

THE LAWS

AGRICULTURE

CHAPTER 1

H. B. No. 177—(Hagen)

BRAND BOOK

An Act authorizing the Secretary of Agriculture and Labor to issue an official brand book showing all the livestock brands now of record in his office, making the same receivable in evidence as proof of brands and the ownership thereof, and making an appropriation therefor, and declaring an emergency:

WHEREAS, by Section 8 of the Session Laws of North Dakota for 1933 provision was made for the cancellation of all existing recorded brands, and for the re-recording thereof, and for the recording of new brands in the office of the Secretary of Agriculture and Labor, and

WHEREAS, there are now of record in the Office of the Secretary of Agriculture and Labor approximately 5500 livestock brands, and

WHEREAS, there is now no official brand book showing such brands, and

WHEREAS, the only brand book heretofore issued in this State is one published privately in 1902, and

WHEREAS, the Secretary of Agriculture and Labor has been making a compilation of such stock brands for publication in cooperation with the Western North Dakota Stockmen's Association, an association whose members are stockmen and ranchers of the State of North Dakota, and

WHEREAS, such compilation is now about ready for publication, and

WHEREAS, the approximate cost of such compilation has been the sum of Five Thousand and no/100 Dollars (\$5,000.00), and

WHEREAS, said Western North Dakota Stockmen's Association has solicited advertising in the sum of Seven Hundred Seventy and no/100 Dollars (\$770.00) to help defray the expense of publication and is willing to pay the balance of the cost thereof, excepting the items as follows:

Pierce Company, Printers, \$1,450.00; Dakota Engravers, \$147.52 and First National Bank of Killdeer for money borrowed to defray the expense of compilation, \$750.00, making a total of \$2,347.52, and

WHEREAS, the State has already received as fees for the record-

ing and re-recording of live stock brands, the approximate sum of \$36,109.50 and has expended the sum of \$400.00 appropriated in 1935, and

WHEREAS, it is estimated that the actual cost to the State in clerk hire and record books and incidental expenses for the recording of live stock brands has been the sum of \$5,000.00, leaving the net receipts of the State general fund about the sum of \$30,709.50, and

WHEREAS, the publication of a brand book by the Department of Agriculture and Labor at this time is desirable:

NOW, THEREFORE:

PARTIAL VETO

March 5th, 1937

Members of the House of Representatives, Twenty-fifth Legislative Assembly.

Members of the House:

I am returning House Bill No. 177, which I have partially disapproved—An Act Authorizing the Secretary of Agriculture and Labor to issue an Official Brand Book showing all the Livestock Brands now of Record in his Office, Making the Same Receivable in Evidence as Proof of Brands and the Ownership thereof, and Making an Appropriation therefor, and Declaring an Emergency.

This bill contains an item in the sum of \$750.00 for a loan from the First National Bank of Killdeer.

I am partially disapproving this bill for two reasons: First, that I believe it is a bad precedent to borrow money and then after the money is spent ask the State to make good the note to the Bank; and for the second reason that the State is without sufficient funds on hand to allow this appropriation.

Therefore, the item in the sum of \$750.00, payable to the First National Bank of Killdeer, is disallowed, and the appropriation reduced from the sum of \$2,500.00 to the sum of \$1,750.00 is hereby approved.

Respectfully,

WILLIAM LANGER,
Governor.

WL:JEB.

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

§ I. OFFICIAL BRAND BOOK AUTHORIZED.] The Secretary of Agriculture and Labor is hereby authorized and directed to adopt the compilation heretofore made by him in cooperation with the Western North Dakota Stockmen's Association of material for a brand book from the records of livestock brands in his office, and upon verification thereof to publish the same as and for the official brand book of the State of North Dakota.

§ 2. BRAND BOOK PRESUMPTIVE EVIDENCE.] The official brand book published by the Department of Agriculture and Labor as hereinbefore authorized shall be received in evidence in all the Courts of the State of North Dakota as presumptive evidence of livestock brands and the record and ownership thereof in lieu of the actual records of his office.

§ 3. APPROPRIATION.] There is hereby appropriated out of the general fund not otherwise appropriated the sum of \$2,500.00, or so much thereof as may be necessary to help defray the expense of such publication, and the Secretary of Agriculture and Labor shall pay out of the sum so appropriated the bill of Pierce Company, printers, for printing already done, the sum of \$1,450.00; the bill of Dakota Engravers, for engraving already done, \$147.52, and to the First National Bank of Killdeer, the sum of \$750.00 advanced to defray expense of making the compilation aforesaid.

§ 4. EMERGENCY.] This Act is hereby declared to be an emergency measure, and the same shall be in full force and effect from and after its passage and approval.

CHAPTER 2

S. B. No. 179—(Committee on Agriculture and Livestock)

AGRICULTURAL CONSERVATION AND ADJUSTMENT ACT

An Act to provide for the conservation, protection, improvement and profitable use of agricultural land resources of the State of North Dakota and for cooperation with the governments and agencies of other States and of the United States pursuant to the provisions of Section 7 of an Act of the Congress of the United States known as the Soil Conservation and Domestic Allotment Act, to assent to and accept the provisions of said Act; and, in conformity with the provisions of said Act, to designate and authorize the North Dakota Agricultural College, Extension Service as the State Agency of this State in conformity with such provisions, to formulate, submit to the Secretary of Agriculture of the United States, and administer, State plans to carry out the provisions of this Act, to define the powers and duties of said State Agency, to provide for State Committee and otherwise to provide for the administration of this Act.

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

§ 1. SHORT TITLE.] This Act may be known and cited as the North Dakota Agricultural Conservation and Adjustment Act.

§ 2. DECLARATION OF PURPOSE.] (a) It is hereby recognized and declared:

(1) That the soil resources and fertility of the land of this State, and the economic use thereof, the prosperity of the farming

population of this State, and the navigability of the rivers of this State, are matters affected with a public interest.

(2) That the welfare of this State has been impaired and is in danger of being further impaired by destruction of its soil fertility, by uneconomic use and waste of its land, by exploitation and wasteful and unscientific use of its soil resources, by soil erosion, by impairment of its rivers and of the navigability of its water courses, and by the decrease in the purchasing power of the net income per person on farms.

(3) That said evils have been augmented and are likely to be augmented by similar conditions in other States and are so interrelated with such conditions in other States that the remedying of such conditions in this State requires action by this State in cooperation with the governments and agencies of other States and of the United States and requires assistance therein by the government and agencies of the United States, and

(4) That the formulation and effectuation by this State of State plans in conformity with the provisions of Section 7 of the Soil Conservation and Domestic Allotment Act is calculated to remedy said conditions and will tend to advance the public welfare of this State.

(b) Therefore, in order to promote the welfare of the people of this State by aiding in the preservation and improvement of soil fertility in the promotion of the economic use and conservation of land, in the diminution of exploitation and wasteful and unscientific use of soil resources, in the protection of rivers against the results of soil erosion, and in the reestablishment, at as rapid a rate as is practicable and in the general public interest, of the ratio between the purchasing power of the net income per person on farms and that of the net income per person not on farms that prevailed during the five year period August, 1909 to July, 1914, inclusive, as determined from statistics available in the United States Department of Agriculture, and the maintenance of such ratio, the State of North Dakota hereby assents to and accepts the provisions of the Soil Conservation and Domestic Allotment Act and adopts the policy and purpose of co-operating with the Government and agencies of other States and of the United States in the accomplishment of the policy and purposes specified in Section 7 of said Act; *subject* to the following limitations:

(1) The powers conferred in this Act shall be used to assist voluntary action calculated to effectuate such purposes.

(2) Such powers shall not be used to discourage the production of supplies of foods and fibers in this State sufficient when taken together with the production thereof in other States of the United States to maintain normal domestic human consumption as determined by the Secretary of Agriculture of the United States from the records of consumption in the years 1920 to 1929, inclusive, taking

into consideration increased population, quantities of any commodities that were forced into domestic consumption by a decline in exports of particular commodities, and the quantities of substitutes available for domestic consumption within any general class of food commodities.

(3) In carrying out the purposes specified in this section due regard shall be given to the maintenance of a continuous and stable national supply of agricultural commodities adequate to meet consumer demand at prices fair to both producers and consumers.

§ 3. DEFINITIONS.]

(a) The term "person" as used in this Act, unless the context otherwise requires, includes an individual, corporation, partnership, firm, business trust, joint-stock company, association, syndicate, group, pool, joint venture, and any other unincorporated association or group.

(b) The expression "other States of the United States" as used in this Act shall include Alaska, Hawaii, and Puerto Rico.

§ 4. DESIGNATION OF STATE AGENCY.]

(a) The North Dakota Agricultural College Extension Service is hereby designated and authorized as the State Agency of this State to carry out the policy and purposes of this Act and to formulate and administer State plans pursuant to the terms of this Act.

§ 5. FORMULATION AND ADMINISTRATION OF STATE AGRICULTURAL PLANS.]

(a) The State Agency is authorized and directed to formulate for each calendar year, commencing with the year 1938, and to submit to the Secretary of Agriculture of the United States for and in the name of this State, a State plan (hereinafter called "agricultural plan") for carrying out the purposes of this Act during each calendar year. In formulating the provisions of such agricultural plans the State Agency shall consult with other agencies of this State qualified to assist therein.

(b) The State Agency is authorized to modify or revise any such agricultural plans in whatever manner, consistent with the terms of this Act, it finds necessary to provide for more substantial furtherance of the accomplishment of the purposes of this Act.

(c) Each such agricultural plan shall provide for such participation in its administration by such voluntary County and community committees, or association of agricultural producers, organized for such purposes, as the State Agency determines to be necessary or proper for the effective administration of the agricultural plan.

(d) Each such agricultural plan shall provide, through agreements with agricultural producers or through other voluntary methods, for such adjustments in the utilization of land, in farming practices, and in the acreage or in the production for market, or both,

of agricultural commodities, as the State Agency determines to be calculated to effectuate as substantial accomplishment of the purposes of this Act as may reasonably be achieved through action of this State, and for payments to agricultural producers in connection with such agreements or methods in such amounts as the State Agency determines to be fair and reasonable and calculated to promote such accomplishment of the purposes of this Act without depriving such producers of a voluntary and uncoerced choice of action.

(e) Any such agricultural plan shall provide for such educational programs as the State Agency determines to be necessary or proper to promote the more substantial accomplishment of the purpose of this Act.

(f) Each such agricultural plan shall contain an estimate of expenditures necessary to carry out such agricultural plan together with a statement of such amount as the State Agency determines to be necessary to be paid by the Secretary of Agriculture of the United States as a grant in aid of such agricultural plan under Section 7 of the Soil Conservation and Domestic Allotment Act, in order to provide for the effective carrying out of such agricultural plan, and shall designate the amount and due date of each installment of such grant, the period to which such installment relates, and the amount determined by the State Agency to be necessary for carrying out such agricultural plan during such period.

