

# GENERAL STATUTES

OF THE

# STATE OF MINNESOTA

36

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COMPLETE IN TWO VOLUMES.

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VOL. 2.

SUPPLEMENT, 1879-1888,

WITH

ANNOTATIONS AND GENERAL INDEX TO BOTH VOLUMES.

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ily, and shall thereupon make a written certificate of such allowance, signed by him officially, in which he shall specify the sum allowed, and the name and residence of the person to whom it is granted; and upon presentation of such certificate at the office of the county auditor of said county, such person shall be entitled to receive an order, duly signed and sealed, upon the treasurer of said county, for the amount specified therein, to be paid out of the fund appropriated to the support and relief of the poor; but no county commissioner shall be authorized to grant such temporary relief to any one person or family to exceed the sum of twenty dollars, except by permission of the board of county commissioners of the county. In case such commissioner deems it unsafe to intrust such poor person with the expenditure of such sum of money, he may present his said certificate, and receive such order, and draw the money thereupon, and expend the same, or so much thereof as may be necessary, for the use of and in such a way as will be most beneficial to such poor person, accounting to the board for the manner of expending the same, and for any balance not so expended: *provided*, that such temporary and limited assistance shall not continue or be allowed for more than three months in any one year, [nor] exceed in the aggregate the sum of fifty dollars: *provided*, that in the performance of the duties required by this section such county commissioner shall receive the sum of three dollars per day for each day necessarily employed, and ten cents per mile for every mile necessarily traveled in the performance of such duty; but no commissioner shall receive pay for the performance of such duty for more than fifteen days' service, nor mileage to exceed one hundred miles in any one year. (*As amended 1877, c. 13, § 1; 1885, c. 263.*)

The powers of a single commissioner to bind the county for aid rendered to persons in his district are limited to the particular cases specified in this section. *Bentley v. Commissioners Chisago Co.*, 25 Minn. 259. He has no authority to bind the county, by contract with a physician, for professional attendance upon a pauper. *Id.*

### § 15. Sick persons—Support.

To maintain an action by one county against another, under this section, for expenditures made in and about the support and relief of a sick and infirm poor person, such person must have had at the time a legal settlement in the defendant county. To have gained such legal settlement, the person must have resided one year continuously in such county. *County of Lyon v. County of Murray*, 29 Minn. 240, 13 N. W. Rep. 43.

## CHAPTER 16.

### INTOXICATING LIQUORS.

#### § 1. Licenses.

Gen. St. c. 16, and Gen. Laws 1887 cc. 5, 6, 7, 8, 81, do not apply to exclusively wholesale dealers, who sell to other dealers, so as to make it necessary for them to take out licenses. *State v. Orth*, 36 N. W. Rep. 103.

The charter of the city of Rushford has the effect to substitute the city council for the board of county commissioners, as respects the granting of licenses to sell, etc., within the limits of the city. *State v. Pfeifer*, 26 Minn. 175, 2 N. W. Rep. 474.

#### § 2. License fee—Bond.

The commissioners have no right to grant licenses except on application in each case by the person desiring the license. The sum to be paid, and sufficiency of the bond, are to be passed upon by the board, and the duty cannot be delegated to any one. *Commissioners Hennepin Co. v. Robinson*, 16 Minn. 381, (Gil. 340.)

#### § 4. Selling without license—Penalty.

An indictment for selling after a vote against the granting of licenses, pursuant to Sp. Laws 1877, c. 51, should be under section 3 of that chapter, not under this chapter. *State v. Hanley*, 25 Minn. 429.

After a town has voted against license, pursuant to § 1, *supra*, an indictment may be found under § 4 against one who sells in the town without license. The vote of the town does not affect the offense described by that section. Limiting *State v. Hanley, supra*. *State v. Funk*, 27 Minn. 318, 7 N. W. Rep. 359. The provisions of c. 32, Laws 1870, that municipal townships may vote upon the question of granting licenses for the sale of liquors in such township, do not avoid the necessity of license from the county commissioners in any case, or affect the liability under this section of one selling without license, whether the township has voted in favor of license, or failed to vote against its being granted. *State v. Cron*, 23 Minn. 140.

