

CHAPTER 91.

[S. B. No. 168—Crane]

BURGLAR'S IMPLEMENTS.

AN ACT to Amend Section 9151 of the Revised Codes of North Dakota, of 1905, Relating to Having Burglar's Implements in Possession.

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

§ 1. AMENDMENT.] Section 9151 of the revised codes of North Dakota, 1905, be and the same is hereby amended and re-enacted to read as follows:

§ 9151. HAVING BURGLAR'S IMPLEMENTS IN POSSESSION.] Every person who, under circumstances not amounting to any felony, has in his possession any dangerous offensive weapon or instrument whatever, or any picklock, crow, key, bit, jack, jimmy, nippers, pick, betty or other implement of burglary, with intent to break and enter any building, booth, tent, railroad car, vessel or other structure or erection, and to commit any felony therein, is guilty of a misdemeanor.

Approved March 13, 1909.

DAIRY PRODUCTS

CHAPTER 92.

[H. B. No. 307—Duncan]

DAIRY DEPARTMENT OF DEPARTMENT OF AGRICULTURE
AND LABOR.

AN ACT to Create a Bureau of the Department of Agriculture and Labor to be Known as the Dairy Department; to Provide for the Appointment of a Dairy Commissioner and an Assistant Dairy Commissioner; Fixing Their Compensation; Defining Their Powers and Duties; Prescribing Rules for the Regulation of the Manufacture and Sale of Dairy Products; Prescribing Penalties for Violations; Providing for a License for Creameries, Manufacturers of Butter and Cheese, Stations and Cream Buyers Throughout the State, and Making an Appropriation for the Purposes of This Act.

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

§ 1. DAIRY DEPARTMENT CREATED.] There is hereby created a bureau of the department of agriculture and labor to be known

as the dairy department, which is hereby created for the purpose of promoting, improving and regulating the dairy products of the state and to establish and enforce proper rules and regulations pertaining thereto.

§ 2. DEPUTY COMMISSIONERS.] The commissioner of agriculture and labor is hereby authorized and directed to appoint a deputy in his department, who shall be known as the dairy commissioner and shall be the official head of the dairy department. He shall have a practical knowledge and experience in the manufacture of dairy products. There shall also be appointed by the commissioner of agriculture and labor, one assistant dairy commissioner, who shall possess the same qualifications as the dairy commissioner. Said dairy commissioner and assistant dairy commissioner shall hold their office during the term of the commissioner of agriculture and labor, who shall appoint them subject to removal for inefficiency, neglect or violation of duty.

§ 3. COMPENSATION.] The dairy commissioner shall receive the same salary as is paid to the assistant or chief deputy in other departments of the state government; and the assistant dairy commissioner shall be paid a salary of fifteen hundred dollars per annum, such salaries to be paid on vouchers approved by the commissioner of agriculture and labor in the same manner as the salaries of the employes of other departments of the state government are paid.

§ 4. EXPENSES OF COMMISSIONERS PAID.] In addition to the compensation in this act provided the said dairy commissioner and assistant dairy commissioner shall be paid all their actual and necessary expenses incurred in the performance of their duties to be paid as the expenses of other departments are paid.

§ 5. DUTIES.] It shall be the duty of said dairy commissioner to carry into effect the provisions of this act and all other acts which may be in force or be hereafter enacted relating to dairies and dairy products and he is hereby authorized and empowered to promulgate and enforce such rules and regulations as may be deemed proper and necessary to carry into effect the provisions of this act; and to amend, alter or abolish such regulations from time to time as changed conditions or experience shall show to be to the best interest of the dairying interests of the state, and relating to the production, manufacture and sale of dairy products, their imitations and substitutes. He shall inspect or have inspected every creamery and cream station, cheese factory and renovating or "process butter" factory in the state at least once a year; to assist the buttermakers, cheese makers and managers of such factories and stations and the patrons of the same, in order to improve the quality of the dairy products sold to or manufactured in said factories and to co-operate with and instruct the dairymen in testing their dairy herds both individually and collectively.

§ 6. PUBLISH BULLETINS.] The said dairy commissioner under the supervision of the commissioner of agriculture and labor is hereby authorized, and it is made his duty from time to time as deemed necessary to publish and distribute bulletins containing the rules and regulations of the dairy commissioner and such other useful information as he shall deem to the advantage of the dairy interests of the state. The expenses for such publications shall be audited and paid for as other public printing.