(g) The State Agency shall provide for such investigations as it finds to be necessary for the formulation and administration of such agricultural plans.

§ 6. RECEIPT AND DISBURSEMENT OF FUNDS.]

(a) The State Agency is hereby authorized and empowered to receive on behalf of this State all grants of money or other aid made available from any source to assist the State in carrying out the policy and purposes of this Act. All such money or other aid together with any moneys appropriated or other provision made by this State for such purpose, shall be forthwith available to said State Agency as the agency of the State subject, in the case of any funds or other aid received upon conditions, to the conditions upon which such funds or other aid shall have been received, for the purpose of administering this Act and may be expended by the State Agency in carrying out such State agricultural plans or in otherwise effectuating the purposes and policies of this Act.

(b) Subject to any conditions upon which any such money or other aid is made available to the State and to the terms of any applicable agricultural plan made effective pursuant to this Act, such expenditures may include, but need not be limited to, expenditures for administrative expenses, equipment, cost of research and investigation, cost of educational activities, compensation and expenses of members of the State Committee, reimbursement to other State agencies, or to voluntary committees or association of agricultural

producers for costs, to such agencies, committees or associations of assistance in the administration of this Act, requested in writing by the State Agency and rendered to the State Agency, reimbursement of any other fund from which it shall have made expenditures in providing services in the administration of this Act pursuant to the provisions of Section 4 hereof, payments to agricultural producers provided for in any agricultural plan made effective pursuant to this Act, salaries of employees, and all other expenditures requisite to carrying out the provisions and purposes of this Act.

(c) The State Agency shall provide for the keeping of full and accurate accounts showing all receipts and expenditures of moneys, securities, or other property received, held or expended under the provisions of this Act and shall provide for the auditing of all such accounts and for the execution of surety bonds for all employees entrusted with moneys or securities under the provisions of this Act.

§ 7. ADDITIONAL POWERS AND DUTIES OF THE STATE AGENCY.]

(a) The State Agency shall utilize such available services and assistance of other State agencies and of voluntary County and community committees and associations of agricultural producers as it determines to be necessary or calculated to assist substantially in the effective administration of this Act.

(b) The State Agency shall have authority to make such rules and regulations, consistent with the provisions of this Act, and to do any and all other acts consistent with the provisions of this Act, which it finds to be necessary or proper for the effective administration of this Act.

(c) The State Agency shall have power and authority to obtain, by lease or purchase, such equipment, office accommodations, facilities, services and supplies, and to employ such technical or legal experts or assistants and such other employees, including clerical and stenographic help, as it determines to be necessary or proper to carry out the provisions of this Act, and to determine the qualifications, duties and compensation of such experts, assistants and other employees.

(d) All other agencies of this State are hereby authorized to assist said State Agency in carrying out the provisions of this Act upon written request of the State Agency, in any manner determined by the State Agency to be necessary or appropriate for the effective administration of this Act.

§ 8. AGRICULTURAL DISTRICTS AND COMMUNITIES.]

(a) The State Agency shall designate within the State five agricultural districts. Such districts shall be so constituted as to contain approximately equal numbers of agricultural producers.

(b) The State Agency shall also designate within each County of this State such geographic units, which shall be called "communities", as it is determined to be the most convenient for the administra-

tion of this Act and of State Agricultural plans adopted pursuant to this Act, and shall establish the boundaries of such communities.

(c) The State Agency may revise the boundaries of such agricultural districts and of such communities, in conformity with the respective standards prescribed herein, at such time or times as it finds that such revision is necessary, either to cause such districts or communities, or both, to conform to said standards or to provide for the more substantial or more efficient accomplishment of the purposes of this Act.

§ 9. COMMUNITY AND COUNTY COMMITTEES.] The State Agency shall by regulations provide:

(1) For the organization within each community of a voluntary association, in which all agricultural producers shall be entitled to equal participation; for the selection by each such association of a community committee, composed of three members of such association; and for the selection of a chairman of each such community committee.

(2) For the selection by the members of such community committees within each County of a County Committee for such County, composed of three members of such community committees, and for the selection of a chairman of each such County Committee.

§ 10. STATE COMMITTEE.]

(a) The State Agency shall by regulations provide for the selection by the chairman of all County Committees provided for in Section 9 hereof of five persons of legal age, resident in this State, who shall be selected from the standpoint of their qualification by actual farming experience and comprehensive understanding of the agricultural problems of this State, to act as farmer members of the State Committee. No two such persons who are residents in the same agricultural district shall be members of the State Committee at the same time.

(b) The State Commissioner of Agriculture and Labor, and the director of the Extension Service shall be exofficio members of the said State Committee without the power to vote.

(c) The State Committee shall advise the State Agency with regard to all matters of major importance in carrying out the provisions of this Act.

§ 11. REPORTS.] The State Agency shall compile or require to be made such reports as it determines to be necessary or proper in order to ascertain whether any agricultural plans provided for in this Act are being carried out according to their terms. The State Agency shall provide for compliance, on the part of all persons and agencies participating in the administration of any such agricultural plan, with such requirements, and may make, or cause to be made, such investigations as it determines to be necessary or proper to assure the correctness of, and to make possible the verification of such reports.

§ 12. PROVISIONS FOR SEPARABILITY.] Should any provisions, clause, paragraph, section, or parts of this Act be held invalid, it is hereby declared to be the legislative intent that the remainder of this Act shall be in full force and effect and that the terms thereof are feasible and that the same would have been enacted without such provision, clause, paragraph, section or parts, had such invalidity been apparent.

§ 13. REPEAL OF INCONSISTENT LEGISLATION.] All Acts and parts of Acts insofar as they conflict with this Act are hereby repealed.

Approved March 12, 1937.

CHAPTER 3

H. B. No. 162—(Wolf, Dalzell and O'Brien)

REGULATION AND LICENSE—CREAMERIES, CREAM STATIONS AND OTHER DAIRY PRODUCTS FACTORIES.

An Act to amend and re-enact Section 2844 of the Supplement to the 1913 Compiled Laws of North Dakota as amended by Chapter 119, Session Laws of 1929, relating to licenses of creameries, cheese factories, process butter factories, ice cream factories and cream stations; providing for the distribution of license moneys; repealing Acts in conflict herewith and declaring an emergency.

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

§ 1. AMENDMENT.] That Section 2844 of the Supplement to the 1913 Compiled Laws of North Dakota as amended by Chapter 119, Sessions Laws of 1929, be and the same is hereby amended and re-enacted to read as follows:

SECTION 2844. LICENSES REQUIRED: FEES AND REVOCATION.] Every person, firm or corporation owning or operating a creamery, renovating or process butter factory, or cream station in this State, shall be required before beginning business to obtain from the Dairy Commissioner a license for each and every creamery, cheese factory, renovating or process butter factory, ice cream factory or cream station owned or operated by said person, firm or corporation, which shall expire on the 30th day of June in each year. The fee for such license for a creamery, cream station, renovating or process butter factory shall be as follows:

In any city, village or town, the license fee shall be based on the volume of butter fat marketed therein by producers for butter making purposes in such village, city or town for the preceding calendar year, according to figures on file with the Dairy Commissioner:

The schedule of license fees are as follows:

In cities, villages or towns buying annually from producers

000 to 60,000 pounds butter fat.....	\$ 10.00
60,000 to 80,000 pounds butter fat.....	15.00
80,000 to 100,000 pounds butter fat.....	20.00
100,000 to 120,000 pounds butter fat.....	25.00
120,000 to 140,000 pounds butter fat.....	30.00
140,000 to 160,000 pounds butter fat.....	35.00
160,000 to 180,000 pounds butter fat.....	40.00
180,000 to 200,000 pounds butter fat.....	45.00
200,000 to 220,000 pounds butter fat.....	50.00
220,000 to 240,000 pounds butter fat.....	55.00
240,000 to 260,000 pounds butter fat.....	60.00
260,000 to 280,000 pounds butter fat.....	65.00
280,000 to 300,000 pounds butter fat.....	70.00
300,000 to 320,000 pounds butter fat.....	75.00
320,000 to 340,000 pounds butter fat.....	80.00
340,000 to 360,000 pounds butter fat.....	85.00
360,000 to 380,000 pounds butter fat.....	90.00
380,000 to 400,000 pounds butter fat.....	95.00
400,000 pounds and over.....	100.00

And any creamery, cream station, renovating or process butter factory located within one mile of the corporate limits of any such town, city or village shall pay the same license fee as those located within the city, village or town.

In case there is a question or dispute as to the correctness of any report filed in the Dairy Commissioner's office giving the amount of butter fat purchased in any city, village or town, for butter making purposes, it is hereby made the duty of the Dairy Commissioner or his assistant to make an investigation and obtain from the creamery or cream station or process butter factory a correct report of the butter fat marketed by producers for butter making purposes.

It is hereby also made the duty of all creameries, cream stations and process butter factories to keep on file their butter fat purchase records for two years.

The fee for such license for each cheese factory or ice cream factory shall be ten dollars, and no license shall be transferable. Each license shall record the name of the person, firm or corporation owning or operating the creamery, cheese factory, process butter factory, ice cream factory or cream station licensed, its place of business, the location thereof, the name of the manager thereof and a serial number. Each license so issued shall constitute a license to the manager or agent of the place of business named therein. It shall be the duty of every person, partnership, firm or corporation, or association holding a license to operate any plant in which dairy products are handled commercially to post in a conspicuous place such license under which they are operating, together with a summary of the dairy laws, which

shall be prepared and sent out from the office of the Dairy Commissioner.

The Dairy Commissioner may in his discretion withhold a license from any applicant who has in the past knowingly violated or refused to comply with any of the existing dairy laws or lawful requests issued by said Dairy Commissioner, or his authorized assistants. The Dairy Commissioner may, at any time, revoke a license on evidence that licensee has violated any of the existing dairy statutes, or has refused to comply with all lawful requests of the Dairy Commissioner or his authorized agents.

For the purposes of this Act, a creamery is hereby defined, as a place where milk or cream furnished by three or more persons, selling the same independently of each other, is used for manufacture into butter for commercial purposes.

A cheese factory for the purposes of this Act is hereby defined as a place where milk furnished by three or more persons, each selling the same independently of each other, is made into cheese for commercial purposes.

An ice cream factory for the purposes of this Act is hereby defined as a place where ice cream is made for sale, where the minimum output is two hundred gallons (200) per annum, or where it is made for thirty days or more during any year.

A cream station for the purposes of this Act is hereby defined, as any place where an individual, firm or corporation receives milk or cream from more than one herd, and the same is weighed, tested, or purchased 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 so weighed, tested or purchased; provided, however, that it is not intended hereby to include the weighing on public scales by producers, before shipment by themselves.

A dairy for the purposes of this Act is hereby defined, as any place where an individual, firm or corporation receives milk or cream from more than three herds and which is weighed, measured or tested or purchased, when such milk or cream is bottled or sold to the general public by measure or weight.