The offense created by this section is indictable—Sufficiency of indictment. *State v. Kobe*, 26 Minn. 148, 1 N. W. Rep. 1051.

In a prosecution for selling without a license, the burden of proving license is upon the defendant. *State v. Schmail*, 25 Minn. 370.

Section cited, *State v. Deusting*, 33 Minn. 102, 103, 22 N. W. Rep. 442.

#### § 10. Minors, habitual drunkards, etc.—Furnishing liquor to—Selling liquor upon Sabbath.

It shall be unlawful for any person to sell, give, barter, furnish, or dispose of, in any manner, either directly or indirectly, or by agent, employes, or otherwise, any spirituous, vinous, malt, or fermented liquors in any quantity or for any purpose whatever, to any minor person, or to any student or pupil in any public school, seminary, academy, or any other institution of learning in this state, or to any habitual drunkard, or intemperate drinker of intoxicating liquors, or to any intoxicated person; and any person violating any of the foregoing provisions of this section shall be guilty of a misdemeanor, and on conviction thereof by any court having jurisdiction shall be punished by fine of not less than twenty-five dollars, nor more than one hundred dollars, and costs of prosecution, or by imprisonment in the county jail not less than thirty, nor more than ninety, days, or until such fine and costs are paid, not exceeding ninety days; and any parent, husband, wife, child, guardian, master, or employer, or relation of any person, who is a habitual drunkard or an intemperate drinker of intoxicating liquors, or any one who is annoyed or injured by the means of the continued intoxication of such drunkard or intemperate drinker, or any parent, master, guardian, relative, or employer of any minor person, may give notice in writing, signed by him or her, to any person, forbidding him from directly or indirectly furnishing any such habitual drunkard, intemperate drinker, or minor named in such notice with any kind of intoxicating liquors; and if within one year after such notice, in cases of habitual drunkards and minors, and any time before such minor person shall become of full age, any one to whom such notice was given sells, gives away, or furnishes, directly or indirectly, or causes to be furnished, any intoxicating liquors to the person named in such notice, he shall be deemed guilty of a misdemeanor, and upon conviction thereof by any court having jurisdiction shall be punished by fine not less than fifty dollars, nor more than one hundred dollars, and by imprisonment in the county jail for not less than thirty days, nor more than ninety days, and in case of default in the payment of such fine, the court may, in addition to the time of imprisonment fixed by its judgment, commit such person to the county jail until such fine is paid; the whole time, however, for which any person can be so committed to the county jail under the provisions of this section not to exceed ninety days, and the license of such person shall be revoked as hereinafter stated. All the provisions of this section shall also apply to the municipal corporations, anything in the charters or ordinances thereof to the contrary notwithstanding. Any person who shall purchase or procure for any intemperate drinker of intoxicating liquors, habitual drunkard, or minor, knowing them to be such, with money, or its equivalent, furnished by such person or by such drunkard, in-

temperate drinker, minor, or other person for him, any intoxicating liquors, shall be guilty of a misdemeanor, and upon conviction shall be punished by fine of not less than twenty-five dollars, nor more than one hundred dollars, together with costs of prosecution, or by imprisonment in the county jail for not less than twenty, nor more than ninety, days, and in case of default in payment of any fine, until such fine and costs are paid, not exceeding ninety days. It shall be unlawful for any person in any city, village, town, or borough in this state to sell, barter, furnish, or dispose of in any manner, either directly or indirectly, or by agent, employe, or otherwise, any intoxicating liquor in any quantity or for any purpose whatever on the Sabbath day, or on any general or special election day, and all places where the sale of intoxicating liquors shall be licensed, under the provisions of any law or ordinance, shall be closed during all hours of every Sabbath day, and of every general or special election day; and any person violating any of the provisions of this section shall be guilty of a misdemeanor, and on conviction thereof by any court having jurisdiction shall be punished by a fine of not less than thirty dollars, nor more than one hundred dollars, and costs of prosecution, and by imprisonment in the county jail not less than ten days, nor more than thirty days. (*As amended 1877, c. 44, § 1; 1887, c. 81, § 1.*)

