

THE LAWS

AGRICULTURE

CHAPTER 1

H. B. No. 206—(Sand and Lavik)

SALARY ASSISTANT DAIRY COMMISSIONERS

An Act fixing the maximum annual salary which may be paid the assistant dairy commissioners, and repealing all acts or parts of acts in conflict herewith, and declaring an emergency.

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

§ 1. That the salary for services rendered in their official capacities by the assistant dairy commissioners, shall be fixed by the Commissioner of Agriculture and Labor, at not to exceed eighteen hundred dollars (\$1800.00) per annum, for each assistant dairy commissioner.

§ 2. REPEAL.] All acts or parts of acts in conflict herewith are hereby repealed.

§ 3. EMERGENCY.] An emergency is hereby declared to exist and this article shall be in full force and effect from and after its passage and approval.

Approved March 5, 1935.

CHAPTER 2

S. B. No. 161—(Ettestad)

REGULATION LIVESTOCK DEALERS

An Act providing for the regulation of dealers in livestock and poultry and defining who are dealers; act not applicable, to whom; license and bond required; powers and duties of Railroad Commission; records required of dealers; feeding, watering and weighting; acts of deceit, fraud, dishonesty, and appropriating fees collected to the use of the Board of Railroad Commissioners for the administration and enforcement of the act; penalty for violation of act; and, repealing all of Chapter 7 of the Session Laws of the State of North Dakota for the year 1933; and repealing all acts in conflict herewith; and making the act an emergency measure.

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

§ 1. DEALER DEFINED: ACT NOT APPLICABLE, TO WHOM.] The term "dealer" as used herein shall mean any person, co-partner-

ship, association or corporation engaged in the business of buying and selling and dealing in livestock, horses, mules, cattle, hogs, sheep and poultry for re-sale and shipment within or without the state, and also for re-sale in the local markets.

Nothing in this act contained shall apply to farmers or farm associations who buy and sell livestock among themselves as producers, or who purchase livestock to complete loads of livestock of their own for shipment to market where such incomplete load is not less than twenty-five per cent of a full load; and nothing in this act contained shall apply to co-operative livestock marketing associations of producers of livestock in their dealings with their members, or livestock purchased by local butchers or dealers to be slaughtered or processed in their business for local home consumption, or trading for merchandise or machinery, provided that any person, co-partnership, association or corporation licensed for the year 1935 under the provisions of Chapter 7 of the Session Laws for the year 1933 at the time of the taking effect of this act shall not be required to qualify hereunder until the year 1936.

§ 2. LICENSE AND BOND REQUIRED.] After April 1, 1935, all dealers in livestock, as herein defined, shall be duly licensed as hereinafter provided. No agent shall act for any such livestock dealer unless the dealer is duly licensed and has designated such agent to act in his behalf and notified the Board of Railroad Commissioners in his application for license or in writing of such appointment, and requested the commission to issue to such agent an agent's license; and the dealer shall be accountable and responsible for all the acts of his or its agent.

Each dealer, before entering in the business of dealing in livestock, shall annually on or before January 1 of each year, (and for the year 1935 on or before April 1) file an application with the Board of Railroad Commissioners on a form prescribed by it for a license to transact such business. The applicant shall state the nature of the business as herein above set forth, the name or names of persons applying for the license, and if the applicant be a firm, association, partnership or corporation the full name of each member of such firm, association, or partnership, or the names of the official officers of the corporation, and the name of the agent or agents of such person, firm, association, partnership or corporation, the postoffice address and the principal place of business of the applicant, and if a foreign corporation it must state its principal place of business without the state and the name of the state incorporated in and it must also state that it has complied with the corporation laws of this state relating to foreign corporations, and such other acts as the commissioners may prescribe.

Each applicant shall file with his application a surety company bond to be approved as to amount, form and sufficiency and surety by the commission in the sum of not less than \$1,500.00 for princi-

pal's bond and that the amount of said bond be increased not less than \$500.00 for each applicant appointed by the dealer and licensed by the commission, in which the commissioners shall be the obligee but which shall be for the benefit and purpose of protecting any person dealing with the dealer in livestock from loss by reason of acts of deceit, fraud, dishonesty, forgery, and theft on the part of the principal or his agent; provided, however, that a separate bond for each agent appointed and licensed, may be given in the sum of \$1,500.00, in lieu of the additional amount on the principal bond; provided further that the commission may demand at any time additional bond for either principal or agent when in the discretion and judgment of the commission the volume of business of the principal or any agent named by such principal warrants it.

