

## RESOLUTION No. 1.

*A concurrent resolution for the appointment of a special committee of the house and senate to consider bills relating to children.*

WHEREAS, the governor of the state of Minnesota, in August, 1916, appointed a commission of twelve citizens to revise and codify the laws relating to children and to report its recommendations to him, and

WHEREAS, this commission has made its preliminary report recommending numerous changes to such laws, and is now about to make its final report embodying its recommendations in form of bills, and

WHEREAS, it is a matter of a common knowledge that the laws relating to children are in urgent need of revision and amendment to the end that the state may fairly fulfill its duties of guardianship over dependent, neglected, defective and delinquent children, and

WHEREAS, this is a matter of vital importance to all the citizens of this state regardless of political opinion or party affiliation;

Now, THEREFORE, be it resolved by this house, the senate concurring, that a special joint committee of the house and senate be appointed, seven members from the house, by the speaker of the house, and five from the senate, by the lieutenant governor, to consider the recommendations of said commission, as well as all other bills introduced which concern child welfare, and that this committee consider the same, hold public hearings thereon and introduce and recommend to the house and senate such bills as in its judgment will bring about the proper revision of the laws of this state relating to children.

## RESOLUTION No. 2.

*A concurrent resolution memorializing congress of the United States defining butter to mean "The food product, usually known as butter, and which is made exclusively from milk or cream, with or without common salt, and with or without additional coloring matter."*

WHEREAS, the act of congress approved May 9, 1902, defines butter to mean "The food product usually known as butter and which is made exclusively from milk or cream, or both, with or without common salt, and with or without additional coloring matter."

The act then declares that:

"Adulterated butter is hereby defined to mean a grade of butter produced by mixing, reworking, rechurning in milk or cream, refining or in any way producing a uniform, purified or improved product from different lots or parcels of melted or unmelted but-

ter, or butter fat in which any acid, alkali, chemical or any substance whatever is introduced or used, for the purpose or with the effect of deodorizing or removing therefrom, rancidity, or any butter or butter fat with which there is mixed any substance foreign to butter, as herein defined with intent or effect of cheapening in cost the product, or any butter in the manufacture or manipulation of which any process or material is used, with intent or effect of causing the absorption of abnormal quantities of water, milk or cream."

WHEREAS, notwithstanding these plain definitions of what shall constitute butter and adulterated butter, the regulation of the commissioner of internal revenue, approved by the secretary of the treasury, made soon after the passage of the act, reads as follows:

"The definition of adulterated butter as contained in the act of May 9, 1902, embraces butter in the manufacture of which any process or material is used whereby the product is made to 'contain abnormal quantities of water, milk or cream,' but the normal content of moisture permissible is not fixed by the act. This being the case, it becomes necessary to adopt a standard for moisture in butter which shall in effect represent the normal quantity. It is therefore held that butter having 16 per cent or more of moisture contains an abnormal quantity and is classed as adulterated butter."

WHEREAS, the United States circuit court of appeals, 8th circuit, Minnesota April 17th, 1912, has declared said regulation void. We quote from the syllabus of the court:

1. Food (5) statutory provisions—"adulterated butter". The intention of congress in enacting and the true construction of the clause "any butter in the manufacture or manipulation of which any process or material is used with intent or effect of causing the absorption of abnormal quantities of water, milk or cream," in act of May 9, 1902, c. 789, no. 4, 32-stat. 194, 195, (U. S. comp. st. supp. 1911, p. 969), is to bring butter containing an 'abnormal quantity of water, milk or cream into the class of adulterated butter and to subject it to forfeiture, and its manufacturer to the fines and penalties denounced for a violation of the regulations therein concerning adulterated butter when, and when only, some process or material is used in its manufacture or manipulation, with the intent or effect of introducing into the butter, by absorption, an abnormal quantity of water, milk or cream.

The presence in butter of an abnormal quantity of moisture does not make it "adulterated butter" under this act.

2. Food (5)—forfeitures—proceedings—evidence—"adulterated butter." Proof of the presence of an abnormal quantity of moisture in butter and of a removal of the butter without a compliance with the regulations concerning the taxing and branding of "adulterated butter" is insufficient to bring such butter within the class of adulterated butter or to sustain its forfeiture as such.

3. Food (12)—regulations—construction—“adulterated butter”. The true construction of the regulation of the secretary of the treasury, to the effect that butter having 16 per cent or more of moisture contains an abnormal quantity and is classed as adulterated butter under the clause of the act quoted above, is that it merely defines and fixes the measure of an abnormal quantity of moisture in the butter under this clause.

4. Food (12)—regulations—validity. The regulation so constructed is void because, while the secretary and his subordinates had authority to investigate each case and to decide, for administration purposes in the light of the facts and circumstances of the particular case, whether or not the butter involved therein was adulterated butter and taxable as such, and they had neither express nor implied authority by a general regulation to give an authoritative and final definition of the terms, or such a construction of the statute, which should govern all future cases.