This section, as contained in Gen. St. 1878, describes two distinct and separate offenses, and prescribes a punishment for each. An indictment under the first and second sentences of the section need not allege any notice forbidding a sale, such as is mentioned in the subsequent provisions of the section. *State v. Hyde, 27 Minn. 153, 6 N. W. Rep. 555.*

In a prosecution for the sale of liquor to a minor it is not material whether the accused was a person licensed to sell, nor whether his occupation was one of those named in the latter part of the section. *State v. McGinnis, 30 Minn. 48, 52, 14 N. W. Rep. 256, 258.*

A complaint for selling liquor after notice must charge that the person furnishing the liquor was, at the time when the written notice forbidding him to so furnish was served upon him, a tavern keeper, merchant, distiller, or person having or keeping intoxicating liquors, etc., as the case may be. *State v. Heitsch, 29 Minn. 134, 12 N. W. Rep. 353.*

The validity of the act of 1887 was sustained in *State v. Peterson, 36 N. W. Rep. 443.* The provisions of chapters 5, 6, 81, Laws 1887, supersede all inconsistent charter provisions as to the terms and conditions upon which licenses may be granted, and do not necessarily require any additional local legislation to render them operative. *Id.* Upon conviction for violation of this section, a sentence to imprisonment in the county jail for thirty days, and to pay seventy-five dollars and costs, "and to stand committed in the county jail until such fine and costs are paid, not exceeding thirty days, in addition to the thirty days imprisonment," is valid. *Id.*

See *State v. Orth, cited supra, § 1.*

### § 11. Evidence—"Intoxicating liquors" defined.

In the matter of prosecution for any violation of any of the provisions of this chapter it shall not be necessary to prove the name or kind of intoxicating liquors sold; and in all suits or prosecutions under any of the provisions of this chapter the finding of intoxicating liquors on the premises in question shall be *prima facie* evidence of their sale on such premises; and establishing the fact of one's having drank what appeared to be intoxicating liquors on any premises shall be *prima facie* evidence that such liquor was intoxicating, and shall be taken as proof conclusive, unless defendant furnishes positive proof to the contrary; and the term "intoxicating liquor," wherever it occurs in this chapter, shall be understood to mean spirituous, vinous, malt, and fermented liquors. And in all prosecutions in this state for the sale of spirituous, vinous, fermented, or malt liquors without a license therefor, proof that the accused has paid the United States revenue tax for the sale of spirituous, or vinous, fermented, or malt liquors, or has procured a receipt for such payment covering the time in which it is alleged the accused has sold without a license, shall be *prima facie* evidence that the accused has sold such liquor; and in all such prosecutions proof that the receipt aforesaid is found or posted up on the premises in which it is alleged such sale is made shall be

*prima facie* evidence that the person or persons doing business upon said premises, either as principals, agent, proprietor, clerk, or bar-tender, is selling such liquor: *provided*, that the provisions of this section shall not apply to druggists engaged in the business of compounding and dispensing medicines upon prescription. (*As amended* 1877, c. 44, § 2; 1887, c. 81, § 2.)

A complaint alleging a sale of "intoxicating liquors," without naming the kind, is sufficient, and the words "sale and disposal" charge but one offense. *State v. McGinnis*, 30 Minn. 52, (2d case,) 14 N. W. Rep. 258. See, also, *State v. Richter*, 23 Minn. 81.

In a prosecution for the sale of "spirituous liquors, to-wit, whisky," to an habitual drunkard, it is not necessary to prove that the liquor sold was whisky, or that the defendant knew that the person to whom the sale was made was an habitual drunkard. *State v. Heck*, 23 Minn. 549.