The commissioners shall thereupon issue to such applicant on the payment of the sum of five dollars a license entitling the applicant, his or its agent, to conduct the business of dealing in livestock as herein defined, at the place or places named in the application until the 31st day of December next following; provided that for each agent to whom a license is issued, the sum of five dollars shall be paid to the commission.

§ 3. POWERS AND DUTIES OF RAILROAD COMMISSION.] The commissioners may decline to grant or may revoke a license when it is satisfied that: (a) the applicant or licensee has violated any of the laws of this state governing the handling, shipment or transportation of livestock; or (b) that the applicant or licensee has been guilty of deceit, fraud, dishonesty, forgery or theft as a dealer in livestock or in dealing in livestock; or (c) that the applicant has failed or refused to furnish the information required under the terms of this act and as prescribed by the commissioners.

Before any license shall be revoked the licensee shall be furnished with a copy of the complaint made against him and a hearing shall be had before the commissioners upon at least fifteen days notice to the licensee to determine whether such license shall be revoked, and which notice may either be served by registered mail addressed to the given address of the licensee, or in the manner provided by law for the service of a summons. At the time and place fixed for the hearing the commissioners or any member thereof, or any duly authorized and appointed agent by the commission, shall take and receive evidence, administer oaths, examine witnesses and take the testimony offered, and shall submit and file the same with the commission, and the commissioners shall thereafter and based thereon make and file an order either dismissing the proceedings, or revoking the license, and that the aggrieved party shall have the right to take an appeal from any such order so entered within thirty days from the entry and service thereof upon him to the District Court of Burleigh County, North Dakota, and the same shall be tried anew in the District Court as a court case without a jury.

§ 4. RECORDS REQUIRED OF DEALER.] Each dealer shall keep such accounts, records and memoranda concerning his dealings in livestock as may from time to time be required by the commissioners, and the commissioners shall at all times have access to such accounts, records and memoranda.

On the date of purchase of livestock, the dealer shall mail to the Board of Railroad Commissioners a record in form as prescribed by that body, showing the grade of the animals, the number of animals of each grade included in the purchase, the average weight of the animals of each grade included in the purchase, and the price per hundred pounds paid for the animals of each grade, the number of animals in each grade docked, and the amount of the dockage of each grade and the total number of animals docked.

§ 5. FEEDING, WATERING, AND WEIGHING.] The seller of livestock may require the buyer to give the livestock such food as they will consume during a two-hour period prior to weighing, the feed to be furnished by the buyer at the expense of the seller, and after such feeding the animals shall be given by the buyer free access to water until their thirst is fully quenched. If, however, feeding is omitted, the actual scale weight shall apply as the sole basis for settlement with the seller. All dealers, at any concentration point, shall have the scale upon which the animals are weighed inspected and tested by some duly authorized inspector so as to produce correct weights at all times.

§ 6. ACTS OF DECEIT, FRAUD AND DISHONESTY.] When any dealer represents or states to the seller of livestock that the price offered or paid by the dealer for livestock is based directly or indirectly upon prices established upon public terminal livestock markets within or without the State of North Dakota, or in fact the purchase price is directly or indirectly based upon such terminal market prices, and which representations are in fact and substance false the dealer shall be deemed guilty of deceit, fraud and dishonesty under the terms of this act.

§ 7. For the purpose of carrying out the provisions of this act, there is hereby created in the State Treasury, a state fund to be known as the "Livestock Dealers Fund." All fees collected by the commission under the provisions of this act necessary in administering and enforcing this act, or so much thereof as may be necessary, are hereby appropriated to the use of said commissioners and shall be paid into the State Treasury monthly, and shall be credited to the said Livestock Dealers Fund to the use of the commission and shall be paid out upon proper voucher and audit by the State Auditing Board for the expenses of said commission in administering and enforcing the provisions of this act.

§ 8. PENALTY FOR VIOLATION OF ACT.] Any person who shall violate any of the provisions of this act, shall be guilty of a mis-

demeanor and shall be punished by a fine of not exceeding \$100.00 or by imprisonment in the county jail for a period not to exceed thirty days or by both such fine and imprisonment. Every person who, having been convicted of a violation of this act, shall after such conviction, violate any of the provisions of this act, shall be guilty of a misdemeanor, and shall be punished by a fine of not less than \$100.00 nor more than \$500.00 or by imprisonment in the county jail for not less than thirty days nor more than one year, or by both such fine and imprisonment.

§ 9. REPEAL.] That all of Chapter 7 of the Session Laws of the State of North Dakota for the year 1933 be and the same hereby are repealed; and, that all other acts or parts of acts in conflict with this act are hereby repealed.

