

OPINION
55-28

October 19, 1955 (OPINION)

COMMISSIONER OF AGRICULTURE AND LABOR

RE: Certain Powers and Duties

We acknowledge your request for an opinion regarding your authority and responsibility under chapter 20-16 and section 36-2110 of the North Dakota Revised Code.

Section 83 of the North Dakota Constitution provides that your powers and duties shall be those prescribed by law. The power to cooperate with the Fish and Wildlife Service in the destruction of predatory animals is outlined in section 20-1601 N.D.R.C. and specifies the following animals only; coyotes, wolves, bobcats, foxes, game animals, game birds and field rodents.

It is the opinion of this office that neither you nor your employees retained to destroy predatory animals, may destroy a domestic dog under authority of Chapter 20-16. As an individual however, any person may kill a dog under the circumstances defined in section 36-2110 N.D.R.C.

That section requires that you see such dog in the act of killing, chasing, worrying, or damaging any livestock or poultry or that you discover such dog under circumstances which satisfactorily show that recently it has been engaged in killing or chasing sheep. Any person who kills a dog under the conditions specified shall not be liable in any civil action to the owner of the dog. The killing of a dog upon the request of a farmer would not bring a person within the immunity from suit provided in this law.

LESLIE R. BURGUM

Attorney General