§ 7. ADDITIONAL POWERS AND DUTIES.] In addition to the powers and duties in this act enumerated, the said dairy commissioner and such persons as shall be duly authorized for the purpose, shall have access, ingress and egress to all places of business, factories, farms, buildings, carriages, cars, vessels and cans used in the sale of any dairy product, or any imitation thereof. They shall also have power and authority to open any package, can or vessel containing such article which may be manufactured, sold or exposed for sale in violation of the provisions of this act, and may inspect the contents therein, and may take samples therefrom for analysis. They shall also have authority to prevent the sale or manufacture into any food product cream that is filthy or putrid, or milk that has been drawn from cows diseased or fed on unwholesome food, and to prohibit the shipment of the same from any railway station within the state. All clerks, bookkeepers, express agents, railroad officials, employes or common carriers shall render to them every assistance in their power when so requested, in tracing, finding or discovering the presence of any prohibited article named in this act. The dairy commissioners and such persons as shall be duly authorized for the purpose, shall have free access to any barn or stable where any cow is kept or milked, or to any factory, building, dairy premises or creamery where any dairy products are bought, manufactured, handled or stored when the milk or cream from such cow or product is to be sold or shipped at or to any cream station, creamery, cheese factory, ice cream factory or other factory and may enforce such measures as are necessary to secure perfect cleanliness in and around the same, and of any utensils used therein.

§ 8. PENALTY FOR OBSTRUCTING COMMISSIONER.] Whosoever shall refuse to allow the inspection herein provided for, or shall in any way hinder or obstruct the proper officers performing their duties hereunder shall be subject on conviction to a fine not exceeding one hundred dollars, or by imprisonment in the county jail not exceeding thirty days, and it shall not be necessary to have the indorsement of the state's attorney to a complaint made for violation of the provisions of this act, but when the justice of the peace or other court before whom complaint is made, shall be satisfied of the truthfulness of such complaint, he shall issue a warrant thereon.

§ 9. CREAM STATION DEFINED.] For the purpose of this act a "cream station" shall be any place where an individual, firm or cor-

poration receives milk or cream from more than one herd that is weighed, tested or purchased when such milk or cream is to be manufactured into butter, cheese or ice cream by some other individual, firm or corporation, or in some separate building or locality than that in which such milk or cream is weighed, tested or purchased; provided, however, that it is not intended by this act to include weighing on public scales by producers before shipment by themselves.

§ 10. LICENSE.] Every person, firm or corporation, owning and operating a creamery, cheese factory or renovating or "process butter" factory or cream station in the state shall on the first day of July of each year, or within thirty days thereafter, be licensed by the dairy commissioner, and shall pay for such license the sum of ten dollars for each and every factory owned or operated by said person, firm or corporation, or cream station, in which cream is to be gathered to be shipped outside the state. No license shall be sold or transferred. Each license shall record the name of the owner, firm or corporation, place of business, the location of the factory, or cream station, and the number of the same.

§ 11. AUTHORITY REQUIRED TO DO BUSINESS.] No corporation or association shall do or transact any business in this state pertaining to the dairy interests of the state as described in this act without having first been authorized so to do under the laws of this state, and no foreign corporation shall purchase any cream in this state for shipment out of the state except through authorized agents at established and licensed cream stations, and subject to such rules and regulations as shall be prescribed by the dairy commissioner for the regulation and conduct of cream stations. No person shall act as the agent or purchaser of cream for any foreign corporation who is not a resident of this state and licensed so to do and any person acting as such agent who fails to comply with the provisions of this act and the rules and regulations established thereunder shall on conviction be punished as for a misdemeanor.

§ 12. ANNUAL REPORT OF CREAM STATION. PRICE DISCRIMINATION FORBIDDEN.] The agent or person in charge of any cream station at which cream is purchased for shipment out of the state shall on July first of each year or within thirty days thereafter report to the dairy commissioner: The name, location and business of his employer; amount of capital stock invested in business; property or assets; liabilities, and such other information pertaining to the business and conduct of the cream station of which such agent has charge, as shall be requested in writing by the dairy commissioner. It is hereby declared to be unlawful for any person, firm, corporation or agent to discriminate in the price paid for cream at any cream station in the state by paying a higher price for cream purchased at any station above the price paid at any other station in the state, conditions of cream and rates of transportation being equalized; the questions of conditions of cream, and difference in

rates of transportation from different points of shipment to be established the same as any question of fact in a civil action. Any person, firm, corporation or agent found guilty of a violation of the provisions of this section shall be deemed guilty of a misdemeanor and punished accordingly.