§ 10. EMERGENCY.] This act is hereby declared to be an emergency and shall be in full force and effect from and after its passage and approval. That the Supreme Court of this state just recently handed down a decision, on January 22, 1935, in an action entitled Ernest E. Lee, plaintiff, against Abe Tolchinsky, Joe Grainer, U. S. Fidelity and Guaranty Company, et al, defendants, N. D., 258 N. W., holding that the surety company is not liable on the bond of a buyer and dealer in livestock to the purchaser from such dealer on the re-sale on account of being infected with a contagious disease, or on account of acts of fraud and dishonesty; and that the act only applies to direct buyers of livestock from the producers of livestock; and, that the public or anyone else dealing with livestock dealers has no protection under the terms of the act and the bond required, and which decision practically nullifies the law as it stands.

Approved March 12, 1935.

CHAPTER 3

H. B. No. 7—(Hanson of Benson, Cunningham and Treffry)

WEIGHING, ETC., LIVESTOCK AT PACKING PLANTS, ETC.

An Act to provide for the weighing, grading, feeding, docking and watering of livestock at packing plants, slaughtering houses and concentration points.

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

§ 1. As used herein, the terms "packing plants" and "slaughtering houses" shall mean plants, houses and places of business where livestock purchased or acquired at places within the State of North Dakota other than a public stockyards as the same is defined by Chapter 192, Laws of 1919, are slaughtered. The term "livestock" shall mean slaughter cattle, hogs and sheep. This act shall apply only to packing plants and slaughtering houses handling livestock pur-

chased and acquired as aforesaid, and paid for upon weights ascertained either at the packing plant or slaughtering house concentration point, or at a public place other than that at which the same were acquired. "Concentration point" shall mean any stockyards at which livestock are assembled by rail, or by rail and/ or other means of transportation, and at which livestock are bought and sold or are assembled for reshipment to a packing plant or a public stockyards, or graded or weighed for the purpose of establishing a basis for sale or reshipment.

§ 2. The Board of Railroad Commissioners shall appoint at packing plants, slaughtering houses and concentration points such weighers and graders as may be necessary for weighing and grading of livestock. Every such weigher and every such grader shall be bonded in the State Bonding Fund in the sum of five thousand dollars, conditioned for the faithful discharge of his duties. Suit may be brought thereon by any person injured by the misconduct of the principal. No weighers or graders shall be maintained at any packing plant, slaughtering house or concentration point where the average daily number of livestock handled is less than 250 head. The Board of Railroad Commissioners shall prescribe and follow such reasonable regulations as it deems necessary for determining such daily average.

The shipper or his representative shall have the right to give his livestock such feed as they will consume during a two-hour period prior to weighing, feed to be furnished by the owner, proprietor or operator of the packing plant, slaughtering house or concentration point at the expense of the shipper, and after such feeding the animals shall be given by such owner, proprietor or operator, free access to water until their thirst is fully quenched. If, however, feeding is omitted, the actual scale weights shall apply as the sole basis for settlement with the shipper.

The weighers and graders shall weigh, dock and grade all slaughter livestock, not previously weighed, graded and docked, pursuant to the provisions hereof and shall keep a record thereof and of the time of arrival of livestock at such packing plants, slaughtering houses and concentration points. The weigher and/ or grader shall furnish the interested parties a certificate setting forth the number of animals weighed or graded, or both, for whose account weighed or graded, the actual weight and grade of such animal or animals, and the dockage if any. Such certificate shall be prima facie evidence of the facts therein certified.

The Board of Railroad Commissioners shall establish such rules and regulations as it deems necessary for the weighing, docking and grading of animals and for carrying out the provisions of this act. Insofar as they are applicable, the Board of Railroad Commissioners shall use the same standards as are used by the United States Bureau of Agricultural Economics.

§ 3. The commission shall prescribe the fee necessary to cover the cost of such weighing, docking, and grading, to be assessed and collected in such manner as the Commission may prescribe, and for the purpose of carrying out the provisions of this act, there is hereby created, in the State Treasury a state fund to be known as the "Livestock Weighing and Grading Fund." All fees collected by the commission under the provisions of this act necessary in administering and enforcing this act, or so much thereof as may be necessary, are hereby appropriated to the use of said commissioners and shall be paid into the State Treasury monthly and shall be credited to the said "Livestock Weighing and Grading Fund" to the use of the Commission and shall be paid out upon proper voucher and audit by the State Auditing Board for the expenses of said commission in administering and enforcing the provisions of this act; it being the intention of this act to relieve the General Fund of the state from any and all cost in connection with the administration of the provisions hereof; provided, however, that there is appropriated out of the General Fund of the state, not otherwise appropriated, the sum of \$6,000.00 to carry out the provisions of this act.