### § 12. Selling after notice—Forfeiture of license.

That in all cases where any person is convicted, in any court, of selling or furnishing intoxicating liquor to a minor, habitual drunkard, or intemperate person after written notice as aforesaid, his license shall thereupon become forfeited and void, and thereafter he shall be liable for all penalties for selling liquor, the same as any person selling without a license. (*As amended* 1887, c. 81, § 3.)

### \*§ 17. Capitol—Selling liquor at.

Cited, *State v. Deusting*, 33 Minn. 102, 103, 22 N. W. Rep. 442.

### \*§ 23. Licenses—expiration.

All licenses issued in accordance with the provisions of section 2 of this chapter shall expire on the second Tuesday of January of each year, and no license shall be issued for a less sum than the amount fixed by the commissioners for a license fee for one year. (*Added* 1881, c. 30, § 1.)

### \*§ 24. Gaming tables in saloons prohibited — Violation — Penalty.

It shall not be lawful for any person to keep any bagatelle or card or any other kind of table whatsoever, except billiard and pool tables, or to allow the same to be kept in any room where any of the liquors mentioned in this act are licensed to be sold or kept for sale, or to allow any games at cards, throwing of dice, or any other game of any kind or nature whatsoever to be played in such room. Any person violating any of the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than ten dollars, nor more than fifty dollars. The provisions of this section shall also apply and be in force in all municipal corporations. (1887, c. 81, § 4.)

### \*§ 25. Licenses—Void unless fee paid—Posting license.

That no person shall in any manner be protected by any permit or license issued by the county commissioners, or by the authorities of any city, village, or other municipal corporation, unless he shall have paid the full amount required by the law or ordinance under which such license is granted; and no license shall have any force or effect unless the licensee shall have paid therefor a sum equal to the minimum rate fixed by the laws of this state for the town, village, borough, or city where the same is granted. All licenses granted by said county commissioners, or the authorities of any town, village, borough, or city in this state, shall be posted up in the room where such business is done, and shall distinctly state the amount paid therefor. (*Id.*)

### \*§ 26. Licenses—Description of premises—Sale elsewhere —Penalty.

All licenses issued by the county commissioners, or by the authorities of any city, town, borough, village, or other municipal corporation, for the sale

of intoxicating liquors, shall contain a description of the premises and room where such liquors are licensed to be sold, and any person so licensed, who shall sell, barter, or give away any intoxicating liquors outside of or in any place other than the room so named, shall be guilty of a misdemeanor, and shall be liable to all the penalties provided in this act, or under any law of this state, for selling liquors without a license. (*Id.*)

**\*§ 27. Violation of license laws—Certificate of conviction.**

When any person holding a license for the sale of intoxicating liquors is convicted of the violation of any law relating to the business he is licensed to pursue, and when any person shall be convicted of selling liquor without a license, under any law of this state or ordinance of any city, village, borough, or municipal corporation, the court in which or the magistrate before whom such conviction is had shall send to the board, council, trustees, or authorities which issued the license, or who would be authorized to issue a license in the district where such conviction is had, a certificate showing the offense charged, the conviction under such charges, and the time and place of such conviction, and such certificate, if made by a magistrate, shall be under his hand, and if made by a court having a clerk, it shall be made by such clerk. (*Id.*)

**\*§ 28. License—Revocation.**

The county commissioners of any county, or the common council of any city, village, or borough, and the authorities of any municipal corporation who are authorized to issue any license for the sale of intoxicating liquors, after notice to the person holding any such license and reasonable opportunity for him to be heard by them or by a committee of their number, may revoke any such license, and declare the same forfeited upon proof satisfactory to them that he has violated any of the laws of this state regulating the sale of intoxicating liquors, or has violated any provisions of law regulating persons so licensed to sell, or places where such liquors are sold, or any of the conditions of the bond required to be given by such licensee, and any such license shall cease to be in force from and after such revocation. The pendency of proceedings before a court of justice shall not suspend or interfere with the power herein given to revoke a license or declare a forfeiture. In all those cases where any such license is revoked or declared forfeited by reason of any violation of the law in relation to the sale of intoxicating liquor to a minor, habitual drunkard, or intemperate drinker of intoxicating liquors, or after notice forbidding such sale, the licensee shall be disqualified to receive a license for the period of five years thereafter, and in all other cases for the period of one year after the expiration of the term of the license so forfeited, and if the licensee is the owner of the premises described in or covered by such license, no license shall be issued to be exercised on said premises for the residue of the term thereof. (*Id.*)