A renovating or process butter factory for the purposes of this Act is hereby defined, as any place where an individual, firm or corporation receives butter of an inferior quality in flavor, salt, body or color, and melts the same, draws off the fat therefrom and mixes it with skimmed milk, whole milk, cream or other milk products and re churns such mixture into butter as renovated or processed butter; there (where) the minimum output is two hundred pounds (200) per annum, or where it is made for thirty (30) days in any year.

Any person, firm or corporation obtaining a license after January 1st of any year shall pay fifty (50) per cent of the regular annual license fee for such license. Provided, however, that licenses issued in

the last half of the fiscal year shall be based upon the same butter fat purchases as those issued in the first half of the fiscal year.

§ 2. DISPOSITION OF FUNDS.] Two-thirds of all the moneys collected for licenses under the provisions of this Act shall accrue to and be paid into the general fund of the County in which the licensee operates and one-third of such moneys so collected shall accrue to and be paid into the general fund of the State.

§ 3. REPEAL.] All Acts or parts of Acts in conflict herewith are hereby repealed.

§ 4. 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 March 20, 1937.

(NOTE: Emergency failed in Senate.)

CHAPTER 4

H. B. No. 33—(Knutson of LaMoure.)

CREAM GRADING AND TESTING

An Act to establish cream grading and testing; to establish grades of cream quality, methods for determining such grades and provisions to insure the purchase of cream on the basis of such grades; to establish equitable differentials of value between grades; establishing necessary licensing provisions; providing penalties for violation of the Act and repealing Acts or parts of Acts in conflict herewith.

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

§ 1. The following words and phrases used in this Act shall, unless the same be inconsistent with the context, be construed as follows:

(a) The term "person" shall mean "individual," "partnership," "corporation" or "association."

(b) The term "cream buying station" shall mean any place other than a creamery where deliveries of cream are weighed, sampled and/or tested for purchase on a butter fat basis.

(c) The term "creamery" shall mean any place where cream delivered by two or more persons, is turned into butter for commercial purposes.

(d) The term "Babcock Test" shall mean the official Babcock test for milk and cream as set forth by Chapter 130, Session Laws of 1927.

§ 2. All cream and/or butterfat sold and/or purchased shall be graded and paid for on the basis of the following established grades:

SWEET CREAM GRADE shall consist of fresh, clean, fine-flavored cream, and acidity of which, calculated as lactic acid, shall at no time have exceeded two-tenths of one per cent in cream.

amended
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GRADE ONE shall consist of cream that is clean, free from undesirable odors and flavors, and shall be of such quality that will make a butter scoring 90 or above.

GRADE TWO shall consist of cream that is too acid to grade as one and/or contains undesirable odors and flavors in a moderate degree.

UNLAWFUL CREAM shall consist of cream which contains dirt, filth or other foreign matter which makes it unfit for human consumption and/or cream that is putrid or decomposed.

§ 3. All licensed cream buyers shall make a daily written report to the State Dairy Commissioner on all unlawful cream offered for sale.

§ 4. The cream buyer shall ship all cream purchased during the months of May, June, July, August and September by him within twenty-four hours of the time of purchase and at least twice a week during the remainder of the year except where acts of Providence beyond his control and/or common carrier facilities prevent compliance with this provision in which case shipment shall be made as soon as possible.

§ 5. All purchases of cream shall be on the basis of the grades hereinbefore defined. All purchases of cream and/or butterfat shall maintain a reasonable price differential for such grades and at no time shall this differential be less than one cent per butterfat pound between grades. The daily cash price being paid for each grade shall be posted in a prominent place in each cream buying station or creamery.

§ 6. All licensed cream buyers shall make such sediment tests as may be hereafter required by rules and regulations of the State Dairy Department.

§ 7. A licensed cream buyer, duly qualified to grade and test cream, shall be maintained in each creamery and in each cream buying station where cream is purchased. A grading and testing license shall be issued by the Dairy Department to such person when he has satisfactorily passed an examination by the Dairy Department or its agents and shall have established by actual demonstration before an inspector or agent of the Department that he is competent and qualified to grade and test cream and that he is fully conversant with the requirements of this Act. Such license shall be issued for a calendar year ending on the 31st day of December following and shall not be transferrable. The fee for such license shall be two dollars with renewal fee of One Dollar and shall be paid to the Dairy Department or its agents before such license or renewal is issued.

A penalty of One Dollar shall be added on the thirty-first day of January following.

§ 8. The Dairy Commissioner shall be charged with enforcement of this Act and shall promulgate such rules and regulations as are contemplated herein and/or are reasonably necessary to the enforcement of this Act.

§ 9. Violation of any of the provisions hereof is declared to be a misdemeanor and any person convicted thereof, either on his own behalf or in the interest of any other individual, corporation, association or partnership shall be fined not less than Twenty-five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00) and the license of such persons or corporations, associations or partnerships shall be suspended for thirty days on the first offense and shall be revoked on the second offense.

§ 10. All funds, fees and penalties collected under this Act or under Section 2844 of the North Dakota Dairy Laws shall revert to the General Fund.

§ 11. All Acts or parts of Acts in conflict herewith are hereby repealed.

§ 12. It is hereby declared that if any of the provisions of this Act are in any manner void or unconstitutional, the remaining provisions would be enacted by the Legislative Assembly even though such provisions had been omitted and if any of the provisions are found to be void or violative of the constitution, the remaining provisions shall not be effected by such invalidity but shall remain in full force and effect.

Approved March 17, 1937.

*amend
§ 1941 - ch. 9*

CHAPTER 5

H. B. No. 201—(Committee on Livestock)

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; duties of carrier when shipment of livestock and poultry offered; powers and duties of Railroad Commission; 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 authorizing the Board of Railroad Commissioners to apply to the District Court for its appointment as trustee for the benefit of holders of claims against livestock dealers and livestock or poultry purchased by said dealers, and to marshal the trust assets of such insolvent and distribute such trust assets among such claimants; penalty for violation of Act; and, repealing all of Chapter 2 of the Session Laws of the State of North Dakota for the year 1935; 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.] *amend 21941*
The term "dealer" as used herein shall mean any person, co-partnership, association or corporation engaged in the business of buying and selling and dealing in livestock, horses, mules, cattle, hogs, sheep and poultry from the producer for re-sale and shipment within or without the State, and also for re-sale in the local markets. *cl 8*

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 a load of livestock of their own for shipment to market, provided, however, that this Act shall apply in such cases if purchases of livestock are made exceeding twenty-five per cent of a railroad car 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 1937 under the provisions of Chapter 2 of the Session Laws for the year 1935 at the time of the taking effect of this Act shall not be required to qualify hereunder until the year 1938.

§ 2. LICENSE AND BOND REQUIRED.] After April 1, 1937, all *amend 21941*
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 agent. *amend 21941*

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 1937 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 is 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 facts 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 principal'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, and shall be for the benefit of all persons selling livestock and/or poultry to such licensed livestock dealer or his agent. Such bond shall be conditioned upon the faithful performance of his duties as a dealer in livestock and all of the provisions of law relating to the purchase of livestock and/or poultry by such livestock dealer, and for the payment by said livestock dealer of all livestock purchased by such dealer, as a dealer in livestock, and for the purpose of protecting any person which bond shall cover the entire license period; 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 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. SHIPMENT OF LIVESTOCK.] That it shall be the duty of the agent of any transportation company, or common carrier or any such transportation company or common carrier within and operating in the State of North Dakota, to require of the shipper of, or person or persons offering for shipment any livestock or poultry, that the party or parties offering such shipment for transportation shall before the same is received for shipment to the said transportation company or carrier or agent thereof a livestock dealer's license for the current year in which such shipment is offered for transportation, or shall by affidavit show such shipper to be exempt from the provisions of this Act.

§ 4. POWER 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.

§ 5. 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. *amended
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§ 6. PENALTY FOR VIOLATION OF ACT.] Any person who shall violate any of the provisions of this Act, shall be guilty of a misdemeanor 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.

§ 7. TRUST FUND.] Whenever any livestock dealer makes default in the provisions of the bond herein provided for, such livestock

dealer shall be deemed to be insolvent within the meaning of this Act, and the cause of action for damages upon any bond given by said livestock dealer to the Board of Railroad Commissioners, as provided for in this Act, and any cause of action for the conversion of livestock and/or poultry purchased by said livestock dealer while said license is in force and effect, shall constitute a trust fund for any persons having a cause of action against such dealer in livestock on said bond.

§ 8. APPOINTMENT OF COMMISSION AS TRUSTEE.] Upon the insolvency of the livestock dealer as defined in the foregoing section it shall be the duty of the Commission to apply to the District Court of Burleigh County for appointment of itself as trustee of said fund, and, upon such notice to said livestock dealer as the Court shall prescribe, but not exceeding ten days, or upon waiver of such notice in writing by said livestock dealer, said Court shall proceed to hear and determine in a summary manner such application, and if it shall appear to the Court, or to the Judge thereof, that said livestock dealer is insolvent within the meaning of this Act and that it would be for the best interests of those holding claims against the livestock dealer for purchase price of livestock and/or poultry sold to such dealer or his agent, that said Commission shall execute such trust, he shall issue an order appointing said Commission Trustee, without bond, of said fund, whereupon said Commission shall proceed to perform its duties as such trustee without further direction from said Court, but as hereinafter set out.

§ 9. NOTICE TO CLAIMANTS.] Upon its appointment as such trustee the Commission shall be entitled to the possession of all the books and records of such livestock dealer kept by him in his business as a livestock buyer, and shall take possession of such books and records, and of all livestock and/or poultry purchased by such livestock dealer under and by virtue of the license granted him, on hand, peaceably or by appropriate action, and it shall be the duty of the Board of Railroad Commissioners to publish a notice in some legal newspaper in the County in which such livestock dealer has operated for three successive weeks requiring such claimants to file their claims against such livestock dealer with the Commission, and unless within forty-five days after the last publication of such notice said receipts are surrendered to the Commission, the same shall be barred from participation in any fund marshalled by the Commission as herein provided.

§ 10. COMMISSION TO MARSHAL TRUST ASSETS.] The Commission in its capacity as trustee as aforesaid, is hereby empowered to maintain suits at law or in equity, or any special proceedings, in the name of the State of North Dakota, upon its own relation, but for the benefit of all such claimants against the livestock dealer's bond, against any person who shall have converted any of such livestock and/or poultry for the purpose of marshalling all of the trust assets of said insolvent livestock dealer and distributing the same

among said claimants. Provided, however, that remedy shall be had against said bond before recourse is had against the person honestly converting any of such livestock and/or poultry, unless in the judgment of the Commission it shall be deemed necessary that all the above remedies be pursued at the same time.

§ 11. REMEDY OF CLAIMANTS.] No claimant shall have a separate cause of action against said bond, unless said Commission shall fail or refuse to apply for its own appointment as trustee as herein provided. Provided, that nothing in this Act contained shall be construed to prohibit any claimant, either independently or in conjunction with other claimants, from pursuing concurrently such other remedy as he or they may have against the said livestock dealer or property of said livestock dealer for the whole, or any deficiency occurring after payments have been made out of the trust fund.

