

ing a channel as aforesaid, such owner or occupier committing thereon no unnecessary waste or damage, and being liable to pay any damages which the owner of the land may actually sustain by the erection and repair aforesaid; and provided, further, that if any person shall injure, destroy or remove any such embankment or other works, the owner or occupier of such mill or machinery or in case the said dam is for purposes of irrigation, the owner thereof, may recover of such person all damages he may sustain by reason of such injury, destruction or removal.

Approved March 8, 1899.

DAIRY PRODUCTS.

CHAPTER 72.

[H. B. 117.]

MANUFACTURE AND SALE OF DAIRY PRODUCTS.

AN ACT to Regulate the Manufacture and Sale of Dairy Products, and Imitations and Substitutes Therefor, Prescribing Penalties for Violations, to Create a Deputy Commissioner of Agriculture, Prescribing His Duties, and Fixing His Salary.

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

§ 1. ASSISTANT DAIRY AND FOOD COMMISSIONER.] In order to secure the better enforcement of the provisions of this act, and to promote the improvement of the product of the dairy the commissioner of agriculture by and with the advice and consent of the governor shall appoint one deputy in his department to be known officially as assistant dairy and food commissioner, who shall have a practical knowledge of, and experience in the manufacture of dairy products, and hold his office during the term of the commissioner of agriculture subject to removal from office for inefficiency, neglect or violation of duty. The said assistant commissioner shall receive a salary of six hundred dollars per annum and his actual and necessary expenses in the discharge of his duties under this act, and shall be charged under the direction of the commissioner of agriculture with the enforcement of the various provisions thereof.

The sum of one thousand dollars annually is hereby appropriated to which shall be added the amount in fines collected in the enforcement of the provisions of this act, to be paid for such purposes out of any moneys in the treasury not otherwise appropriated, and any money so appropriated not expended in the enforcement of the provisions of this act shall revert to the state school fund. All charges, accounts and expenses authorized by this act shall be paid

by the treasurer of the state upon the warrant of the state auditor. The entire expense of said assistant commissioner shall not exceed the sum appropriated for the purpose of this act.

§ 2. COMMISSIONER SHALL REPORT.] The biennial report of the commissioner of agriculture shall contain a detailed report of the work and proceedings, together with an account of expenses and disbursements of said assistant commissioner, since the preceding report with such facts and statistics in regard to the production, manufacture and sale of dairy products with such suggestions as he may regard of public importance connected therewith.

§ 3. POWERS OF THE COMMISSIONER.] The said assistant commissioner and such persons as shall be duly authorized for the purpose shall have access, ingress and egress to all places of business, factories, farms, buildings, carriages, cars, vessels and cans used in the manufacture and sale of any dairy products or any imitation thereof. They also shall have power and authority to open any package, can or vessel containing such articles which may be manufactured, sold or exposed for sale in violation of the provisions of this act, and may inspect the contents therein and take samples therefrom for analysis. All clerks, bookkeepers, express agents, railroad officials, employes or common carriers shall render to them any assistance in their power when so requested, in tracing, finding or discovering the presence of any prohibited article named in this act.

§ 4. PENALTY.] Any refusal or neglect on the part of such clerks, bookkeepers, express agents, railroad officials, common carriers or employes to render such friendly aid shall be deemed a misdemeanor and be punished by a fine of not less than twenty dollars nor more than fifty dollars for each and every offense.

§ 5. SHALL PROVIDE BLANKS.] The said assistant commissioner shall provide blanks which shall be furnished all proprietors or managers of creameries, cheese factories and all the venders or peddlers of milk who shall be licensed under the provisions of this act, for the purpose of making a report of the amount of milk and dairy goods handled and all owners or managers of such creameries, cheese factories and venders or peddlers of milk, shall on the first day of November of each year, send to the assistant dairy and food commissioner a full and accurate report of the amount of business done during the year as designated under the different headings of such printed blanks.

§ 6. MISDEMEANOR.] Any neglect or failure or false statement on the part of any owner or manager of such creamery, cheese factory, or any vender or peddler of milk shall be considered a misdemeanor and be punished by a fine of not less than ten nor more than fifty dollars.

§ 7. STENCIL OR BRAND.] Every creamery, cheese factory or combined creamery and cheese factory engaged in the manufacture of butter and cheese shall procure a stencil or brand bearing a suitable device and words which shall clearly designate the quality of

the product manufactured, and the number and location of the factory, and may contain a special or private brand or name of said factory; every brand shall be used upon the outside of the cheese and also upon the package containing the same, but in the case of butter on the package only and shall on the first day of November of each year report to the assistant dairy and food commissioner the name, location and number of each factory using said brand, and the name or names of the persons at each factory authorized to use the same, together with a copy of each stencil or brand and the said assistant commissioner shall keep a book in which shall be registered the same.