**\*§ 29. Applications for license — Notice — Publication — Hearing.**

All applications for a license to sell intoxicating liquors to the commissioners of any county or to the authorities of any municipal corporation in this state, authorized to grant the same, shall be in writing, and shall designate the place where such business is to be carried on. Upon receiving any such application, the county auditor, or the clerk of any such municipal corporation, shall cause a notice of such application, containing the name of the applicant, or description of the premises, as stated in the application, and the time when the same will be heard, to be published in the official newspaper of said county or municipal corporation at least two weeks immediately preceding the time of such hearing; or in case there be no such official paper, then such notice shall be published in some newspaper of general circulation,

printed and published in the county within which such license is granted. Any person may appear at the time stated, and object to the granting of such license, and if it should appear to the board or municipal authorities empowered to grant such license, that the applicant has knowingly violated any of the laws of this state regulating the liquor traffic, or of the municipality where such application is made, within the year preceding such application, or any law relating to the sale of intoxicating liquors to minors, habitual drunkards, or intemperate drinkers, after receiving a notice forbidding such sale, within five years preceding such application, such board or municipal authorities shall refuse to grant the license. (1887, c. 81, § 4.)

See *State v. Orth*, cited *supra*, § 1; *State v. Peterson*, *supra*, § 10.

**\*§ 30. License fee—In cities of 10,000.**

No license for the sale of intoxicating liquors shall be granted to any person applying for the same under the provisions of the charter of any city of this state, which city contains a population of ten thousand people or more, by the municipal authorities of said city, except upon the condition that said applicant shall, before the issuance of said license, pay into the treasury of said city, in the manner provided by its charter, a license fee of one thousand dollars, or such fee in excess of said sum as the city council of said city shall, in the manner provided in its charter, fix and prescribe; anything in the charter of any city to the contrary, notwithstanding. (1887, c. 5, § 1.\*)

See *State v. Peterson*, *supra*, § 10.

**\*§ 31. Same—In other cities.**

No license for the sale of intoxicating liquors shall be granted to any person applying for the same under the provisions of the charter of any city of this state, which city contains a population of less than ten thousand people, by the municipal authorities of said city, except upon the condition that said applicant shall, before the issuance of said license, pay into the treasury of said city, in the manner provided by its charter, a license fee of five hundred dollars, or such fee in excess of said sum as the city council of said city shall, in the manner provided by its charter, fix and prescribe; anything in the charter of any city to the contrary, notwithstanding. (*Id.* § 2.)

**\*§ 32. Same—In other municipalities—Term of license.**

No license for the sale of intoxicating liquors shall be granted by the county commissioners of any county, or the municipal authorities of any town, village, or borough, to any person applying for the same under the provisions of chapter sixteen, General Statutes of eighteen hundred and seventy-eight, or of any general or special law governing such village or borough, except upon the condition of paying, in the manner prescribed by said chapter sixteen, or in the case of any village or borough organized or existing under a general or special law regulating the subject of licenses for the sale of intoxicating liquors, then in the manner provided in and by such general or special law, a license fee of five hundred dollars, or such fee in excess of said sum as the county commissioners, or in case of such village or borough, the municipal authorities of such village or borough, shall fix and prescribe: *provided*, that no license shall be granted for a longer period than one year, or for a period beyond twenty days after the annual election in such village or city next ensuing after the date of such licenses. (*Id.* § 3.)