§ 12. COMMISSION MAY COMPROMISE CLAIMS.] The Commission shall have power to prosecute any such action in any Court in this State, or in any other State, and may appeal from any adverse judgment to the Courts of last resort, and may settle and compromise any such action whenever, in its judgment this will be for the best interest of such receipt holders, and may upon payment of the amount of such compromise, or of the full amount of any bond or conversion claim, exonerate the person so compromising or paying in full, from further liability growing out of said action.

§ 13. DEPOSIT IN BANK OF NORTH DAKOTA.] All moneys collected and received by said trustee, pending the marshalling of said fund, shall be deposited in the Bank of North Dakota.

§ 14. REPORT OF TRUSTEE. APPROVAL.] Upon recovery of such trust fund, or so much thereof as possible or as shall be necessary to pay all outstanding claims, the Commission shall file its report in Court, showing the amount payable upon each claim, after recognizing any proper liens or pledges thereon, or assignments thereof, or deductions therefrom, with legal interest thereon, or in case of cash slips or checks, the amount thereof with legal interest, but in the event that the fund shall prove insufficient to redeem all claims in full the same shall be prorated among them in such manner as the trustees shall deem fair and equitable. Thereupon the Court shall cite such claimants, upon such notice by mail as he shall prescribe, to appear upon a day fixed in the notice and show cause why such report should not be approved, and distribution of said fund made as outlined therein; and upon such hearing, the Court shall approve such report or modify the same as justice may require, and issue an order directing the distribution of said fund, and discharging said Commission from its said trust.

§ 15. FILING FEES AND COURT COSTS.] Upon such application, or in any action in a State Court in this State, the Commission

shall not be required to pay any filing fee or other Court costs or disbursements where the fees accrue to the County or to the State, but the Attorney General may employ such outside legal services to assist the Commission in the prosecution of such actions, as in his judgment may be necessary and deduct the expense of the same from said trust fund.

§ 16. REPEAL.] That all of Chapter 2 of the Session Laws of the State of North Dakota for the year 1935 be and the same hereby are repealed; and, that all other Acts or parts of Acts in conflict with this Act are hereby repealed.

§ 17. EMERGENCY.] There being an emergency there being a question as to the power of the Board of Railroad Commissioners to enforce the claims of claimants against the bond, this Act shall be in force from and after its passage and approval.

Approved March 10, 1937.

CHAPTER 6

H. B. No. 353.—(Committee on Delayed Bills)

LIVESTOCK FEED

An Act making an emergency appropriation to provide for aid for livestock feeds, in the form of loans, to farmers in drouth-stricken Counties of this State; providing for the distribution of such appropriation among the Counties by the Public Welfare Board of North Dakota, with the counsel and assistance of the Commissioner of Agriculture and Labor; prescribing the duties of County officers in relation to such livestock feed aid, and declaring an emergency.

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

§ 1. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of Two Hundred Twenty-five Thousand Dollars, or so much thereof as may be necessary for assistance, in the form of loans, to farmers in the drouth-stricken areas of this State during the months of March, April and May, and in carrying out the provisions and purposes of this Act.

§ 2. Immediately upon the passage and approval of this Act the Public Welfare Board of North Dakota, with the assistance and counsel of the Commissioner of Agriculture and Labor, is authorized to make distribution of the amount herein appropriated or so much thereof as may be necessary among the Counties of North Dakota, after taking into consideration the amount necessary to supply livestock feed to persons who are unable to procure the same through other channels. The ability of each County to finance the cost of such assistance from its own funds and such other facts as may have a

bearing upon the need of the individuals and the ability of the Counties to grant aid shall be taken into account in making distribution of such moneys, all to the end that justice and equity may be done to the different individuals without regard to their places of residence.

§ 3. It shall be the duty of the Board of County Commissioners of any County in this State whose residents are in need of livestock feed which they are unable to procure through other channels, to make application to the Public Welfare Board of North Dakota for assistance under this Act.

In such application there shall be stated the amount of moneys required for livestock feed assistance in such County up to June 1, 1937. Such application shall further recite the amount of moneys that the County can and will supply out of its own funds, or from other sources to supply the funds required to meet the livestock feed needs.

§ 4. In such application the County shall agree that it will assume administrative responsibility in making such loans and in the collecting of the same; that it will make such reports regarding such loans and collections as may be required by the regulations adopted by the Public Welfare Board of North Dakota or as may be provided in the agreement between the County and such Board or other agency from which funds are received; that re-payments made prior to May 15, 1937, on any loan made under the provisions of this Act shall be available again for loans by the County in the same manner as moneys originally received by the County for livestock feed loans or purchases; but that the County shall remit to the Public Welfare Board out of all collections made or re-payments received on such loans subsequent to May 15, 1937, such portion of the loan or loans as represent that portion of the loan or loans which came from moneys appropriated under this Act. Also that the County will return to the Public Welfare Board of North Dakota any moneys remaining unexpended on June 1, 1937, out of any moneys that the County may have received under the provisions of this Act.

§ 5. The funds appropriated under this Act may be expended in coordination with funds available for livestock feed assistance purposes under the control of any agency of the Federal Government and the Public Welfare Board of North Dakota and the Boards of County Commissioners of the several Counties may enter into agreements for the co-ordination of the expenditure of the funds appropriated under this Act in connection with such other funds and may agree that the funds appropriated hereunder shall be expended jointly with such other funds in co-operation with committees or representatives of such Federal Agencies.

§ 6. If and when it seems desirable so to do moneys allocated to any County under the provisions of this Act may be utilized by the County to purchase livestock feed direct and distribute the same in the nature of sale. Where livestock feed is purchased and sold

such feed may be sold to anyone in need thereof; but when sale is made to a person who is not in need of assistance it shall be at a price so as not to impair or decrease the amount of the fund. The distribution of feed must in every case be in the nature of a sale. All notes taken for livestock feed assistance furnished under this Act shall be made payable to the County in which the loan is made.

§ 7. If in its judgment it seems desirable so to do the Public Welfare Board of North Dakota may, with the advice and counsel of the Commissioner of Agriculture and Labor, utilize any of the funds appropriated under this Act for the purchase of livestock feed and may allocate livestock feed so purchased to the Counties instead of cash. In case livestock feed is so purchased and distributed it shall be handled in the several Counties in the same manner as though the livestock feed had been purchased by the County under the provisions of the preceding section.

§ 8. The Public Welfare Board of North Dakota, with the advice and counsel of the Commissioner of Agriculture and Labor, is authorized to make such rules and regulations as may be necessary or desirable to carry out the purposes of this Act and it may require from the several Counties such information, in addition to that stated in Section 3 of this Act, as may be necessary or desirable to enable the Board to pass upon the applications for assistance under this Act.

§ 9. The moneys appropriated under this Act shall be employed solely for the purpose of supplying livestock feed to residents of the State who are unable to procure the same through other channels. It shall be the duty of the Public Welfare Board of North Dakota and of the Boards of County Commissioners of the several Counties and all persons charged with any responsibility in carrying out the provisions of this Act to see to it that the moneys appropriated or made available for the purchase of livestock feed under the provisions of this Act, including moneys loaned to individual borrowers, shall be expended in the purchase of livestock feed that has been produced in North Dakota insofar as such supplies are available and can be obtained at reasonable prices.

§ 10. It shall be the duty of all County officers to assist in carrying out the purposes of this Act; and they shall perform such duties as may be found necessary in that behalf and as may be prescribed by the rules and regulations adopted by the Public Welfare Board of North Dakota, with the advice and counsel of the Commissioner of Agriculture and Labor, or as may be provided in agreements or arrangements made between the County Commissioners and the Public Welfare Board of North Dakota and/or any Federal Agency supplying funds to be loaned to individuals, or expended by the County, for livestock feed assistance purposes.

§ 11. The Public Welfare Board of North Dakota shall pay over to the State Treasurer any moneys that may be returned to it

by any County under the provisions of this Act, whether such moneys represent funds unexpended on June 1, 1937, or collections received from loans made under the provisions of this Act; and the State Treasurer shall deposit the moneys so received in, and credit the same to, the General Fund of the State.

§ 12. EMERGENCY.] WHEREAS, many persons in North Dakota are in need of livestock feed, and have no available means of obtaining the same, therefore an emergency is declared to exist and this Act shall be in full force and effect from and after its passage and approval.

Approved March 6, 1937.

CHAPTER 7

S. B. No. 153—(Brostuen)

REGULATION FOR SALE OF LIVESTOCK MEDICINES

An Act to prevent fraud and deception in the sale of livestock medicines; providing for the registration and labeling of livestock medicines; authorizing rules and regulations for the administration of this Act; prescribing the method of revocation of such registration and prescribing a penalty for the violation thereof.

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

§ 1. This Act shall be known as the North Dakota Livestock Medicine Act.

§ 2. The term "Livestock Medicine" as used in this Act shall include all devices, remedies, cures, tonics, powders, proprietary medicines, medicated stock foods, and similar preparations for the treatment or prevention of any disease of livestock, poultry, or other domestic animals and administered internally for their stimulating, invigorating, curative, or other than nutritive powers; and also shall include those powders, sprays, dips and other preparations for external use in the curing of scab or the eradication of ticks, lice and other mites and parasites on livestock, poultry or other domestic animals; but excluding all medicines manufactured, sold or recommended primarily for human use.

§ 3. No person by himself, his servant or agent shall sell, offer or expose for sale or have in his possession with intent to sell any livestock medicine:

(a) Which is sold under a name, brand, trade mark or labeling which is misleading, deceptive or false, or which is dangerous to animals under the conditions of use prescribed in the labeling or advertising thereof.

(b) Which purports to cure infectious abortion, hog cholera, fowl cholera, tuberculosis, foot and mouth disease, roup, white

diarrhea or any other disease of domestic animals for which no genuine cure is known;

(c) Which has not been registered by the State Food Commissioner and Chemist for sale in this State;

(d) Which does not have printed or written upon the label of each package as sold at retail, in type not less than one-fourth the largest type on the package;

(1) The common name in English of all ingredients and the quantity or proportion of each active ingredient;

(2) The percentage of each diluent filler, or inert ingredient;

(3) A statement of the quantity or proportion of any alcohol, morphine, opium, cocaine, heroin, alpha or beta eucaine, chloroform, cannabis indica, chloral hydrate, or acetanilid or any derivative or preparation of any such substances contained therein;

(4) The net contents, by weight, measure or numerical count of such package;

(5) The name and principal address of the manufacturer or person responsible for placing such livestock medicine on the market;

(6) Complete and explicit directions for use;

(e) Of which the contents of the package as originally put up have been removed, in whole or in part, and other contents shall have been placed in such package.

