

GENERAL STATUTES

OF THE

STATE OF MINNESOTA

36

IN FORCE

JANUARY 1. 1889.

COMPLETE IN TWO VOLUMES.

VOLUME 1, the General Statutes of 1878, prepared by GEORGE B. YOUNG, edited and published under the authority of chapter 67 of the Laws of 1878, and chapter 67 of the Laws of 1879.

VOLUME 2, Supplement.—Changes effected in the General Statutes of 1878 by the General Laws of 1879, 1881, 1881 Extra, 1883, 1885, and 1887, arranged by H. J. HORN, Esq., with Annotations by STUART RAPALJE, Esq., and others, and a General Index by the Editorial Staff of the NATIONAL REPORTER SYSTEM.

VOL. 2.

SUPPLEMENT, 1879-1888,

WITH

ANNOTATIONS AND GENERAL INDEX TO BOTH VOLUMES.

ST. PAUL:
WEST PUBLISHING CO.
1888.

scene and indecent books, papers, articles, and things described in this act, shall issue a warrant directed to the sheriff of the county within which such complaint shall be made, or to any constable, marshal, or police officer within said county, directing him, them, or any of them, to search for, seize, and take possession of such obscene and indecent books, papers, articles, and things; and said court and justice of the peace shall, upon the conviction of the person or persons offending, under the law any of the provisions of this act, forthwith, in the presence of the person or persons upon whose complaint the said seizure or arrest is made, if he or they shall, after notice thereof, elect to be present, destroy, or cause to be destroyed, the aforesaid books, papers, articles, and things, and shall cause to be entered upon the records of his court the fact of such destruction. (1885, c. 268, § 2.)

***§ 12c. Same—Jurisdiction.**

Justices of the peace and municipal courts shall have jurisdiction of the offenses mentioned in this act. (*Id.* § 3.)

§ 24. (Sec. 23.) Sale of liquors within two miles of camp-meeting.

Under an ordinance which forbids selling, dealing in, or disposing of liquor without a license, the giving away of liquor is indictable. *State v. Deusting*, 33 Minn. 102, 22 N. W. Rep. 442.

***§ 28. Indecent exposure—Obscene language—Penalty.**

Whoever, being over fourteen years of age, willfully makes any indecent exposure of his or her person in any public place, or in any place where there are other persons to be offended or annoyed thereby, or utters or uses any obscene or licentious language or words in the presence or hearing of any female, shall be fined not more than one hundred dollars, nor less than five dollars, or by imprisonment in the county jail not exceeding thirty days, or less than ten days. (*Added to Gen. St.* 1881, c. 33, § 1.)

[See *post*, Penal Code, tit. 10, c. 7.]

CHAPTER 101.

OFFENSES AGAINST THE PUBLIC HEALTH.*

[See, as to repeal, note to c. 93, *ante*. *§§ 2¹-2³², 3a-3e, are independent acts, and not parts of the General Statutes.]

§ 1. Sale of diseased provisions—Penalty.

[Amended 1879, c. 9; *post*, page 1056, § 1. See *post*, Penal Code, tit. 12.]

***§ 2¹. Imitation butter—Branding—Failure—Penalty.**

Any person who shall knowingly sell or offer for sale, or procure the sale or offer for sale of, any article or substance in semblance of butter not the legitimate product of the dairy, made exclusively of milk and cream, but into the composition of which the oil or fat of animals or melted butter, or any oil thereof, enters as a substitute for cream, in tubs, firkins, or other original packages, not distinctly, legibly, and durably branded, stamped, or marked in

*In relation to the use of oleomargarine and butterine in hotels, restaurants, boarding-houses, and dining cars, see *post*, c. 124, *§ 25d.

a conspicuous place with the word "Oleomargarine" in letters not less than three-fourths of an inch in length and one-half of an inch in width, or in retail packages not plainly and conspicuously labeled with said word "Oleomargarine," shall be guilty of a misdemeanor, and punished by a fine not less than twenty dollars, nor more than one hundred dollars, or shall be confined in the county jail not less than ten nor more than ninety days, or by both such fine and imprisonment, in the discretion of the court. (1881, c. 133, § 1.*)

***§ 2². Same—Evidence of knowledge.**

The sale or offer for sale of the substance mentioned in the foregoing section in packages not branded, stamped, marked, or labeled as therein required, shall be *prima facie* evidence of knowledge of the character of such substance on the part of the person so selling or offering for sale, and his employer. (*Id.* § 2.)

***§ 2³. Sale of impure dairy products—Penalty.**

No person or persons shall sell or exchange, or expose for sale or exchange, any unclean, impure, unhealthy, adulterated, or unwholesome milk, or shall offer for sale any article of food made from the same or of cream from the same. This provision shall not apply to pure skim cheese made from milk which is clean, pure, healthy, wholesome, and unadulterated, except by skimming. Whoever 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 two hundred dollars, or by imprisonment of not less than one or more than six months, or both such fine and imprisonment for the first offense, and by six months' imprisonment for each subsequent offense. (1885, c. 149, § 1.†)

***§ 2⁴. Care and food for cows — Manufacture of impure dairy products.**

No person shall keep cows for the production of milk for market, or for sale or exchange, or for manufacturing the same or cream from the same into articles of food, in a crowded or unhealthy condition, or feed the cows on food that is unhealthy, or that produces impure, unhealthy, diseased, or unwholesome milk. No person shall manufacture from impure, unhealthy, diseased, or unwholesome milk or cream from the same any article of food. Whoever violates the provisions of this section is guilty of a misdemeanor, and shall be punished by a fine of not less than twenty-five nor more than two hundred dollars, or by imprisonment of not less than one or more than four months, or by both such fine and imprisonment for the first offense, and by four months' imprisonment for each subsequent offense. (*Id.* § 2.)