**\*§ 33. Local option.**

Nothing herein contained shall be construed as affecting or repealing the local option proviso of section one of chapter sixteen of the General Statutes

\*"An act regulating the amount of license for the sale of intoxicating liquor." Approved February 10, 1887. § 5 repeals all inconsistent acts and parts of acts. By § 6 the act took effect from and after July 1, 1887.

of eighteen hundred and seventy-eight, or the local option provisions of section forty-eight of chapter one hundred and forty-five of General Laws of eighteen hundred and eighty-five. (*Id.* § 4.)

**\*§ 34. Applicants for license—Bond.**

Any person applying to the county commissioners of any county, or to the municipal authorities of any city, village, town, or borough in this state, for a license to sell intoxicating liquors, shall, before the same is issued, file with the clerk of said board of commissioners, or with the clerk or recorder of such city, village, town, or borough, a bond, with two or more sureties, who shall be freeholders of the county, and who shall justify in twice the amount of said bond, to be approved by the said board of county commissioners or by the common council or other governing body of any town, village, or borough, or the common council of any city to which such application is made, in the penal sum of two thousand dollars, conditioned that the said person so licensed will not sell or otherwise dispose of any intoxicating liquors at any place other than the room named in such license, nor on the Sabbath, nor on any general or special election day, and that he will keep a quiet and orderly house, and not permit gambling with cards or with any other means or device for money or its representative, or other thing of value, in the house or place of business of such person, and will not sell, barter, give away, or otherwise furnish or dispose of such liquors to any minor person, or to any pupil or student in any public school, academy, seminary, or other institution of learning, nor to any intemperate person, nor habitual drunkard. No persons shall be accepted as sureties on any such bond who are already on any other bond given pursuant to the provisions of this section. (1887, c. 6, § 1.)\*

See *State v. Peterson, supra*, § 10.

**\*§ 35. License to be denied, when—Violation—Penalty.**

No license shall be issued or renewed by the authorities of any county, city, town, village, or borough in this state when the sum paid therefor is less than the minimum amount required by the laws of this state; nor to any person who, during the twelve months next preceding the application for such issuance or renewal, shall have been convicted of violating any law of this state, or any ordinance of any municipal corporation therein, regulating the sale of intoxicating liquors; and any member of any board of county commissioners, or of the council of any city, or of any municipal corporation in this state, who shall vote to issue or renew such license, and any officer who shall issue or renew, or shall take any part in issuing or renewing, such license, upon the payment by the applicant of a sum less than the full minimum amount required by law, shall be deemed guilty of a misdemeanor, and shall be punished by fine not exceeding five hundred dollars, nor less than one hundred dollars, and such license so issued or renewed in violation of law shall be void. (*Id.* § 2.)

**\*§ 36. Official misconduct—Penalty.**

If any county commissioner or member of the council or other governing body of any city, village, or other municipal corporation in this state, any mayor of any city, any judge, sheriff, justice of the peace, constable, or other officer, willfully neglects or refuses to perform any duty required of him by the laws regulating the liquor traffic or the issue of licenses therefor, he shall be deemed guilty of a malfeasance in office, and shall thereafter be disqualified from holding the same for and during the remainder of the term for which he was elected or appointed, and shall be liable on his bond in an amount not

\*"An act to further regulate the sale of or disposition of intoxicating liquors." Approved March 3, 1887. § 8 repeals all inconsistent acts and parts of acts.

more than five hundred dollars, nor less than one hundred dollars, recoverable in any court having jurisdiction. (1887, c. 6, § 3.)

**\*§ 37. Sale without license—Penalty—Prosecutions.**

Whoever sells, barter, gives away, or otherwise disposes of any spirituous, vinous, fermented, or malt liquors, without first having obtained license therefor agreeably to the laws of this state, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof in any court having jurisdiction of the same, be punished by a fine of not less than fifty dollars, nor more than one hundred dollars, together with the costs of prosecution, and by imprisonment in the county jail not less than thirty days, nor more than ninety days. All prosecutions for the violation of any of the provisions of this section may be tried and conducted in a summary manner before any municipal court, police justice, or justice of the peace having jurisdiction thereof, in the same manner as violations of any municipal ordinance or by-law may now be tried and conducted: *provided*, that the provisions of this section shall not be so construed as to prohibit any regularly licensed druggist from dispensing liquors in filling prescriptions, made by any regular, reputable, and duly-licensed physician in the practice of his profession. (*Id.* § 4.)