§ 4. (1) The State Food Commissioner and Chemist upon the application of the manufacturer or distributor and the payment of the registration fee prescribed in Section 6, shall register any livestock medicine which does not violate any of the provisions of Section 3 of this Act. Such registrations shall be good for one year unless sooner cancelled or a change is made in the ingredients or formula of manufacture or in the name, brand or trade mark under which such livestock medicine is sold. In the event of any such change it shall be necessary to again register such medicine, in the same manner as upon original application.

(2) The State Food Commissioner and Chemist may cancel the registration of any livestock medicines which subsequent to such registration is sold in violation of any of the provisions of Section 3 of this Act, and whenever a change is made in the ingredients or formula of manufacture or in the name, brand or trade mark under which such medicine is sold, unless such medicine has been re-registered as provided in Sub-section (1) of this Section.

(3) In the discharge of his duties, the State Food Commissioner and Chemist may make rules and regulations governing applications for registration, the submission of samples for analysis and all other matters necessary to give effect to this Section, but no such rule or regulation shall impose any requirement for registration other than as provided by Section (3) hereof. He may take expert and other testimony whenever he deems such testimony advisable and

shall grant public hearing upon request therefor, to any manufacturer or distributor whose request for registration of any livestock medicine has been denied and also prior to the cancellation of any registration.

§ 5. (1) The State Food Commissioner and Chemist shall enforce the provisions of Sections 1 to 8, by inspections, chemical analysis and other appropriate methods. All samples for analysis shall be taken from stocks in the State, or intended for sale in the State, and the Commissioner may call upon the manufacturer or distributor applying for registration of a medicine to supply samples thereof for analysis.

(2) The State Food Commissioner and Chemist and his agents shall have free access by legal means during business hours to all places of business, buildings, vehicles, cars and vessels used in the manufacture, transportation, sale or storage of any livestock medicine and shall have power and authority to open by legal means any box, carton, parcel or package, containing or supposed to contain, any livestock medicine and take therefrom samples for analysis.

§ 6. A registration fee of Six Dollars shall be paid prior to each annual registration to the State Food Commissioner and Chemist for each livestock medicine registered.

§ 7. Any person who shall sell, offer or expose for sale or have in his possession with intent to sell any livestock medicine in violation of any of the provisions of Section 3, or who shall willfully and falsely represent that any livestock medicine is registered for sale in this State when in fact it is not so registered, shall be fined not to exceed Two Hundred Dollars for the first offense; and upon conviction for any subsequent offense shall be fined not to exceed Three Hundred Dollars, or be imprisoned in the County jail for not to exceed one year, or be punished by both such fine and imprisonment.

§ 8. If any provisions of Sections 1 to 7 are declared unconstitutional or the applicability thereof to any person, commodity or transaction is held invalid, the validity of the remainder of these Sections and the applicability of such provisions to other persons, commodities and transactions shall not be affected thereby.

§ 9. All revenues derived under authority of this Act shall be used for the enforcement of the provisions thereof. All fees received by the State Food Commissioner and Chemist as provided for in this Act shall be properly recorded and forwarded to the Treasurer of the State of North Dakota. The State Treasurer shall upon receipt thereof enter such funds and carry them in the special revolving fund known and designated as the State Regulatory Fund, out of which all bills and expenses of whatever nature incurred in the enforcement of this Act, when properly audited and approved, shall by said Treasurer be paid.

§ 10. The provisions of Paragraph (d) of Section 3 relating to the labeling of livestock medicines shall take effect January 1, 1938. All other provisions of this Act shall take effect July 1, 1937.

Approved March 20, 1937.

CHAPTER 8

H. B. No. 39—(Freitag and Blair)

REGULATION OF ROVING GRAIN BUYERS

An Act providing for the regulation of roving grain buyers, other than public warehouses or public warehousemen and track buyers, and defining who are such roving grain buyers; Act not applicable to whom; license and bond required; powers and duties of Railroad Commission; granting the Board of Railroad Commissioners power to make rules and regulations governing the business of roving grain buyers; records required by dealers; appropriating the fees collected to the use of the Board of Railroad Commissioners for the Administration and enforcement of the Act; penalty for violation of Act.

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

§ 1. ROVING GRAIN BUYER DEFINED: ACT NOT APPLICABLE.] TO WHOM.] The term "Roving Grain Buyer" as used herein shall mean any person, co-partnership, association or corporation, other than warehousemen and track buyers, who shall buy grain, as defined by the statutes of this State, from producers for re-sale and delivery within or without the State, and/or for re-sale in the local markets. Nothing in this Act contained shall apply to Public Warehouses or public warehousemen and/or track buyers, so defined in the statutes of this State.

§ 2. LICENSE, HOW OBTAINED: FEE: RULES GOVERNING.] A license must be obtained through the Board of Railroad Commissioners, to expire midnight, July 31st of each year by each roving grain buyer operating within this State. Each license so issued shall designate the business address of the licensee and each licensee shall have and maintain a business office within this State, which business address shall be given in the license. The license fee, which must accompany the application for license, is hereby fixed at Ten (\$10.00) Dollars for each person, co-partnership, association or corporation licensed. The fees collected under this Act shall be paid to the Board of Railroad Commissioners.

Each roving grain buyer shall procure such license before transacting any business. Every roving grain buyer shall pay cash for all grain purchased, and such roving grain buyer shall be subject to the same laws, rules, and regulations as govern public warehouses, insofar as they apply, for the protection of sellers of grain, provided that nothing herein shall be construed to classify as a roving grain buyer

any producer of grain who purchases grain from other producers to complete a carload in which a portion of said carload is grain grown by said producer.

§ 3. BONDS TO BE FILED.] Before any license is issued to any roving grain buyer, the applicant shall file with the Board of Railroad Commissioners a bond in such sum as said Board shall prescribe, which sum shall be not less than Two Thousand (\$2,000.00) Dollars for each licensee. Such bonds shall cover the period of the license and shall run to the State of North Dakota for the use and benefit of all persons selling grain to the licensee, and shall be conditioned upon the faithful performance of the duty of the licensee as a roving grain buyer, and all of the provisions of law applicable to the business of a roving grain buyer, and the rules and regulations of the Board of Railroad Commission relating thereto.

§ 4. MUST CARRY LICENSE. PENALTY.] The licensee shall have his license in his possession at all times that such licensee is engaged in the business of a roving grain buyer, and must exhibit the said license to each and every person from whom licensee purchases grain thereunder.

Any roving grain buyer who shall transact business without first procuring a license and giving bond as herein provided shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished accordingly.

§ 5. CHEATING OR FALSE WEIGHING. PENALTY.] Any person who shall knowingly cheat by false weight or otherwise the seller of grain, or who shall violate any of the provisions of this Act, where punishment is not otherwise in this Act provided, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than Two Hundred (\$200.00) Dollars and not more than One Thousand (\$1,000.00) Dollars, or by imprisonment in the County jail for not less than ninety days and not more than one year, or by both such fine and imprisonment.

§ 6. BOARD OF RAILROAD COMMISSIONERS MAY MAKE RULES AND REGULATIONS.] It is hereby made the duty of the Board of Railroad Commissioners to make such rules and regulations governing the business of roving grain buyers and the licensing thereof as may be necessary and proper for the carrying into effect of the purposes of this Act; and any person or corporation violating any of such rules or regulations shall be deemed guilty of a misdemeanor, and, upon conviction thereof shall be punished accordingly.

§ 7. REVOCATION OF LICENSE.] The Board of Railroad Commissioners shall have the power to revoke any license granted as aforesaid when they shall be satisfied that; (a) the licensee has violated any of the laws of this State governing the handling, shipment or transportation of grain; (b) the licensee has been guilty of deceit,

fraud, dishonesty, forgery or theft committed in or about the business of a roving grain dealer, or (c) the licensee has failed or refused to furnish the information required under the terms of this Act or the rules and regulations made by the Board of Railroad Commissioners as herein authorized.

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 business 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 of 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, based upon evidence received 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.

§ 8. RECORDS REQUIRED OF BUYER. REPORTS.] Each roving grain buyer shall keep such accounts, records and memoranda concerning his dealings as such buyer as may from time to time be required by the Board of Railroad Commissioners, and said Board shall at all times have access to such accounts, records and memoranda.

Each roving grain buyer shall make such reports of purchases of grain as may be required by the rules and regulations made by the said Board as hereinabove authorized.

§ 9. ROVING GRAIN BUYER'S FUND CREATED. APPROPRIATION.] 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 "Roving Grain Buyer's Fund." All fees collected by the Board of Railroad Commissioners under the provisions of this Act required for the administration and enforcement of this Act, or so much thereof as may be necessary, are hereby appropriated to the use of said Board; and the same shall be paid into the State Treasury monthly, and credited to said Roving Grain Buyers' Fund to the use of the Board of Railroad Commissioners, and shall be paid out upon proper voucher when audit by the State Auditing Board for the purpose aforesaid.

Approved March 4, 1937.

CHAPTER 9

S. B. No. 222—(McGillic, Aasen, Nelson of Barnes, Young and Strehlow)

SOIL CONSERVATION DISTRICTS LAW

An Act establishing and defining the powers and duties of a State Soil Conservation Committee: Providing for the creation of Soil Conservation Districts and defining the powers and duties thereof; empowering such districts to adopt programs and regulations in connection with land use practices; providing for the selection of District Supervisors; providing for the adoption of land use regulations and providing penalty for violation of the same; providing for boards of adjustment in connection with land use regulations; providing for the discontinuance of districts; making an appropriation and declaring an emergency.

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

§ 1. SHORT TITLE.] This Act may be known and cited as the Soil Conservation Districts Law.

§ 2. DECLARATION OF POLICY.] It is hereby declared to be the policy of the legislature to provide for the conservation of the soil and soil resources of this State, and for the control and prevention of soil erosion, and thereby to preserve natural resources, control floods, prevent impairment of dams and reservoirs, assist in maintaining the navigability of rivers and harbors, preserve wild life, protect the tax base, protect public lands and protect and promote the health, safety and general welfare of the people of this State.

§ 3. DEFINITIONS.] Wherever used or referred to in this Act, unless a different meaning clearly appears from the context:

(1) "District" or "Soil Conservation District" means a governmental sub-division of this State, and a public body corporate and politic, organized in accordance with the provisions of this Act, for the purposes, with the powers, and subject to the restrictions hereinafter set forth.

(2) "Supervisor" means one of the members of the governing body of a District, elected or appointed in accordance with the provisions of this Act.

(3) "Committee" or "State Soil Conservation Committee" means the agency created in Section 4 of this Act.

(4) "Petition" means a petition filed under the provisions of sub-section of Section 5 of this Act for the creation of a District.

(5) "State" means the State of North Dakota.

(6) "Agency of this State" includes the government of this State and any subdivision, agency or instrumentality, corporate or otherwise, of the government of this State.

(7) "United States" or "agencies of the United States" includes the United States of America, the Soil Conservation Service of the United States Department of Agriculture, and any other agency

or instrumentality, corporate or otherwise, of the United States of America.