5. Food (12)—regulations—validity. If, on the other hand, the correct interpretation of this regulation is, as counsel for the government claims, that it makes all butter which contains 16 per cent or more, or an abnormal quantity, of moisture “adulterated butter”, whether the abnormal quantity was introduced into the butter by the use of some process or material with intent or effect of causing it to be absorbed by the butter or not, then the rule is unauthorized and void, because it has the effect to subject classes of property to forfeiture, and classes of persons to fines and penalties, that are excluded therefrom by the plain terms of the law.

6. Constitutional law—authority of executive officers. Implied authority in an executive officer or department to repeal extend, or modify an act of congress may not be inferred from legislative authority to enforce it.

And a regulation of such an officer, or department, made under legislative authority to make rules to enforce an act of congress which has the effect to subject classes of property to forfeiture, and classes of person to fines and penalties under the act, that are excluded therefrom by the terms of the statute, is unauthorized and void.

7. Constitutional law—departments of government—executive power. The definition of offenses, the classification of offenders and the prescription of the punishment they shall suffer, are legislative and not executive functions.

Violations of regulations of an executive officer which are not in themselves violations of any legislative act or common law, are not criminal, in the absence of a previous legislative act prescribing a punishment therefor, and neither forfeitures, fines nor penalties may be prescribed, imposed or inflicted therefor, either by executive officers or by courts.

WHEREAS, notwithstanding the decision of the court, the commissioner of internal revenue continues to prosecute, harass and impose drastic and unreasonable penalties upon the co-operative creameries of Minnesota, who are manufacturing the highest quality of butter known to the world and who have been awarded first prizes for excellence at international, national and state competitions for merit. Furthermore, said Minnesota co-operative creameries have at no time manufactured any butter that comes within the definition of the act of congress relating to adulterated butter.

Specific evidence of creameries that have been unjustly prosecuted and wrongfully penalized will be furnished to your honorable body, upon demand, by the dairy and food commissioner, St. Paul, Minn.

WHEREAS, the commissioner of internal revenue, in his report for the fiscal year ending June 30th, 1916, said:

"It is again recommended that the act of May 9, 1902, be amended and some definite standard of moisture or butterfat content be fixed by the statute for the different classes of butter defined by the act of August 2, 1886, as amended by this act.

This law, as it stands, works entirely too severe hardships upon manufacturers of butter who unknowingly and unintentionally place on the market butter containing sixteen per cent or more of moisture, and likewise imposes unduly harsh penalties in the form of special taxes upon dealers who handle such butter."

In view of the above facts,

BE IT RESOLVED that the senate and house of representatives of the state of Minnesota, in joint session assembled, respectfully petition your honorable body to take such action as will prevent the prosecution and penalization of innocent manufacturers of creamery butter by the commissioner of internal revenue, his officers or employes, under the regulation heretofore referred to.

For the accomplishment of this purpose,

RESOLVED that we recommend the following remedial measure: An act to amend section 7 of the food and drugs act of June 30th, 1906.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled:

That that part of section 7 of the food and drugs act of June 30, 1906, defining what shall be deemed to be adulterated in the case of foods, be and the same is hereby amended by adding thereto the following:

In the case of butter--

Butter is hereby defined to mean the food product usually known as butter and which is made exclusively from milk or cream, or both, with or without common salt, and with or without additional coloring matter, (and shall contain not more than sixteen per cent

(16%) of water, and not less than eighty per cent (80%) of butter fat.)

This act to take effect and be in force from and after its passage.  
Approved March 1, 1917.

### RESOLUTION No. 3.

*A concurrent resolution memorializing congress of the United States to establish, operate and maintain terminal elevators at all the railroad and marine terminals of the United States, where grain is extensively handled.*

To the United States Senate and House of Representatives:

WHEREAS, during the past two years the demoralization of the transportation systems throughout the United States has caused irreparable losses to the farmers and producers of grain, and

WHEREAS, as a result of such demoralization there has been stored millions of bushels of grain in cars at the various terminals, owing to the failure of such terminals to handle such grain, the transportation thereof has been very seriously delayed, causing the consumers great inconvenience and unnecessary increase in the cost of living, and in many instances actual suffering, and

WHEREAS, the various railroad companies have failed in securing for the farmers and growers the necessary relief, although frequently urged to do so, and

WHEREAS, in November, 1916, there was appointed by the National Association of Railway and Warehouse Commissioners, a committee to investigate the car shortage and make a report thereon, and

WHEREAS, said committee after a careful and thorough investigation of the car shortage at the various terminals throughout the United States, found that thousands of cars at the leading terminals were used, not only for days and weeks, but months, for storage purposes, because of the inability and failure of the terminal elevators to take care of and handle the grain at destination.

NOW, THEREFORE, BE IT RESOLVED by the house of representatives of the state of Minnesota, the senate concurring, that we earnestly and urgently petition congress to establish, operate and maintain, terminal elevators at all the leading railroad and marine terminals of the United States where grain is extensively handled, firmly believing this to be for the best interests of all the people, including consumers and producers alike, and essential to the successful growing, transportation and handling of grain throughout the United States.

Approved April 17, 1917.