**\*§ 38. Application of act.**

The provisions of this act shall apply to all cities and villages in this state incorporated under general or special law, and to every other municipal corporation or *quasi* corporation in this state, whether or not said municipal corporations have the right by general or special charter or general or special laws to grant licenses for the sale of intoxicating liquors, or to regulate said sale through or by any council or officer of the same, anything in the charter of any municipal corporation in this state to the contrary notwithstanding. (*Id.* § 5.)

**\*§ 39. Licenses—When to expire.**

All licenses granted after the passage of this act and before July first, one thousand eight hundred and eighty-seven, shall expire on said last-named date: *provided*, that in any town, village, or city where, under the existing laws, the licenses are granted in March, April, May, or June, such licenses may be issued to terminate on July first, one thousand eight hundred and eighty-seven, on the payment of a *pro rata* of the amount of the license required by the existing laws, for the entire year; and *provided, further*, that where, in any town, village, or city, any license for the sale of intoxicating liquors has been granted since the first day of July, one thousand eight hundred and eighty-six, and before the passage of this act, any and all such licenses shall expire within one year from the date of issuing the same. (*Id.* § 6.)

**\*§ 40. Intoxicating liquors defined.**

The words "intoxicating liquors," wherever used in the laws or statutes of this state, now in force or hereafter to be in force, shall be construed to mean spirituous, vinous, fermented, and malt liquors, or either of them. (*Id.* § 7.)

**\*§ 41. Evading liquor laws—Penalty.**

Whoever shall attempt to evade or violate any of the laws of this state regulating or prohibiting the sale of intoxicating liquors, by selling, giving away, or otherwise disposing of any spirituous, vinous, malt, or other intoxicating liquors, contrary to law, by means of the artifice or contrivance known as the "Blind Pig," or "Hole in the Wall," or by any other practice, artifice, contrivance, or device intended to conceal such evasion or violation of said laws, or the identity of the person or persons engaged in the same, shall, in addi-

tion to the offense [of selling] or otherwise disposing of such liquors without license, be guilty of a misdemeanor, and upon conviction thereof shall, for each offense, be punished by a fine of not less than twenty-five dollars, nor more than one hundred dollars, or by imprisonment in the county jail not less than ten days, nor more than three months, or by both fine and imprisonment, in the discretion of the court. (1887, c. 7, § 1.\*)

**\*§ 42. Same—Owner, etc., of premises—Liability.**

The owner, lessee, tenant, or person or persons, in possession or control of any premises in which any such means or deceptive practices are resorted to, to evade or violate said laws, who shall knowingly consent to or permit any other person or persons to so attempt to evade or violate said laws relating to the sale of intoxicating liquors upon the same, shall also be severally guilty of a like misdemeanor, and be punished therefor in the same manner as provided in section one of this act. To convict any such owner, lessee, or person in possession or control of any such premises, it shall only be necessary to prove that any such intoxicating liquors were so unlawfully sold or disposed of upon said premises, or were there by such means unlawfully procured, with his knowledge and consent or acquiescence. (*Id.* § 2.)

**\*§ 43. Same—Duty of officers.**

It shall be the duty of every sheriff, deputy-sheriff, constable, policeman, or other peace-officer, to immediately arrest any person or persons found committing any of the offenses named in this act, and to make complaint against them, to the end that they may be dealt with according to law, and to enforce this act. Any such officer who shall fail to do his duty, as in this section required, shall be guilty of malfeasance in office, for which he may be removed therefrom. (*Id.* § 3.)