(8) "Government" or "governmental" includes the government of this State, the government of the United States, and any subdivision, agency or instrumentality, corporate or otherwise, of either of them.

(9) "Land occupier" or "occupier of land" includes any person, firm or corporation who shall hold title to, or shall be in possession of, any lands lying within a District organized under the provisions of this Act, whether as owner, lessee, renter, tenant, or cropper.

(10) "Due Notice" means notice published at least twice, with an interval of at least seven days between the two publication dates, in a newspaper or other publication of general circulation within the appropriate area, or if no such publication of general circulation be available, by posting at a reasonable number of conspicuous places within the appropriate area, such posting to include, where possible, posting at public places where it may be customary to post notices concerning County or municipal affairs generally. At any hearing held pursuant to such notice, at the time and place designated in such notice, adjournment may be made from time to time without the necessity of renewing such notice for such adjourned dates.

§ 4. STATE SOIL CONSERVATION COMMITTEE.]

(a) There is hereby established, to serve as an agency of the State of North Dakota and to perform the functions conferred upon it in this Act, the State Soil Conservation Committee, such committee to consist of the Governor, the State Commissioner of Agriculture and Labor, the Director of the State Extension Service and one member to be appointed by the Secretary of Agriculture of the United States of America. Such membership of the Committee shall serve without additional compensation other than traveling expenses necessarily incurred in carrying out the duties prescribed by such Committee under the terms of this Act. Such Committee shall keep a record of its official actions, shall adopt a seal, which seal shall be judicially noticed, and may perform such acts, hold such public hearings and promulgate such rules and regulations as may be necessary for the execution of its functions under this Act.

(b) The State Soil Conservation Committee may employ an administrative officer and such technical experts and such other agents and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties and compensation. The Committee may call upon the Attorney General of the State for such legal services as it may require, or may employ its own counsel and legal staff. It shall have authority to delegate to its chairman, to one or more of its members, or to one or more agents or employees, such powers and duties as it may deem proper. The Board of Administration of the State shall supply suitable office accommodations at the

seat of the State Government, and shall furnish the necessary supplies and equipment. Upon request of the Committee, for the purpose of carrying out any of its functions, the supervising officer of any State Agency, or of any State institution of learning shall, insofar as may be possible under available appropriations, and having due regard to the needs of the agency to which the request is directed, assign or detail to the Committee members of the staff or personnel of such agency or institution of learning, and make such special reports, surveys or studies as the Committee may request.

(c) The Committee shall designate its chairman, and may, from time to time, change such designation. A majority of the Committee shall constitute a quorum and the concurrence of a majority in any matter within their duties shall be required for its determination. The Committee shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations and orders issued or adopted; and shall provide for an annual audit of the accounts of receipts and disbursements.

(d) In addition to the duties and powers hereinafter conferred upon the State Soil Conservation Committee, it shall have the following duties and powers:

(1) To offer such assistance as may be appropriate to the Supervisors of Soil Conservation Districts, organized as provided hereinafter, in the carrying out of any of their powers and programs.

(2) To keep the Supervisors of each of the several Districts organized under the provisions of this Act informed of the activities and experience of all other Districts organized hereunder, and to facilitate an interchange of advice and experience between such Districts and cooperation between them.

(3) To coordinate the programs of the several Soil Conservation Districts organized hereunder so far as this may be done by advice and consultation.

(4) To secure the cooperation and assistance of the United States and any of its agencies, and of agencies of this State, in the work of such Districts.

(5) To disseminate information throughout the State concerning the activities and programs of the Soil Conservation Districts organized hereunder, and to encourage the formation of such Districts in areas where their organization is desirable.

§ 5. CREATION OF SOIL CONSERVATION DISTRICTS.]

(a) Any twenty-five (25) occupiers of land lying within the limits of the territory proposed to be organized into a District may ^{As amended} file a petition with the State Soil Conservation Committee asking that ^{§ 1930-2, 6} a Soil Conservation District be organized to function in the territory described in the petition. Such petition shall set forth:

First: The proposed name of said District.

Second: That there is need for a Soil Conservation District to function in the territory described in the petition.

Third: A description of the territory proposed to be organized within any County as a District.

Fourth: A request that the State Soil Conservation Committee duly define the boundaries for such District; that a referendum be held within the territory so defined on the question of the creation of a Soil Conservation District in such territory; and that the Committee determine that such a District be created.

Where more than one petition is filed covering parts of the same territory, the State Soil Conservation Committee may consolidate all or any such petitions.

(b) Within thirty (30) days after such a petition has been filed with the State Soil Conservation Committee, it shall cause due notice to be given of a proposed hearing upon the question of the desirability and necessity, in the public interest, of the creation of such District, upon the question of the appropriate boundaries to be assigned to such District, upon the propriety of the petition and other proceedings taken under this Act, and upon all questions relevant thereto. All occupiers of land within the limits of the territory described in the petition, and of lands within any territory considered for addition to such described territory, and all other interested parties, shall have the right to attend such hearings and to be heard. If it shall appear upon the hearing that it may be desirable to include within the proposed District territory outside of the area within which due notice of further hearing has been given the hearing shall be adjourned and due notice of further hearing shall be given throughout the entire area considered for inclusion in the District, and such further hearing held. After such hearing if the Committee shall determine, upon the facts presented at such hearing and upon such other relevant facts and information as may be available, that there is need, in the public interest, for a Soil Conservation District to function in the territory considered at the hearing, it shall make and record such determination, and shall define, by metes and bounds or by legal subdivisions, the boundaries of such District. In making such determination and in defining such boundaries, the Committee shall give due weight and consideration to the topography of the area considered and of the State, the composition of soils therein, the distribution of erosion, the prevailing land-use practices, the desirability and necessity of including within the boundaries the particular lands under consideration and the benefits such lands may receive from being included within such boundaries, the relation of the proposed area to existing watersheds and agricultural regions, and to other Soil Conservation Districts already organized or proposed for organization under the provisions of this Act, and such other physical, geographic and economic factors as are relevant, having due

regard to the legislative policy set forth in Section 2 of this Act. If the Committee shall determine after such hearing, after due consideration of the said relevant facts, that there is no need for a Soil Conservation District to function in the territory considered at the hearing, it shall make and record such determination and shall deny the petition. After six months shall have expired from the date of the denial of any such petition, subsequent petitions covering the same or substantially the same territory may be filed as aforesaid and new hearings held and determinations made thereon.

(c) After such Committee has determined the necessity for organization of such District and has defined the boundaries thereof it shall hold a referendum within such proposed District upon the proposition of the creation thereof and shall cause due notice of such referendum to be given.

(1) REFERENDUM BALLOT.] The question to be voted on shall be fully set forth on the ballot to be used at such referendum which said ballot shall describe the boundaries of the proposed District and shall be in substantially the following form:

For the creation of a Soil Conservation District.....

Against the creation of a Soil Conservation District.....

(2) Only occupiers of land within the boundaries of the proposed District shall be entitled to vote in such referendum.

(d) The Committee shall provide for the issuance of such notices and the conduct of such hearings and referenda and shall supervise the same and shall issue and publish appropriate regulations governing the conduct of all such hearings and referenda as may be provided herein.

(e) The Committee shall publish the result of such referendum and shall thereafter consider and determine whether the operation of the District within such boundaries is administratively practicable and feasible and in making such a determination the Committee shall consider the attitudes of the operators of the land within such proposed District, the number of such occupiers who shall have voted in proportion to the number of eligible to vote, the approximate wealth and income of such land occupiers, the probable expense of carrying on erosion control operations within such District and such other economic and social factors as may be relevant, provided, however, the Committee shall not have authority to determine that the operation of any proposed District is practicable and feasible, unless at least a majority of the votes cast at such referendum are in favor of the creation of such District.

(f) If the Committee shall determine that the operation of such proposed District is administratively practicable and feasible, it shall file with the Secretary of State a certified statement indicating and describing the boundaries of such District; the name thereof; and the names and addresses of the Supervisors of such District appoint-

ed in accordance with the terms of this Act. Such statement shall also indicate the reasons for the formation of such District and the result of the referendum, if any was held. Upon such certification by the Committee to the Secretary of State such District shall become a governmental subdivision of this State and a public body corporate and politic and the Secretary of State shall make and issue to the said Supervisors a certificate, under the seal of the State, of the due organization of the said District, and shall record such certificate with the application and statement. The boundaries of such District shall include the territory as determined by the State Soil Conservation Committee as aforesaid, but in no event shall they include any area included within the boundaries of another Soil Conservation District organized under the provisions of this Act.

(g) Petitions for including additional territory within an existing District may be filed with the Soil Conservation Committee at any time and the proceedings herein provided for in case of petitions to organize a District shall be observed in case of petitions for such inclusion.

(h) After six (6) months shall have expired from the date of entry of a determination by the State Soil Conservation Committee that operation of a proposed District is not administratively practicable and feasible and denial of a petition pursuant to such determination, subsequent petitions may be filed as aforesaid, and action taken thereon in accordance with the provisions of this Act.

(i) In any suit, action or proceeding involving the validity of enforcement of, or relating to, any contract, proceeding or action of the District, the District shall be deemed to have been established in accordance with the provisions of this Act upon proof of the issuance of the aforesaid certificate by the Secretary of State. A copy of such certificate duly certified by the Secretary of State shall be admissible in evidence in any such suit, action or proceeding and shall be proof of the filing and contents thereof.

§ 6. ELECTION, QUALIFICATIONS AND TENURE OF SUPERVISORS.]

(a) The governing body of the District shall consist of three Supervisors who shall be elected from the land occupiers within such District. The term of office of each Supervisor shall be three years except that the Supervisors who are first elected shall be designated to serve for one, two and three years, respectively, from the date of their election. Such Supervisors shall designate a chairman and may from time to time change such designation. Vacancies shall be filled for the unexpired term. A majority of such Supervisors shall consist of a quorum and the concurrence of a majority in any matter within their duties shall be required for its termination. Such Supervisors shall serve without compensation.

(b) The Supervisors may employ such officers, agents or employees permanent and temporary as they may require and shall

determine their qualifications, duties and compensation. Such Supervisors may call upon the Attorney General or the States Attorney of any County in which such District is situated for such legal services as they may require. The Supervisors may delegate to their chairman or to any of their number such duties as they may deem proper and shall furnish to the State Committee upon request copies of such ordinances, rules, regulations, orders, contracts and the documents as they shall adopt or employ and such other information concerning their activities if such Committee may require.

(c) The Supervisors shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations and orders issued or adopted; and shall provide for an annual audit of the accounts of receipts and disbursements. Any Supervisor may be removed by the State Soil Conservation Committee upon notice and hearing, for neglect of duty or malfeasance in office.

(d) The Supervisors may invite the legislative body of any municipality or County located near the territory comprised within the District to designate a representative to advise and consult with the Supervisors of the District on all questions of program and policy which may affect the property, water supply, or other interests of such municipality or County.