Any neglect or failure to comply with the provisions of this section shall be considered a misdemeanor and shall be punishable by a fine of not less than ten dollars and not more than fifty dollars for each and every offense.

§ 8. DAIRYMEN LICENSED.] Every person who sells milk from a dairy of five or more cows, and conveys the same in carriages, carts or other vehicles for the purpose of such sale, in any city or town of one thousand inhabitants or more, in the State of North Dakota, shall on the first day of June of each year, or within thirty days thereafter be licensed by the assistant dairy and food commissioner to sell milk within the limits of said city or town, and shall pay to the said assistant commissioner the sum of one dollar each to the use of said dairy and food commissioner, but any person desiring to engage in such dairy business shall first procure a license as aforesaid, which shall be valid until the first day of June next succeeding its issue. Licenses shall be used only in the names of the owners of carriages, carts and other vehicles, and shall, for the purpose of the act, be conclusive evidence of ownership. No license shall be sold, assigned or transferred.

Each license shall record the name, residence, place of business, number of carriages, carts or other vehicles used, the name and residence of every driver or other person engaged in selling said milk, and the number of the license. Each licensee shall before engaging in the sale of milk, cause his name, the number of his license, and his place of business to be legibly placed on each outer side of all carriages, carts or other vehicles used by him in the conveyance and sale of milk, and he shall report to the said assistant commissioner any change of driver or other person employed by him which may occur during the term of his license.

Whoever without being first licensed under the provisions of this section, sells milk, or exposes it for sale from carriages, carts or other vehicles, or has in his custody or possession with intent to sell, and whoever violates any of the provisions of this section shall be punished by a fine of not less than ten dollars and not more than fifty dollars for each and every offense.

§ 9. WHEN GUILTY OF MISDEMEANOR.] Every person before selling milk or offering it for sale in a store, booth, stand or

market place in the respective towns or cities as designated in this act shall procure a license from the assistant dairy and food commissioner and shall pay to said assistant commissioner the sum of one dollar. Whoever neglects to procure said license shall be deemed guilty of a misdemeanor and shall be punished by a fine not exceeding twenty dollars for each and every offense.

§ 10. FINE FOR SELLING UNWHOLESOME MILK.] If any person shall sell, exchange or expose for sale or exchange, or to be converted into any product of human food, any unclean, unhealthy, adulterated, unwholesome or skimmed milk, or milk from which has been held back what is commonly known as strippings, or milk taken from an animal having disease, sickness, ulcers, abscesses or running sores, or which has been taken from an animal within 15 days before or 5 days after parturition; or if any person having cows for the purpose of producing milk or cream for sale, shall stable them in an unhealthy place or crowded manner, or shall knowingly feed them food which produces impure, unwholesome milk, or upon any substance in a state of putrefaction or rottenness, or of an unhealthy nature, or shall sell or offer for sale cream which has been taken from milk the sale of which has been prohibited, or shall sell or offer for sale as cream an article which shall contain less than the amount of butter fat as prescribed in this act; or if any person shall sell or offer for sale any cheese manufactured from skimmed milk, or from milk that is partly skimmed without the same being plainly branded, stamped or marked on the side or top of both cheese and package in a durable manner in the English language, the words, "skimmed-milk cheese" the letters of the words to be not less than one inch in height and one half inch in width he shall be fined not less than twenty nor more than fifty dollars, but the provisions of this section shall not apply to skimmed milk when sold as such and in the manner and subject to the regulations prescribed in this act.

§ 11. COMMISSIONER SHALL INSPECT DAIRIES.] For the purpose of this act the addition of water or any other substance or thing to whole milk, or skimmed milk, or partially skimmed milk is hereby declared an adulteration, and milk which is obtained from animals fed upon any substance of an unhealthy nature, is hereby declared impure and unwholesome, and milk which has been proved by any reliable method of test or analyses to contain less than twelve per cent of milk solids to the hundred pounds of milk, or than three pounds of butter fat to one hundred pounds of milk shall be regarded as skimmed or partially skimmed milk, and every article not containing fifteen per cent or more of butter fat shall not be regarded as cream.

It is hereby made the duty of the assistant dairy and food commissioner to inspect such dairies as he shall deem necessary and enforce the provisions of the two preceding sections.