**\*§ 44. Pharmacists—May dispense liquors.**

It shall be lawful for any pharmacist or druggist in the state of Minnesota, who shall be duly registered as such under the laws of said state, and who shall be actually carrying on the business of a pharmacist or druggist, to dispense any spirituous, vinous, fermented, or malt liquors in good faith for medicinal purposes, upon the written prescription of a reputable and duly-licensed physician actually engaged in the practice of his profession, without having a license for the sale of intoxicating liquors; but no such liquors so dispensed or disposed of shall be drunk or used on the premises where obtained. (1887, c. 8, § 1.†)

**\*§ 45. Same—Violation of liquor laws—Penalty.**

Any pharmacist or druggist who shall sell or dispose of any spirituous, vinous, fermented, or malt liquors, for any purpose or in any manner other than as provided in this act, or acts amendatory hereof, without having a license for the sale of intoxicating liquors, shall, upon conviction thereof, in any court having jurisdiction thereof, be subject to the same fines and penalties imposed by any law or ordinance upon any other person for selling intoxicating liquors without a license; and any pharmacist or druggist who shall permit any intoxicating liquors so sold or disposed of to be drunk or used on the premises where obtained shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not less than twenty dollars and not exceeding one hundred dollars. (*Id.* § 2.)

\*"An act to define and punish the crime of unlawfully disposing of intoxicating liquors by the device known as 'Blind Pig' or other contrivances intended to conceal the transaction." Approved March 5, 1887.

†"An act to authorize pharmacists to dispense and sell spirituous, vinous, fermented, and malt liquors on physicians' prescriptions and for medicinal purposes only." Approved March 7, 1887.

**\*§ 46. Physicians—Evasion of liquor laws—Penalty.**

Any physician or person who shall make or give any such prescription for any other than medicinal purposes, or who shall make or give any such prescription for the purpose of evading the laws of this state, or of aiding another to evade the same, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to the same fine and penalties that are imposed by any law or ordinance upon any other person for selling intoxicating liquors without a license. (1887, c. 8, § 3.)

## CHAPTER 17.

## BASTARDS.

**§ 1. Complaint.**

For the sufficiency of the complaint, see *State v. Snure*, 29 Minn. 132, 12 N. W. Rep. 347.

**§ 2. Entitling proceedings.**

The omission of the justice to entitle the proceedings in his docket, their nature, and the parties fully appearing therein, is only an irregularity, and should be disregarded. *State v. Snure*, 29 Minn. 132, 12 N. W. Rep. 347.

**§ 6. Trial—Judgment.**

The court may make a reasonable allowance for the past as well as the future maintenance of the child, including the lying-in expenses to be paid the mother for her use, when not paid or incurred by the public. *State v. Zeitler*, 35 Minn. 238, 23 N. W. Rep. 501; *State v. Eichmiller*, 35 Minn. 240, 23 N. W. Rep. 503.

A judgment not specifying the number of years during which the payments are to continue, is not on that account erroneous. *State v. Eichmiller*, 35 Minn. 240, 23 N. W. Rep. 503.

**§ 7. Bond—Commitment.**

This section is valid, and not in conflict with either sections 7 or 12, art. 1, of the constitution. *State v. Becht*, 23 Minn. 1.

Under what circumstances the putative father may be relieved from the bond for maintenance, see *Olson v. Johnson*, 23 Minn. 301.

**§ 10. Discharge—When granted.**

If upon such hearing it appears that the petitioner is unable to comply with such judgment and order, the court or judge may direct his discharge from custody upon his taking an oath that he has not in his own name any estate, real or personal, and has not any such estate conveyed or concealed, or in any manner disposed of, with design to secure the same to his use, or to avoid in any manner compliance with said judgment and order: *provided*, that the court may, upon the proof offered upon such application, discharge such prisoner, or make such proper order respecting any property, real or personal, the defendant may own or possess, having reference to the condition of the defendant and his family, if a married man, as the justice of the case may require in connection with such discharge. (*As amended* 1879, c. 7, § 1.)

[The amendment is to c. 28, title 6, § 58, St. at Large, (Bissell.)]

**§ 15. Compromise—Power of commissioners.**

The county commissioners, before or after judgment in any case under this chapter, may make such compromise and arrangement with the putative father of any bastard child in such county, relative to the support of such child, as