§ 7. POWERS OF DISTRICTS AND SUPERVISORS.] A Soil Conservation District organized under the provisions of this Act shall constitute a governmental subdivision of this State, and a public body corporate and politic, exercising public powers, and such District, and the Supervisors thereof, shall have the following powers, in addition to others granted in other Sections of this Act:

(1) To conduct surveys, investigations and research relating to the character of soil erosion and the preventive and control measures needed, to publish the results of such surveys, investigations or research, and to disseminate information concerning such preventive and control measures; provided, however, that in order to avoid duplication of research activities, no District shall initiate any research program except in cooperation with the government of this State or any of its agencies, or with the United States or any of its agencies;

(2) To conduct demonstrational projects within the District on lands owned or controlled by this State or any of its agencies, with the cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the District upon obtaining the consent of the occupier of such lands or the necessary rights or interests in such lands, in order to demonstrate by example the means, methods and measures by which soil and soil resources may be conserved, and soil erosion in the form of soil blowing and soil washing may be prevented and controlled;

(3) To carry out preventive and control measures within the District including, but not limited to, engineering operations, methods of cultivation, the growing of vegetation, changes in use of land, on lands owned or controlled by this State or any of its agencies, with the cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the District upon obtaining the consent of the occupier of such lands or the necessary rights or interest in such lands;

(4) To cooperate, or enter into agreements with, and within the limits of appropriations duly made available to it by law, to furnish financial or other aid to, any agency, governmental or otherwise, or any occupier of lands within the District, in the carrying on of erosion control and prevention operations within the District, subject to such conditions as the Supervisors may deem necessary to advance the purposes of this Act;

(5) To obtain options upon and to acquire, by purchase, exchange, lease, gift, grant, bequest, devise or otherwise, any property, real or personal, or rights or interest therein; to maintain, administer, and improve any properties acquired, to receive income from such properties and to expend such income in carrying out the purposes and provisions of this Act; and to sell, lease, or otherwise dispose of any of its property or interests therein in furtherance of the purposes and the provisions of this Act;

(6) To make available, on such terms as it shall prescribe, to land occupiers within the District, agricultural and engineering machinery and equipment, fertilizer, seeds and seedlings, and such other material or equipment as will assist such land occupiers to carry on operations upon their lands for the conservation of soil and water resources and for the prevention and control of soil erosion;

(7) To construct, improve and maintain such structures as may be necessary or convenient for the performance of any of the operations authorized in this Act;

(8) To develop comprehensive plans for the conservation of soil resources and for the control and prevention of soil erosion within the District, which plans shall specify in such detail as may be possible, the acts, procedures, performances and avoidances which are necessary or desirable for the effectuation of such plans, including the specification of engineering operations, methods of cultivation, the growing of vegetation, cropping programs, tillage practices and changes in use of land; and to publish such plans and information and bring them to the attention of occupiers of lands within the District;

(9) To take over, by purchase, lease or otherwise, and to administer, any soil-conservation, erosion-control or erosion-prevention project located within its boundaries undertaken by the United States or any of its agencies, or by this State or any of its agencies; to manage, as agent of the United States or any of its agencies, or of

this State or any of its agencies, any soil-conservation, erosion-control or erosion-prevention project within its boundaries; to act as agent for the United States, or any of its agencies or for this State or any of its agencies, in connection with the acquisition, construction, operation or administration of any soil-conservation, erosion-control or erosion-prevention project within its boundaries; to accept donations, gifts, and contributions in money, services, materials or otherwise, from the United States or any of its agencies, or from this State or any of its agencies, and to use or expend such moneys, services, materials or other contributions in carrying on its operations;

(10) To sue and be sued in the name of the District; to have a seal, which seal shall be judicially noticed; to have perpetual succession unless terminated as hereinafter provided; to make and execute contracts and other instruments, necessary or convenient to the exercise of its powers; to make, and from time to time amend and repeal, rules and regulations not inconsistent with this Act, to carry into effect its purposes and powers;

(11) As a condition to the extending of any benefits under this Act to, or the performance of work upon, any lands not owned or controlled by this State or any of its agencies, the supervisors may require contributions in money, services, materials or otherwise to any operations conferring such benefits, and may require land occupiers to enter into and perform such agreements or covenants as to the permanent use of such lands as will tend to prevent or control erosion thereon;

(12) No provisions with respect to the acquisition, operation or disposition of property by other public bodies shall be applicable to a District organized hereunder unless the Legislature shall specifically so state.

§ 8. ADOPTION OF LAND-USE REGULATIONS.] The Supervisors of any District shall have authority to formulate regulations governing the use of lands within the District in the interest of conserving soil and soil resources and preventing and controlling soil erosion. The Supervisors may conduct such public meetings and public hearings upon tentative regulations as may be necessary to assist them in this work. The Supervisors shall not have authority to enact such land-use regulations into law until after they shall have caused due notice to be given of their intention to conduct a referendum for submission of such regulations to the occupiers of lands lying within the boundaries of the District for their indication of approval or disapproval of such proposed regulations, and until after the Supervisors have considered the result of such referendum. The proposed regulations shall be embodied in a proposed ordinance. Copies of such proposed ordinance shall be available for the inspection of all eligible voters during the period between publication of such notice and the date of the referendum. The notices of the referendum shall recite the contents of such proposed ordinance, or shall state where

copies of such proposed ordinance may be examined. The question shall be submitted by ballots, upon which the words "For approval of proposed ordinance No....., prescribing land-use regulations for conservation of soil and prevention of erosion" and "Against approval of proposed ordinance No....., prescribing land-use regulations for conservation of soil and prevention of erosion" shall be printed, a direction to insert an "X" mark in the square before one or the other of said propositions as the voter may favor or oppose approval of such proposed ordinance. The Supervisors shall supervise such referendum, shall prescribe appropriate regulations governing the conduct thereof, and shall publish the result thereof. All occupiers of lands within the District shall be eligible to vote in such referendum. No informalities in the conduct of such referendum or in any matters relating thereto shall invalidate said referendum or the result thereof if notice thereof shall have been given substantially as herein provided and said referendum shall have been fairly conducted.

The Supervisors shall not have authority to enact such proposed ordinance into law unless at least two-thirds of the land occupiers vote in favor of said ordinance and provide further that the land occupiers of two-thirds of the land area within the District shall have voted at such referendum. The approval of the proposed ordinance by a majority of the votes cast in such referendum shall not be deemed to require the Supervisors to enact such proposed ordinance into law. Land-use regulations prescribed in ordinances adopted pursuant to the provisions of this Section by the Supervisors of any District shall have the force and effect of law in the said District and shall be binding and obligatory upon all occupiers of lands within such District.

Any occupier of land within such District may at any time file a petition with the Supervisors asking that any or all of the land-use regulations prescribed in any ordinance adopted by the Supervisors under the provisions of this Section shall be amended, supplemented or repealed. Land-use regulations prescribed in any ordinance adopted pursuant to the provisions of this Section shall not be amended, supplemented or repealed except in accordance with the procedure prescribed in this Section for adoption of land-use regulations. Referenda on adoption, amendment, supplementation or repeal of land-use regulations shall not be held more often than once in six (6) months.

The regulations to be formulated by the Supervisors under the provisions of this Section may include:

1. Provisions requiring the carrying out of necessary engineering operations, including the construction of terraces, terrace outlets, checkdams, dikes, ponds, ditches and other necessary structures;
2. Provisions requiring observance of particular methods of

cultivation including contour cultivating, contour furrowing, lister furrowing, sowing, planting, strip cropping, seeding and planting of lands to water-conserving and erosion-preventing plants, trees and grasses, forestation and reforestation;

3. Specifications of cropping programs and tillage practices to be observed;

4. Provisions requiring the retirement from cultivation of highly erosive areas or of areas on which erosion may not be adequately controlled if cultivation is carried on;

5. Provisions for such other means, measures, operations and programs as may assist conservation of soil and water resources and prevent or control soil erosion in the District, having due regard to the legislative finds set forth in Section 2 of this Act.

The regulations shall be uniform throughout the territory comprised within the District except that the Supervisors may classify the lands within the District with reference to such factors as soil type, degree of slope, degree of erosion threatened or existing, cropping and tillage practices in use, and other relevant factors, and may provide regulations varying with the type or class of land affected, but uniform as to all lands within each class or type. Copies of land-use regulations adopted under the provisions of this Section shall be printed and made available to all occupiers of lands lying within the District. All ordinances and regulations adopted under the provisions of this Act shall apply only to land under written agreement between the District Supervisors and the land occupiers and owners.

§ 9. ENFORCEMENT OF LAND-USE REGULATIONS.] The Supervisors shall have authority to go upon any lands within the District to determine whether land-use regulations adopted under the provisions of Section 8 of this Act are being observed. Any person, firm, or corporation who shall violate any of such regulations shall be guilty of a misdemeanor. *Amend 1937 ch 5*

§ 10. PERFORMANCE OF WORK UNDER THE REGULATIONS BY THE SUPERVISORS.] Where the Supervisors of any District shall find that any of the provisions of land-use regulations prescribed in an ordinance approved in accordance with the provisions of Section 8 hereof are not being observed on particular lands, and that such non-observance tends to increase erosion on such lands and is interfering with the prevention or control of erosion on other lands within the District, the Supervisors may present to the District Court a petition, duly verified, setting forth the adoption of the ordinance prescribing land-use regulations, the failure of the defendant land occupier to observe such regulations, and to perform particular work, operations or avoidances as required thereby, and that such non-observance tends to increase erosion on such lands and is interfering with the prevention or control of erosion on other lands with-

in the District, and praying the Court to require the defendant to perform the work, operations or avoidances within a reasonable time and to order that, if the defendant shall fail so to perform the Supervisors may go on the land, perform the work or other operations or otherwise bring the condition of such lands into conformity with the requirements of such regulations, and assess the costs and expenses thereof, with interest, to the occupier of such land. Upon the presentation of such petition, the Court shall cause process to be issued against the defendant, and shall hear the case. If it shall appear to the Court that testimony is necessary for the proper disposition of the matter, it may take evidence, or appoint a referee to take such evidence as it may direct and report the same to the Court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the Court shall be made. The Court may dismiss the petition; or it may require the defendant to perform the work, operations or avoidances, and may provide that upon the failure of the defendant to initiate such performance within the time specified in the order of the Court, and to prosecute the same to completion with reasonable diligence, the Supervisors may enter upon the lands involved and perform the work or operations or otherwise bring the condition of such lands into conformity with the requirements of the regulations, and assess the costs and expenses thereof, with interest at the rate of 5 per centum per annum, to the occupiers of such lands. In cases where the person in possession of lands who shall fail to perform such work, operations or avoidances shall not be the owner, the owner of such lands shall be joined as party defendant, and in all cases, notice shall be given to all other interested parties in person, or by publication in the manner provided in this Act for publication of due notice.