§ 4. No weigher, docker or grader shall during his term of service be in any manner interested in the handling, shipping, producing or sale of livestock, nor in the employment of any persons or corporation engaged therein.

§ 5. Any person not duly appointed and qualified who shall assume to act as such weigher, docker or grader shall be guilty of a misdemeanor and punished by a fine of not less than fifty nor more than one hundred dollars for each offense.

§ 6. Any weigher, docker or grader who shall knowingly or carelessly weigh, dock or grade any livestock improperly or give any false certificate of weight or grade, or accept money or other consideration directly or indirectly for any neglect or improper performance of duty, or who shall be guilty of any neglect of duty, and any person who shall improperly influence or attempt to influence any such officer in the performance of his duties, shall be guilty of a gross misdemeanor and shall be punished by a fine of not less than one hundred nor more than one thousand dollars, or by imprisonment in the county jail for not less than thirty days nor more than one year, or by both such fine and imprisonment.

§ 7. The scales at packing plants or slaughtering houses on which slaughter livestock is weighed to effect sale direct from the producer shall be constructed and maintained in accordance with requirements of the Board of Railroad Commissioners. All such scales shall be tested up to the maximum draft that may be weighed on the scale by the State of North Dakota at least once every thirty days.

§ 8. Any person or corporation who shall obstruct any state

weigher, docker or grader in the performance of his official duties by preventing his proper access to the scales publicly or privately owned used in the weighing of livestock or otherwise, shall forfeit to the state one hundred dollars for each such offense.

§ 9. If any part or provision of this act shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not impair nor invalidate any other part or provision in the remainder of the act; and if any part or provision of this act shall for any reason be adjudged by any such court constitutionally inapplicable to any case within the terms of such part or provision, such judgment shall not impair or invalidate such part or provision as applied to any other type of case within their terms.

§ 10. This act shall take effect and be in force from and after July 1, 1935.

Approved March 11, 1935.

CHAPTER 4

S. B. No. 52—(Thorson, Green of Stutsman and Drew)

NORTH DAKOTA COMMISSIONERS OF THE FEDERATED CO-OPERATIVE AGRICULTURAL ASSOCIATION

An Act creating a board known as the "North Dakota Commissioners of the Federated Co-operative Agricultural Association" and providing for co-operation with other surplus producing states of the Union, describing the manner of forming the same, the purposes thereof, making an appropriation therefor, and declaring an emergency.

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

§ 1. PURPOSE OF THIS ACT.] The purpose of this act shall be to encourage the formation and maintenance of a Federated Agricultural Association, to be formed by the State of North Dakota, in conjunction with other agricultural states, for the mutual benefit and protection of such states having a community of interest in agricultural problems under Article 2 of the Constitution of the State of North Dakota.

§ 2. ASSOCIATION, HOW FORMED.] There is hereby created in the Department of Agriculture and Labor, a board to be known as the "North Dakota Commissioners of the Federated Co-operative Agricultural Association" which shall consist of three members to be appointed by the Commissioner of Agriculture and Labor. Such appointments may be made from a list of persons submitted by the Committee on Agriculture in the Senate and the Committee on Agriculture in the House of Representatives, acting jointly. Said board shall have full power and authority to present the federated plan to other agricultural states with a view to forming a group of Federated States, under the plan herein described, for the mutual bene-

fit and protection of the producers of agricultural commodities having a community of interest.

§ 3. ELIGIBILITY OF COMMISSIONERS. TERM OF OFFICE. VACANCIES.] No commissioner shall be appointed, as herein provided, unless he shall be a bona-fide farmer and engaged in the pursuit of agriculture. One commissioner shall be appointed for two years, one for four years, and the third for six years and in case of death of any such commissioner, resignation or removal from office, the vacancy shall be filled by the Governor for such an unexpired term.

§ 4. DUTIES OF COMMISSIONERS.] As soon as such Commissioners shall have been appointed and they have accepted the same, they shall proceed at once to place before the legislatures, officials, and farm organizations of other agricultural states, having a community of interest with North Dakota, in the production, distribution and sale of agricultural products, the plan herein outlined of forming said states, along with North Dakota, into a National Federated, Co-operative, Agricultural Association, for the purpose of taking group action upon all questions of agricultural productions, distribution, and legislation.

§ 5. FEDERATION. HOW ESTABLISHED.] As soon as five or more states have accepted the plan of Federation as herein proposed, and their respective legislatures have authorized the formation thereof, said commissioners from each state shall proceed to organize by electing officers, adopting by-laws for the proper conduct of the business of such Federation, not inconsistent with the purposes thereof.

