorder of brands shall arrange and appoint, and shall advise him of all matters which he may bring to their notice in connection with the administration of this Act.

(3) Each member of the said board shall hold office during the pleasure of the Lieutenant Governor in Council, and his said office shall be honorary; but each commissioner shall be allowed for his travelling and other expenses while attending meetings of the board the sum of five dollars per day and his actual transportation expenses.

(4) The recorder of brands shall be the secretary of the board and shall keep a record of the proceedings of every meeting thereof, which shall be certified to by the members of the board present at each such meeting as correct, and shall form a part of the records of the department.

OFFENCES AND PENALTIES.

18. Any person who—

- (a) Brands, or directs, aids or assists to brand any stock with a brand, vent or mark which has not been recorded under the provisions of this Act or which has been cancelled thereunder;
- (b) Brands, or causes, directs or permits to be branded with his own or with any brand, vent or mark any stock of which he is not the owner without the authority of the owner;
- (c) Blotches, defaces or otherwise renders illegible, or alters any brand, vent or mark upon stock, or directs, causes or permits any such brand, vent or mark to be blotched, defaced or otherwise rendered illegible or altered;

shall be guilty of an offence and, in addition to any other penalty to which he may be subject by law, on summary conviction thereof before a justice of the peace, be liable to a penalty not exceeding the sum of \$200.00 and costs.

19. The Minister may prescribe any forms necessary for the purpose of carrying out of the provisions of this Act.

20. Chapter 22 of the Ordinances of the North-West Territories and amendments is hereby repealed.

SCHEDULE.

FORM A.

MEMORANDUM OF TRANSFER OF BRAND.

To the Recorder of Brands, Medicine Hat, Alberta:

DESCRIPTION OF BRAND

(Brand)

I, (or We)..... being the recorded owner..... of the brand mentioned in the margin hereof, having transferred the same to..... of..... S..... T..... R....., west of the..... meridian, Alberta, do hereby request that you will make the necessary transfer to..... of....., such brand in your record and.....enclose herewith the sum of..... as the authorized fee therefor under The Brand Act.

Position Cattle or horses.

Dated at.....this.....day of.....191.....

Owner.

Post Office Address.

Witness:

A Commissioner for Oaths for Alberta.

FORM B.

IN THE MATTER OF AN APPLICATION FOR THE TRANSFER OF A BRAND.

I,, of....., residing on S.....T.....R..... west of the.....meridian, Alberta, do solemnly declare:

1. That I am the purchaser of the brand No.....
for 19....., recorded in the name of.....
for the (*position on animal*) of (*horses or cattle*).

2. That the said brand was actually sold to me by the
said.....on or about the.....
day of....., 19....., and that I am entitled
to a transfer for the same.

3. That.....written transfer of the said brand
was given to me by the said.....

4. That I am to the best of my knowledge and belief
the rightful owner of all (*horses or cattle*) running at
large in this district, branded with the said brand.

And I make this solemn declaration conscientiously
believing it to be true and knowing that it is of the same
force and effect as if made under oath and by virtue of
The Canada Evidence Act.

Declared before me at..... }
in the Province of Alberta, }
this.....day of....., }
A.D. 191..... } (*Signature of Transferee.*)

..... (*P.O. Address.*)
A Commissioner for Oaths for Alberta.

FORM C.

To all whom the same may in anywise concern:

Take notice that I have this day sold to (*name of pur-*
chaser) the following described stock:

.....
.....
.....
branded with my recorded brand No.....

Description:.....

Dated at..... this.....
day of....., 19.....

.....
(Signature.)
.....
(P.O. Address.)

TARIFF OF FEES.

On application of allotment or re-allotment of a brand	\$2.00
On application of renewal of brand.....	1.00
On application for change in the record of a brand..	1.00
On every transfer of a recorded brand.....	2.00
For every search of the brand record.....	.50
For every certified extract from the brand record....	1.00

No. 75

FIRST SESSION
THIRD LEGISLATURE
4 GEORGE V
1913
(SECOND SESSION)

BILL

An Act respecting Brands.

Received and read the

First time.

Second time.

Third time.

EDMONTON:
J. W. JEFFERY, Government Printer
A.D. 1913