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Research Brief

TO: Representative Mike Chenault
FROM: Patricia Young, Manager
DATE: January 20, 2014
RE: Registering and Recording of Cattle Brands in Alaska
LRS Report 14.132

You asked how it came about that both the Department of Revenue and the Department of Natural Resources have duties pertaining to cattle brands. You also wished to know what the duties of each department entail in this regard.

In legislation passed at statehood, the Department of Revenue was given the explicit statutory duty of registering cattle brands. In a different piece of legislation passed the same year, the Division of Agriculture within the Department of Natural Resources was given the responsibility for recording cattle brands. This bifurcated responsibility may have occurred because while the Division of Agriculture seemed like the appropriate place for such duties, all duties associated with cattle brands just prior to statehood had resided with the Territorial Department of Finance, progenitor of the State Department of Revenue. Lawmakers may have justified the split by the use of differing terms—*recording* versus *registering*—though what they meant by the distinction is unclear.

The oddity of the situation was not lost on Governor Egan, who remarked as follows in his letter approving the 1959 bill that gave recording duty to the Division of Agriculture within the Department of Natural Resources:

. . . my attention has been called to [the provision] whereby facsimiles of proposed livestock brands shall be filed with the Director of the Division of Agriculture, and that Chapter 64 SLA 1959, requires the Department of Revenue to register, among other things, cattle brands.

In my judgment, it is appropriate that such brands be recorded with the Division of Agriculture . . . Registration also with the Department of Revenue, if believed by another session of the legislature to conflict with [this act], may be remedied at such time.¹

Since that time, the Division of Agriculture has been the recorder of cattle brands, by way of the *Official Brand Book for the State of Alaska*, a bucolic version of the recording provided by Recorder's Office in the Department of Natural Resources for transactions involving lands.²

While the precise cause of the bifurcations remains obscure, it is nevertheless clear that the Department of Revenue performs no duties pertaining to cattle brands other than receiving the small amount of fees associated with their recording. Until 1974, the Department's *Revenue Sources Books* included line amounts for income from branding of domestic animals although those amounts were minimal. From 1974 forward, those amounts, if any, have been consolidated along with a number of other smaller sources of income and documented as unrestricted revenue under Charges for Services.

Chronology of Responsibility

As of 1923, the recording of brands was the duty of the Secretary of the Territory.³ The Secretary was to keep a log describing each brand in the office and to annually send to each US Commissioner in whose precinct there might be livestock, a similar

¹ *Journal of the State Senate*, First State Legislature, First Session, 1959, pp. 1095-1096.

² This small pamphlet, published every five years, is available from the Division of Agriculture.

list with drawings or facsimiles of each recorded brand.⁴ The Commissioner was to conspicuously and securely post the list.

Ten years later, the duty to record each brand, issue a certificate, keep a book with a facsimile of all brands, and to annually forward a copy of the book to pertinent US Commissioners for posting was transferred to the Auditor of the Territory, a position which had been created in 1929 along with the position of Treasurer of the Territory.⁵ Fees collected were to be remitted to the Treasurer among whose duties it was to keep a “fair, true, just and comprehensive account of all moneys received, showing the source thereof.”

In 1945, the Territorial Department of Agriculture was established with a commissioner who was charged with the direction of efforts to develop the agricultural industry, including dairying and cattle raising as well as horticulture, fur farming and other agricultural pursuits. The commissioner was required to keep a “complete record” of all proceedings and to remit all fees and monies received to the Treasurer, as well as to procure and preserve all information pertaining to the development of the agricultural industry and to disseminate such information to the public at large.⁶ The recording of cattle brands was not, however, explicitly listed as a duty of the Department and so continued to reside with the Auditor.

When the Office of the Auditor was abolished in 1955, all powers and duties were transferred to the Director of the newly created Territorial Department of Finance. The Director was to have the “legal custody of all records, memoranda, writing, entries, prints, representations or combinations thereof, of any act, transaction, occurrence or event of the Department.”⁷ By this act, the responsibilities associated with cattle brands officially headed down the chute toward what would become the State Department of Revenue.

In 1959, legislation to organize the new state’s executive branch created the Department of Revenue and, among many other things, abolished the Department of Finance and the Office of the Treasurer. With this act, functions and authority previously performed by the Department of Finance and the Treasurer were transferred to the Department of Revenue—including what was termed the *registration* of cattle brands. Another section of the same act created the position of commissioner of Natural Resources, and transferred the functions and authority previously held by several related territorial departments—including the Territorial Department of Agriculture—to the newly created State Department of Natural Resources.⁸ Because the responsibility for recording cattle brands had not resided with the Territorial Department of Agriculture, that responsibility did not flow to the new Department of Natural Resources. However, in other legislation passed *the same year*, the responsibility for *recording* brands was given to the Director of the Division of Agriculture—within the Department of Natural Resources.⁹

We hope this is helpful. If you have questions or need additional information, please let us know.

³ Chapter 99 Laws of Alaska 1923. From 1900 until 1925, the Surveyor General appointed for Alaska acted as Secretary of the Territory. When Congress abolished the office of Surveyor General early in 1925, the Secretary position became operative. Among other responsibilities, the Secretary (who was appointed rather than elected) was the person to perform all duties in case of death, removal, resignation, or absence of the Governor from the Territory. Upon Statehood, this position became the Secretary of State; in 1971 it was changed to Lieutenant Governor.

⁴ The recording fee established in 1923 was \$5, an amount that would equate to roughly \$68 in 2013 dollars. In 1939, the fee was reduced to \$2.50 (about \$42 in 2013 dollars). From the late 1880s, among their other duties, US Commissioners were to act as ex officio *Registrars*; in 1913, they were described as ex officio *Recorders*.

⁵ Chapter 92 Laws of Alaska 1933.

⁶ Chapter 41 Laws of Alaska 1945.

⁷ Chapter 82 Laws of Alaska 1955.

⁸ Chapter 64 SLA 1959.

⁹ Chapter 161 SLA 1959. At that time, the fees for recording and renewal every five years were set at \$2 and \$1, respectively—amounts equating to roughly \$16 and \$8, respectively, in 2013 dollars. These amounts are still in effect, and according to Division of Agriculture personnel, do not cover the cost of administration, which includes publishing the *Official Brand Book for the State of Alaska* once every five years. Since the most recent edition of this small pamphlet was printed in 2010, eight new brands have been added. For these reasons, division personnel suggest that the fees might well be raised or dropped altogether.