§ 13. REPORT OF COMMISSIONER.] The dairy commissioner shall make report to the commissioner of agriculture and labor, as directed by such commissioner, and the annual reports of the commissioner of agriculture and labor shall contain a detailed report of the work and proceedings, together with an account of expenses and disbursements of said assistant dairy commissioners, in regard to the production, manufacture and sale of dairy products, and such suggestions as he may regard of public importance connected therewith.

§ 14. AUTHORITY OF ASSISTANT.] The assistant dairy commissioner shall perform such duties as may be directed by the dairy commissioner or the commissioner of agriculture and labor; and when acting as such the assistant dairy commissioner shall be invested with the same authority as is by this act conferred on the dairy commissioner.

§ 15. STENCIL OR BRAND REQUIRED. REPORT TO COMMISSIONER.] Every creamery, cheese factory, combined creamery and cheese factory or renovating or "process butter" factory shall procure a stencil or brand, bearing a suitable device and words which shall clearly designate the quality of the product manufactured and the number and location of the factory, and it may contain a special or private brand or name of said factory; every brand shall be used on the outside of the cheese and also upon the package containing the same, but in the case of butter on the package only; and shall on the first day of July, or within thirty days thereafter, of each year, report to the dairy commissioner the name, location and number of each factory using the same brand, and the name or names of the persons at each factory authorized to use the same, together with a copy of each stencil or brand, and the dairy commissioner shall keep a book in which shall be registered the same.

§ 16. BLANKS FOR REPORT.] The said dairy commissioner shall provide blanks which shall be furnished to all proprietors or managers of creameries, cheese factories and renovating or "process butter" factories and cream stations, which shall be licensed under the provisions of this act, for the purpose of making a report of the amount of milk and dairy goods handled, and all owners or managers of such creameries, cheese factories and renovating or "process butter" factories, and cream stations shall send to the dairy commissioner, not later than the last day of each month, a full and accurate report of the amount of business done during the preceding month as designated under the different headings of such printed blanks.

§ 17. PENALTY FOR SELLING IMPURE, ADULTERATED OR SKIMMED MILK.] If any person shall sell, or expose for sale or exchange or deliver or bring to another for domestic or potable use, to be converted into any product of human food, any unclean, impure, unhealthy, adulterated, unwholesome or skimmed milk (except pure skim milk to skim cheese factories), or milk from which has been held back what is commonly known as strippings, or milk taken from an animal having disease, sickness, ulcers, abscess or running sores, or which has been taken from animals within fifteen days before or five days after parturition; or if any person shall purchase to be converted into any product of human food, any unclean, unhealthy, adulterated or unwholesome milk or cream, or shall manufacture any such milk or cream into any product of human food; or if any person, having cows for the purpose of producing milk and cream for sale, shall stable them in an unhealthy place, or in a crowded manner, or shall knowingly feed them food which produces impure, unwholesome milk, or shall feed them on any substance in a state of putrefaction or rottenness, or of an unhealthy nature, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as provided by law.

§ 18. ADULTERATION DEFINED.] For the purpose of this act, the addition of water or any so-called preservative or anything to whole milk or skimmed milk or partially skimmed milk or cream, is hereby declared an adulteration; and milk or cream which is obtained from animals fed on any substance of an unhealthy nature, is hereby declared impure and unwholesome; and milk which has been proved by any reliable method of test or analysis to contain less than twelve per cent of milk solids to the hundred pounds of milk, or less than three pounds of butter fat to the hundred pounds of milk, shall be regarded as skimmed or partially skimmed milk, and every article not containing fifteen per cent or more of butter fat shall not be regarded as cream.

§ 19. STANDARD MILK AND CREAM MEASURES AND TESTS.] The state standard milk measure, or pipette, shall have a capacity of seventeen and six-tenths cubic centimeters, and the standard test tubes or bottles for milk shall have a capacity for two cubic centimeters of mercury at a temperature of sixty degrees Fahrenheit between "zero" and ten on the graduated scale on the neck thereof. Cream shall be tested by weight, and the standard unit for testing shall be eighteen grams, and the standard test tubes or bottles shall have a capacity for ten cubic centimeters of mercury at a temperature of sixty degrees Fahrenheit, between "zero" and fifty on the graduated scale on the neck thereof, and it is hereby made a misdemeanor to use any other means of determining the amount of butter fat in milk or cream than the Babcock test, or to use any other size of milk measure, weight, test tubes or bottles, except those described herein, where milk or cream is purchased or furnished to cheese

factories, and the value of said milk or cream is determined by the per cent of butter fat contained in the same. Any manufacturer, merchant, dealer or agent in this state who shall offer for sale or sell a milk pipette, or measure, test tube or bottle which is not correctly marked or graduated as herein provided, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as provided by law.

