

# When's a Dog a Dog to be Decid- ed by the Court

Coming as it does from the pen of Editor Taylor of the LaMoure Chronicle who is chairman of the state game and fish commission, the following comment may be of interest to Binford hunters:

North Dakota sportsmen will await with keen interest the outcome of a criminal action against John Canham of Jamestown, who was arrested by Chief Game Warden H. A. Brown and charged with having violated a state game law which prohibits the use of certain kinds of dogs while the owner is engaged in the gentle art of hunting game birds. Upon being haled into court, Mr. Canham waived examination, and thereupon was bound over to the county court on his own bail.

The fact seems to be undisputed that Mr. Canham was hunting prairie chicken, and that a certain dog, to wit, a water spaniel dog, was doing the same thing at the same time and in the same place. Mr. Canham, as we understand it, admits that he is the owner in fee simple of the dog in question, but contends that neither himself nor his dog was doing an unlawful act, inasmuch as "the dog had just been released from his chain to help find a crippled chicken."

It is quite likely that this case will be fought right up to the Supreme Court of North Dakota and that some mighty fine distinctions will be drawn by the various jurists who "take a guess" on it. For the issue is by no means clear. Sec. 27 of the Game and Fish laws provides that—

"No person shall train or run any dog or dogs, owned or controlled by them, known as 'bird dogs,' including pointers, setters or droppers, or allow same to run loose in fields or upon land in which game birds may be found, or are apt to be frequented by game birds between the first day of April and the first day of November (both inclusive following of each year); provided however, that this section shall not be construed as prohibiting the use of dogs for retrieving water birds, including any or all of the several species of ducks and geese, which it is lawful to hunt and kill."

Right at the outset we would respectfully request that the court rule upon the grammatical construction of this phrase, "No person shall train or run any dog owned or controlled by them." Also whether this phrase "both inclusive," is not redundant. As we understand it, a thing that is inclusive includes everything that is intended to be included. Webster's well known dictionary seems to agree with us on this point, for it defines "inclusive" as "comprehending to the stated limit or extreme, as from Monday to Friday inclusive," not from Monday to Friday. BOTH inclusive. That is nonsense.

After disposing of these major con-

siderations, the court may very well take up the legal phases of the question. Obviously it will have to determine whether water spaniels fall into the "bird dog" class, and whether in any event the retrieving of a wounded prairie chicken by a spaniel violates either the letter or the spirit of the law in such case made and provided.

Whatever be the outcome of this litigation, we cannot too warmly commend Chief Game Warden Brown for his vigilance and diligence in the performance of his duties. In the meantime, hunters who go a questing for prairie chicken will be on the safe side if they leave their dogs at home.

## AUCTION SALE

The undersigned will sell at public auction on the Hemmerlin farm, two miles west and two miles north of Jesse, and 3 1/2 miles east and one mile north of Binford, on

THURSDAY, OCT. 18th, 1923

all of the following property:

### 26 HEAD OF CATTLE

11 good cows, 6 of them now milking. 1 heifer coming 3 years, fresh in spring. 3 two-year-old heifers; 6 yearling heifers. 6 spring calves.

### 13 HEAD OF HORSES

One 5-year-old gelding, weight one 9-year-old black mare, weight 1300. one 9-year-old bay gelding, weight 1500. one 9-year-old grey mare, weight 1500. one 8-year-old bay mare, weight 1500. one 12-year-old dark bay gelding, weight 1600. one 12-year-old roan gelding, weight 1600. one team of mules, 14 years old, weight about 1000 each, one 2-year-old bay gelding, one 2-year-old black mare, 1 sucking colt.

### MACHINERY

2 sets of heavy breaching harness complete with lines, collars and bridle, as good as new; 2 sets of lead harness complete in good condition. 1 7-ft Deering binder, complete with canvas, track and eveners; 1 Independent 5 1/2 ft mower, nearly new. 1 hay rake, one 3-4 wide tire wagon, new, with rack; one 3 1/2 ft tire wagon, with 75 bushel tank, 1 new Deere gang plow, complete, with eveners, one 3-section Bush harrow, one 3-section spring tooth harrow, 1 Johnson 8-ft disc, 1 light single buggy, 1 set of bob sleighs; 1 one-row riding cultivator; 1 large Holm and wild cat mill.

Sale to start at 1 o'clock p. m.

Free lunch at noon.

Terms of Sale—All sums of \$10.00 or under, cash; on sums over that amount 5 percent discount will be allowed for cash, or good bankable paper will be accepted drawing interest at the rate of 10 percent maturing October 1, 1924. No property to be removed until settled for.

A. L. GREEN, Owner

J. Egerman Clerk.

C. P. Dahl, Auctioneer.

## NOTICE TO CUT WEEDS

Farmers in Addie township are notified to cut or burn weeds along section lines before the snow flies—John Hanstad, Road Overseer.

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