§ 6. AUTHORITY OF THE FEDERATION.] The said Federation, formed as provided for in Section 5 of this act, shall have power to do and perform all acts necessary to be done for the promotion of peace, happiness, and prosperity of the people engaged in agriculture in their various states, not inconsistent with the laws of such states, and bi-annually said commissioners shall file a joint report with the legislatures of their various states, showing the work done, progress made, and expense of such Federation.

§ 7. AGRICULTURAL LOBBY.] The Federation may maintain a lobby at Washington, D. C., during sessions of Congress, or at other times, for the purpose of presenting data on agricultural subjects to members of Congress and the officers of the Government, to the end that intelligent and scientific consideration may be had of the various problems confronting agriculture, and to the end that wise legislation may be passed in the interest of those engaged in agriculture, legislative demands being always limited to a just and fair position of agriculture with respect to the general business of the nation, and the demand being equally insistent that there shall be equal opportunity to all and special privileges to none. The officers of the Federation shall be at such place as shall be agreed upon and in each state

the commissioners therein named and approved shall constitute the State Lobby, with like purposes and objects of the National Lobby.

§ 8. STATE CODE COMMISSIONERS. DUTIES.] The State Commissioners, in addition to their other duties, shall constitute an Agricultural Code Commission, who shall compile all facts and data, and make recommendation in respect thereto, to the Legislature. They shall furnish such legislature and the officers of the State Government, at the beginning of each legislative session, a written report, containing such information, facts and data, and the recommendations based thereon.

§ 9. NAME OF NATIONAL ORGANIZATION.] Whenever any five states have accepted, by legislative enactment, the purposes and objects of this act, and have organized a Federation it may be called the National Federated, Co-operative, Agricultural Association, or any name according to the judgment of the commissioners, the only restriction being that the purposes and objects of this act shall be preserved.

§ 10. ADVISORY COMMISSIONERS. HOW APPOINTED. POWERS.] Any state wide commodity, educational, or protective farm organization, may select one representative from each such organization to be known as Advisory Commissioner, who shall be privileged to attend all meetings of the Federation and participate thereon in all respects as other commissioners, except that they shall have no vote.

§ 11. APPROPRIATION.] Realizing that there is at present no authorized organization among the various agricultural states of the Union having a community of interest, which directs such business as a successful business should be directed, both as to production, distribution, and legislation, and in order to make effective the purposes of this act and carry out its provisions, the sum of fifteen hundred dollars is hereby appropriated out of any moneys in the General Fund of the state not otherwise appropriated, to be paid upon the order of the board.

§ 12. EMERGENCY.] Under the purposes and objects of this act, an emergency is hereby declared to exist and this act shall be in full force and effect from and after its passage and approval.

Approved March 12, 1935.

CHAPTER 5

S. B. No. 102—(Committee on Appropriations)

NORTHWEST AGRICULTURAL LIVESTOCK AND FAIR
ASSOCIATION

An Act to amend and re-enact Section 1866A(a)4 and repeal Section 1866A(a)6, Supplement to the Compiled Laws of 1913, relating to Northwest Agricultural Livestock and Fair Association, and declaring an emergency.

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

§ 1. AMENDMENT.] That Section 1866A(a)4, Supplement to the Compiled Laws of 1913, is hereby amended and re-enacted to read as follows:

§ 1866A(a)4. When the State of North Dakota accepts the title to the land so acquired by said association, which acceptance shall be made by the Governor and Attorney General, thereupon, and not before such time, shall the deed of conveyance of said property to the state be accepted and recorded. Should this act be repealed, then and in that event, the title to said premises shall revert to, and become the property of the association that transferred the same to the state; provided, further, that the state shall never become liable for any of the debts and liabilities of said association save as appropriations shall be made therefor from time to time by the legislative assembly. The provisions of this article shall not become binding upon the state as to said fair association until such association shall adopt and file with the secretary of state an irrevocable by-law consenting to the provisions hereof and providing that its board of directors shall consist of eleven persons; and that said association shall appoint an advisory committee consisting of the governor, commissioner of agriculture and labor and state auditor together with one resident freeholder from each judicial district of the state; which said committee is privileged to attend the meetings of the association, and is at all times to be fully advised in regard thereto.

§ 2. REPEAL.] That Section 1866A(a)6, Supplement to the Compiled Laws of 1913, is hereby in all things repealed.

§ 2. EMERGENCY.] This act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved February 20, 1935.