§ 20. FALSE READING UNLAWFUL.] It shall be unlawful for the owner, manager, agent or employe of any creamery or cheese factory to manipulate, under-read or over-read the Babcock test, or any other contrivance used for determining the quality or value of milk.

§ 21. SALE OF ADULTERATED PRODUCTS PROHIBITED. OLEOMARGARINE EXCEPTED.] No person by himself or his agents or servants shall render or manufacture, sell, offer for sale for the future delivery of, have in his possession, keep in storage, distribute, deliver, transfer or convey with intent to sell within this state any article, product or compound made wholly or partly out of any fat, oil or oleaginous substance or compound thereof, not produced from unadulterated milk or cream from the same, which shall be an imitation of yellow butter produced from pure unadulterated milk or cream of the same; provided, that nothing in this act shall be construed to prohibit the manufacture or sale of oleomargarine in a separate and distinct form, and in such a manner as will advise the consumer of its real character, free from coloration or ingredient that causes it to look like butter.

§ 22. OLEOMARGARINE, BUTTERINE, ETC., HOW MARKED.] No person by himself or his agents or servants shall sell or expose for sale oleomargarine, butterine or any substance made in imitation or semblance of pure butter, in tubs, firkins or other original packages not distinctly, legibly and durably branded or marked in a conspicuous place with the word "oleomargarine" or "butterine" or "imitation butter" as the case may be, in letters not less than one inch in length and one-half inch in width, or in retail packages not plainly and conspicuously labeled with said words, "oleomargarine" or "butterine" or "imitation butter", as the case may be.

§ 23. RENOVATED BUTTER, HOW MARKED.] No person by himself, or his agents or servants, shall manufacture, sell, offer for sale or expose for sale butter that is produced by taking original packing stock or other butter, or both, and melting the same so that the butter fat can be drawn off, then mixing the said butter fat with skimmed milk or milk or cream, or other milk product, and re-churning the said mixture; or that is produced by any similar process, and is commonly known as boiled or process butter, unless the tub, firkin or other original package in which the same may be put up, be distinctly, legibly and durably branded, stamped or marked in a conspicuous place with the words "renovated butter," in printed letters not less than one inch

in length and one-half inch in width; or be in prints, boxes or rolls not plainly and conspicuously labeled on the wrapper thereof with said words "renovated butter," in printed letters not less than one-half inch in length and one-quarter inch in width.

§ 24. SKIMMED MILK CHEESE, HOW MARKED.] No person by himself or his agents or servants shall sell or offer for sale any cheese manufactured from skim milk, or from milk that is partially skimmed, without the same being plainly branded, stamped or marked on the side or top of both cheese and package in a durable manner, in the English language, the words "skimmed milk cheese," the letters of the words to be not less than one inch in height and one-half inch in width.

§ 25. FILLED CHEESE, HOW MARKED.] No person by himself or his agents or servants shall sell or offer for sale or make, manufacture out of any oleaginous substance or substances or any compound of the same or any other compound than that produced from unadulterated milk, any article to take the place of cheese produced from pure milk, or any article termed "filled cheese," shall stamp each package of the same on the top and side with lampblack and oil the words "filled cheese," or words that shall designate the exact character and quality of the product, in printed letters at least one inch long and one-half inch wide.

§ 26. CITY COUNCIL PROVIDE FOR INSPECTION OF MILK AND DAIRY HERDS.] The council of any city or incorporated town may by ordinance provide for the inspection of milk and of dairies and dairy herds kept for the production of milk within its limits, and issue licenses for the sale of milk within its limits, and regulate the same, and may authorize and empower the board of health to enforce all laws and ordinances relating to the production and sale of milk and the inspection of dairies and dairy herds producing milk for sale within such city.

§ 27. VIOLATION CONSTITUTES MISDEMEANOR. PENALTY.] Whoever violates any of the provisions of this act, the punishment of which is not herein otherwise provided, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished for each offense by a fine of not less than fifteen dollars nor more than one hundred dollars, or by imprisonment of not less than ten days nor more than ninety days, or both.

§ 28. APPROPRIATION.] There is hereby appropriated out of any money in the state treasury, not otherwise appropriated, the sum of two thousand five hundred dollars, and in addition thereto such sum or sums as shall be collected for licenses under the provisions of this act, for the purpose of carrying into effect the provisions of this act.

§ 29. REPEAL.] All acts or parts of acts in conflict with the provisions of this act and particularly chapter 90 of the laws of 1907 are hereby repealed on the taking effect of this act.

Approved March 20, 1909.