§ 12. ADULTERATED MILK.] No person by himself or his agents or servants shall render or manufacture, sell, offer for sale, expose for sale, take orders for the future delivery of, have in his posses-

sion, keep in storage, distribute, deliver, transfer or convey with intent to sell within this state any article, product or compound made wholly or partly out of any fat, oil, or oleaginous substance or compound thereof, not produced from unadulterated milk or cream from the same, which shall be in imitation of yellow butter produced from pure unadulterated milk or cream of the same; provided, that nothing in this act shall be construed to prohibit the manufacture or sale of oleomargarine in a separate and distinct form, and in such manner as will advise the consumer of its real character free from coloration or ingredient that causes it to look like butter. Whoever violates any of the provisions of this section shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars for each and every offense.

§ 13. OLEOMARGARINE OR BUTTERINE.] Whoever exposes for sale oleomargarine, butterine or any substance made in imitation or semblance of pure butter in tubs, firkins or other original packages not distinctly, legibly and durably branded, stamped or marked in a conspicuous place with the word "oleomargarine" or "butterine" or "imitation butter" as the case may be, in letters not less than one inch in length and one-half inch in width, or in retail packages not plainly and conspicuously labeled with said words "oleomargarine" or "butterine" or "imitation butter" as the case may be, shall be deemed guilty of a misdemeanor and punished by a fine of not less than twenty-five dollars nor more than one hundred dollars for each and every offense.

§ 14. "RENOVATED BUTTER."] Whoever by himself, his agents or employes shall manufacture, sell, offer or expose for sale butter that is produced by taking original packing stock or other butter, or both, and melting the same, so that the butter fat can be drawn off, then mixing the said butter fat with skimmed milk, or milk, or cream, or other milk product, and re-churning the said mixture; or that is produced by any similar process, and is commonly known as boiled or process butter, unless the tub, firkin or other original package in which the same may be put up, be distinctly, legibly and durably branded, stamped or marked in a conspicuous place with the words "renovated butter" in printed letters not less than one inch in length and one-half inch in width, in prints, boxes or rolls not plainly and conspicuously labeled on the wrapper thereof with the said words "renovated butter" in printed letters not less than one-half inch in length and one-quarter inch in width, shall be deemed guilty of a misdemeanor and punished by a fine of not less than twenty-five dollars nor more than one hundred dollars for each and every offense.

§ 15. PUNISHED BY FINE.] Whoever furnishes or causes to be furnished in any hotel, restaurant, boarding house or at any lunch counter, oleomargarine or butterine to any guest or patron of such hotel, restaurant, boarding house or lunch counter in the place or stead of butter shall notify said guest or patron that the substance so furnished is not butter and any party so furnishing without such

notice shall be punished by a fine of not less than five dollars nor more than ten dollars for each and every offense.

§ 16. "FILLED CHEESE."] Any person or firm who shall sell or offer for sale or make or manufacture out of any oleaginous substance or substances or any compound of the same or any other compound other than that produced from unadulterated milk, any article designed to take the place of cheese, produced from pure milk or any article termed "filled cheese" shall stamp each package of the same on the top and side with lamp black and oil the words "filled cheese" or words that shall designate the exact character and quality of the product in printed letters at least one inch long and one-half inch wide. Whosoever violates the provisions of this section is guilty of a misdemeanor and shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars for each and every offense.

§ 17. FARMERS' INSTITUTES.] The assistant dairy and food commissioner shall be director of farmers' institutes in the state and have charge of all matters relating thereto. He shall arrange for holding as many farmers' institutes during the year as possible and in connection with local committee where institute is to be held shall prepare program and provide for speakers and lecturers. The expense of such institutes shall be limited to the actual expense of travel and entertainment for speakers and lecturers.

§ 18. REPEAL.] All acts and parts of acts inconsistent or in conflict with the provisions of this act are hereby repealed.

Approved March 9, 1899.

DELINQUENT TAXES.

CHAPTER 73.

[S. B. 153.]

ADJUSTMENT OF DELINQUENT TAXES.

AN ACT to Amend Section 1353 of the Revised Codes of the State of North Dakota, Relating to Adjustment of Delinquent Taxes Due the State from Counties, and Repealing Section 1347 of Said Codes.

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

§ 1. AMENDMENT.] That section 1353 of the Revised Codes of the States of North Dakota be amended to read as follows:

§ 1353. DISCREPANCIES.] Whenever any material discrepancy shall be found to exist between the statements returned from the several counties and the account as shown by the books of the state auditor's office, it shall be the duty of the state examiner, when