

No. 73

**COMMISSIONER OF AGRICULTURE—
SUGAR BEET TARE AND DOCKAGE**

Held: Commissioner of Agriculture has power and authority to investigate the practice and methods of anyone who receives, buys, sells, or otherwise deals in vegetables, such as sugar beets, and the practice and methods of taking of dockage and tare in such industry.

April 7, 1941

Mr. Albert H. Kruse
Commissioner of Agriculture
State Capitol Building
Helena, Montana

Dear Mr. Kruse:

You have submitted the following question:

“Please advise me as to my powers and duties under Section 3561, Revised Codes of Montana, 1935, as it affects the sugar beet industry;

Do I have the authority to make an investigation of tare and dockage practice on sugar beets?"

In answering your inquiry it will be noted that Chapter 306, Volume 2, Revised Codes of Montana, 1935, covers the subjects of The Department of Agriculture, Labor and Industry, Regulation of Agriculture, Horticulture, Agriculture, Poultry, Husbandry, Dairying, Grain Grading and Inspection, Statistical Data and The State Fair.

In Section 3561, Revised Codes of Montana, 1935, are set forth the purpose, powers and duties of your department, and we find the pertinent provision to your inquiry to be as follows:

"The Department of Agriculture, Labor and Industry shall have power and it shall be its duty:

"1. To encourage and promote, in every practicable manner, the interests of agriculture, including horticulture and apiculture, domestic arts, dairying, cheese making, poultry raising, the production of wool, and all other allied industries.

"2. To collect and publish statistics relating to the production and marketing of crops and livestock, and of beef, pork, poultry, fish, mutton, wool, butter, cheese, and other agricultural products so far as such statistical information may be of value to the agricultural and allied interests of the state. . .

"5. To co-operate with producers and consumers in devising and maintaining economical and efficient systems of distribution, and to aid in whatever way may be consistent or necessary in accomplishing the reduction of waste and expense incidental to marketing.

"6. To have authority to maintain a market news service, including information as to crops, freight rates, commission rates, and such other matters as may be of service to producers and consumers, acting as a clearing house for information between producer and consumer.

"7. To gather and diffuse timely information concerning the supply, demand, prevailing prices, and commercial movement of farm products.

"8. To investigate the practices and methods of factors, commission merchants, and others who receive, solicit, buy, sell, handle on commission or otherwise, or deal in grain, dairy products, eggs, livestock, vegetables, or other farm products, to the end that the distribution of such commodities through such factors, commission merchants, and others, shall be efficiently and economically accomplished without hardship, waste or fraud."

It will be seen the Legislature has granted to you and your department broad powers in **promoting and encouraging agriculture**, and in collecting and publishing statistics relating to the production and marketing of crops and agricultural products which information may be of value to the agricultural interests. It is also readily seen the Legislature has given you broad powers to co-operate with producers in devising and maintaining economical and efficient systems of distribution and to aid in whatever way may be necessary in accomplishing the reduction of waste and expense incidental to marketing. The Legislature has also, as I have pointed out, given you power to maintain a market news service, including information as to crops, freight rates, commission rates and such other matters as may be of service to the producer and consumer.

Note also that subdivision 8 of Section 3561, Revised Codes of Montana, 1935, gives you also the power to **investigate the practices and methods of any person or corporation who receives, buys, sells or otherwise deals in vegetables, or other farm products**, to the end that the distribution of such commodities through such dealers shall be efficiently and economically accomplished without hardship, waste or fraud to the producer or consumer.

We find the courts have defined the word "agriculture" as follows:

"'Agriculture' is another indefinite word which in its broad sense 'includes farming, horticulture, and forestry, together with such subjects as butter and cheese making, sugar making, etc.'"

Forsythe v. Village of Cooksville, 356 Ill. 289, 190 N. E. 421.

The above definition was approved in

Sancho v. Bowie, C. C. A., Puerto Rico, 93 Fed. (2nd) 323.

Webster's New International Dictionary (2nd Edition) defines agriculture as, "Art or science of cultivating the ground, including harvesting of crops and rearing and management of live stock; tillage; husbandry; farming; in a broader sense, the science and art of the production of plants and animals useful to man, including to a variable extent the preparation of these products for man's use. In this broad use it includes farming, horticulture, and forestry, together with such subjects as butter and cheese making, sugar making, etc."

Considering the broad powers granted to you by the Legislature in the administration of your duties as Commissioner of Agriculture, it is my opinion you may investigate the practices and methods of any one who receives, buys, sells, or otherwise deals in vegetables, such as sugar beets, and the practices and methods of taking of dockage and tare in such industry, the same as with other farm products, where such practice is used.

Sincerely yours,

JOHN W. BONNER
Attorney General