The Court shall retain jurisdiction of the case until after the work has been completed. Upon completion of such work pursuant to such order of the Court the Supervisors may file a petition with the Court, a copy of which shall be served upon the defendant in the case, stating the costs and expenses sustained by them in the performance of the work and praying judgment therefor, with interest. The Court shall have jurisdiction to enter judgment for the amount of such costs and expenses, with interest at the rate of 5 per centum per annum until paid. The Supervisors shall have further authority to certify to County Auditor of the County in which such District is located the amount of such judgment, which shall be a lien upon such lands, and shall be collected as are taxes or assessments against such lands. The procedure for collection of delinquent taxes shall be applicable to the collection of such judgments. When such judgment shall be paid or collected, the proceeds shall be paid over to the District within the boundaries of which the lands shall lie.

§ II. BOARD OF ADJUSTMENT.]

(a) Where the Supervisors of any District organized under the

provisions of this Act shall adopt an ordinance prescribing land-use regulations in accordance with the provisions of Section 8 hereof, they shall further provide by ordinance for the establishment of a Board of Adjustment. Such Board of Adjustment shall consist of three (3) members, each to be appointed for a term of three (3) years, except that the members first appointed shall be appointed for terms of one, two and three years respectively. The members of each such Board of Adjustment shall be appointed by the State Soil Conservation Committee, with the advice and approval of the Supervisors of the District for which such Board has been established, and shall be removable, upon notice and hearing, for neglect of duty or malfeasance in office, but for no other reason, such hearing to be conducted jointly by the State Soil Conservation Committee and the Supervisors of the District. Vacancies in the Board of Adjustment shall be filled in the same manner as original appointments, and shall be for the unexpired term of the member whose term becomes vacant. Members of the State Soil Conservation Committee and the Supervisors of the District shall be ineligible to appointment as members of the Board of Adjustment during their tenure of such other office. The members of the Board of Adjustment shall receive compensation for their services at the rate of Five Dollars (\$5.00) per diem for time spent on the work of the Board, in addition to expenses, including traveling expenses, necessarily incurred in the discharge of their duties. The Supervisors shall pay the necessary administrative and other expenses of operation incurred by the Board, upon the certificate of the Chairman of the Board.

(b) The Board of Adjustment shall adopt rules to govern its procedures, which rules shall be in accordance with the provisions of this Act and with the provisions of any ordinance adopted pursuant to this Section. The Board shall designate a chairman from among its members, and may, from time to time, change such designation. Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. Any two (2) members of the Board shall constitute a quorum. The chairman, or in his absence such other members of the Board as he may designate to serve as acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep a full and accurate record of all proceedings, of all documents filed with it, and of all orders entered, which shall be filed in the office of the Board and shall be a public record.

(c) Any land occupier may file a petition with the Board of Adjustment alleging that there are great practical difficulties or unnecessary hardships in the way of his carrying out upon his lands the strict letter of the land-use regulations prescribed by ordinance approved by the Supervisors, and praying the Board to authorize a variance from the terms of the land-use regulations in the application of such regulations to the lands occupied by the petitioner.

Copies of such petition shall be served by the petitioner upon the chairman of the Supervisors of the District within which his lands are located, and upon the chairman of the State Soil Conservation Committee. The Board of Adjustment shall fix a time for the hearing of the petition, and cause due notice of such hearing to be given. Upon the hearing the petitioner may appear in person, by agent or by attorney. The Supervisors of the District and the State Soil Conservation Committee shall have the right to appear and be heard at such hearing. If upon the facts presented at such hearing, the Board shall determine that there are great practical difficulties or unnecessary hardships in the way of applying the strict letter of any of the land-use regulations upon the lands of the petitioner, it shall make and record such determination and shall make and record findings of fact as to the specific conditions which establish such great practical difficulties or unnecessary hardship. Upon the basis of such findings and determination, the Board shall have power by order to authorize such variance from the terms of the land-use regulations, in their application to the lands of the petitioner, as will not be contrary to the public interest, and such that the spirit of the land-use regulations shall be observed, the public health, safety and welfare secured, and substantial justice done.

(d) Any petitioner aggrieved by an order of the Board granting or denying, in whole or in part, the relief sought, or the Supervisors of the District, may obtain a review of such order in the District Court by filing in such Court a petition praying that the order of the Board be modified or set aside. A copy of such petition shall forthwith be served upon the parties to the hearing before the Board and thereupon the party seeking review shall file in the Court a transcript of the entire record in the proceedings, certified by the Board, including the documents and testimony upon which the order complained of was entered, and the findings, determination and order of the Board. Upon such filing, the Court shall cause notice thereof to be served upon the parties and shall have jurisdiction of the proceedings and of the questions determined or to be determined therein, and shall have power to grant such temporary relief as it deems just and proper, and to make and enter a decree enforcing, modifying, and enforcing as so modified, or setting aside, in whole or in part, the order of the Board. No contention that has not been urged before the Board shall be considered by the Court unless the failure or neglect to urge such contention shall be excused because of extraordinary circumstances. The findings of the Board as to the facts, if supported by evidence, shall be conclusive. If any party shall apply to the Court for leave to produce additional evidence and shall show to the satisfaction of the Court that such evidence is material and that there were reasonable grounds for the failure to produce such evidence in the hearing before the Board, the Court may order such additional evidence to be taken before the Board and to be made a part of the transcript. The Board may modify its findings as to

the facts or make new findings, taking into consideration the additional evidence so taken and filed, and it shall file such modified or new findings which, if supported by evidence, shall be conclusive, and shall file with the Court its recommendations, if any, for the modification or setting aside of its original order. The jurisdiction of the Court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review in the same manner as are other judgments or decrees of the Court.

§ 12. COOPERATION BETWEEN DISTRICTS.] The Supervisors of any two or more Districts organized under the provisions of this Act may cooperate with one another in the exercise of any or all powers conferred in this Act.

§ 13. STATE AGENCIES TO COOPERATE.] Agencies of this State which shall have jurisdiction over, or be charged with the administration of, any State-owned lands, and of any County, or other governmental subdivision of the State, which shall have jurisdiction over, or be charged with the administration of, any County-owned or other publicly-owned lands, lying within the boundaries of any District organized hereunder, shall cooperate to the fullest extent with the Supervisors of such Districts in the effectuation of programs and operations undertaken by the Supervisors under the provisions of this Act. The Supervisors of such Districts shall be given free access to enter and perform work upon such publicly-owned lands. The provisions of land-use regulations adopted pursuant to Section 8 of this Act shall have the force and effect of law over all such publicly-owned lands, and shall be in all respects observed by the agencies administering such lands.

§ 14. DISCONTINUANCE OF DISTRICTS.] At any time after five (5) years after the organization of a District under the provisions of this Act, any twenty-five (25) occupiers of land lying within the boundaries of such District may file a petition with the State Soil Conservation Committee praying that the operations of the District be terminated and the existence of the District discontinued. The committee may conduct such public meetings and public hearings upon such petition as it may desire, to assist it in the consideration thereof. Within sixty (60) days after such a petition has been received by the Committee it shall give due notice of the holding of a referendum, and shall supervise such referendum and issue appropriate regulations governing the conduct thereof, the question to be submitted by ballots upon which the words "For terminating the existence of the (Insert name of District)" and "Against terminating the existence of the (Insert name of District)" shall be printed, with a direction to insert an "X" mark in the square before one or the other of said propositions as the voter may favor or oppose discontinuance of such District. All occupiers of lands lying within the boundaries of the District shall be eligible to vote in such referendum. No informalities in the conduct of such refer-

endum or in any matters relating thereto shall invalidate said referendum of the result thereof if notice thereof shall have been given substantially as herein provided and said referendum shall have been fairly conducted.

The Committee shall publish the result of such referendum and shall thereafter consider and determine whether the continued operation of the District within the defined boundaries is administratively practicable and feasible. If the Committee shall determine that the continued operation of such District is administratively practicable and feasible, it shall record such determination and deny the petition. If the Committee shall determine that the continued operation of such District is not administratively practicable and feasible, it shall record such determination and shall certify such determination to the Supervisors of the District. In making such determination the Committee shall give due regard and weight to the attitudes of the occupiers of lands lying within the District, the number of land occupiers eligible to vote in such referendum who shall have voted, the proportion of the votes cast in such referendum in favor of the discontinuance of the District to the total number of votes cast, the approximate wealth and income of the land occupiers of the District, the probable expense of carrying on erosion control operations within such District, and such other economic and social factors as may be relevant to such determination, having due regard to the legislative findings set forth in Section 2 of this Act; provided, however, that the Committee shall not have authority to determine that the continued operation of the District is administratively practicable and feasible unless at least a majority of the votes cast in the referendum shall have been cast in favor of the continuance of such District.

Upon receipt from the State Soil Conservation Committee of a certification that the Committee has determined that the continued operation of the District is not administratively practicable and feasible, pursuant to the provisions of this Section, the Supervisors shall forthwith proceed to terminate the affairs of the District. The Supervisors shall dispose of all property belonging to the District at public auction and shall pay over the proceeds of such sale to be covered into the State Treasury. The Supervisors shall thereupon file an application, duly verified, with the Secretary of State for the discontinuance of such District, and shall transmit with such application the certificate of the State Soil Conservation Committee setting forth the determination of the Committee that the continued operation of such District is not administratively practicable and feasible. The application shall recite that the property of the District has been disposed of and the proceeds paid over as in this Section provided, and shall set forth a full accounting of such properties and proceeds of the sale. The Secretary of State shall issue to the Supervisors a certificate of dissolution and shall record such certificate in an appropriate book of record in his office.

Upon issuance of a certificate of dissolution under the provisions of this Section, all ordinances and regulations theretofore adopted and in force within such Districts shall be of no further force and effect. All contracts theretofore entered into, to which the District Supervisors are parties, shall remain in force and effect for the period provided in such contracts. The State Soil Conservation Committee shall be substituted for the District or Supervisors as party to such contracts. The Committee shall be entitled to all benefits and subject to all liabilities under such contracts and shall have the same right and liability to perform, to require performance, to sue and be sued thereon, and to modify or terminate such contracts by mutual consent or otherwise, as the Supervisors of the District would have had.

The State Soil Conservation Committee shall not entertain petitions for the discontinuance of any District or conduct referenda upon such petitions nor make determinations pursuant to such petitions in accordance with the provisions of this Act, more often than once in five (5) years.

§ 15. APPROPRIATIONS.] There is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated the sum of Two Thousand Dollars (\$2,000) or so much thereof as may be necessary for the purpose of financing the operations of the office of the State Soil Conservation Committee or the activities of the State Soil Conservation districts for the biennium ending June 30, 1939.

§ 16. SEPARABILITY CLAUSE.] If any provision of this Act, or the application of any provision to any person or circumstances, is held invalid, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

§ 17. REPEAL.] All Acts or parts of Acts in conflict herewith are hereby repealed.

§ 18. EMERGENCY.] This Act is hereby declared to be an emergency measure and shall be in effect from and after its passage and approval.

Approved March 16, 1937.