***§ 2⁵. Manufactories — Sale of impure milk to, etc. — Account of deliveries.**

No person or persons shall sell, supply, or bring to be manufactured, to any butter or cheese manufactory, any milk diluted with water, or any unclean, impure, unhealthy, adulterated, or unwholesome milk, or milk from which any cream has been taken, (except pure skim-milk to skim cheese factories,) or shall keep back any part of the milk commonly known as "strippings," or shall bring or supply milk to any butter or cheese manufactory that is sour, (except pure skim-milk to skim-cheese factories.) No butter or cheese manufactories, except those who buy all the milk they use, shall use for their own benefit or allow any of their employes or any other person to use, or the pro-

*"An act to regulate the traffic in oleomargarine." Approved March 2, 1881.

†"An act to prohibit and prevent the sale or manufacture of unhealthy or adulterated dairy products." Approved March 5, 1885. Took effect from and after April 1, 1885. § 13 repealed "all acts or parts of acts conflicting with the provisions of this act."

duct thereof, brought to said manufactories, without the consent of the owners thereof. Every butter or cheese manufacturer, except those who buy all the milk they use, shall keep a correct account of all the milk daily received and of the number of pounds and packages of butter, the number and aggregate weight of cheese made each day, the number of packages of cheese and butter disposed of which shall be open to inspection to any person who delivers milk to such manufacturer. Whoever violates the provisions of this section shall be guilty of a misdemeanor, and shall be punished for each offense by a fine of not less than twenty-five or more than two hundred dollars, or not less than one or more than six months' imprisonment, or both such fine and imprisonment. (1885, c. 149, § 3.)

***§ 2⁶. Imitation butter or cheese—Manufacture or sale—Penalty.**

No person shall 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 or of cream from the same, any article designed to take the place of butter or cheese, produced from pure, unadulterated milk or cream from the same, or shall sell or offer for sale the same as an article of food. This shall not apply to pure skim-milk cheese made from pure skim-milk. Whoever violates the provisions of this section shall be guilty of a misdemeanor, and be punished by a fine of not less than one hundred nor more than five hundred dollars, or not less than six months' or more than one year's imprisonment, or by both such fine and imprisonment, for the first offense, and by imprisonment for one year for each subsequent offense. (*Id.* § 4.)

As to the constitutionality of this section, see *Butler v. Chambers*, (Minn.) 30 N. W. Rep. 308.

Such a statute is not unconstitutional because the prohibited act, before the statute, was without any element of moral turpitude, or because it fails to make a fraudulent intent a necessary ingredient of the offense. *People v. West*, (N. Y.) 12 N. E. Rep. 610.

And see *People v. Marx*, (N. Y.) 2 N. E. Rep. 29; *In re Brosnahan*, 18 Fed. Rep. 62; *People v. Arensberg*, (N. Y.) 11 N. E. Rep. 277.

***§ 2⁷. Sale of butter or cheese with false brand—Penalty.**

No person shall offer, sell, or expose for sale in full packages butter or cheese branded or labeled with a false brand or label as to county or state in which the article is made. Whoever violates the provision of this section is guilty of a misdemeanor, and shall be punished by a fine of not less than twenty-five or more than fifty dollars, or imprisonment of less than fifteen or more than thirty days for the first offense, and fifty dollars or thirty days' imprisonment for each subsequent offense. (*Id.* § 5.)

***§ 2⁸. Condensed milk—Manufacture and sale—Branding—Violation—Penalty.**

No person shall manufacture, sell, or offer for sale, any condensed milk unless the same shall be put up in packages, upon which shall be distinctly labeled or stamped the name or brand by whom or under which the same is made. No condensed milk shall be made or offered for sale unless the same is manufactured from pure, clean, healthy, fresh, unadulterated, and wholesome milk, from which the cream has not been removed, or unless the proportion of milk solids contained in the condensed milk shall be in amount equivalent of twelve per centum of milk solids in crude milk, and of such solids twenty-five per centum shall be fat. When condensed milk shall be sold from cans or packages not hermetically sealed, the vendor shall brand or label such cans or packages with the name of the county or counties from which the same was produced, and the name of the vendor. Whoever violates the provision of this section shall be guilty of a misdemeanor, and be punished by a fine of not less than fifty or more than five hundred dollars, or

by imprisonment of not more than six months, or both such fine and imprisonment for the first offense, and by six months' imprisonment for each subsequent offense. (*Id.* § 6.)

***§ 2⁹. Dairy commissioner—Qualifications—Term—Salary—Duties—Clerk—Appropriation—Report.**

The governor shall appoint a commissioner who shall be known as the "state dairy commissioner," who shall be a citizen of this state, and who shall hold his office for the term of two years, or until his successor is appointed, and shall receive a salary of eighteen hundred dollars per annum and his necessary expenses incurred in the discharge of his duties under this act. Said commissioner shall be appointed within ten days after the passage of this act, and shall be charged, under the direction of the governor, with the enforcement of the various provisions thereof. Said commissioner may be removed from office at the pleasure of the governor, and his successor appointed as above provided for. The said commissioner is hereby authorized and empowered to appoint a clerk, whose salary shall be twelve hundred dollars per year, and such assistant commissioners, and to employ such experts, chemists, agents, and such counsel as may be deemed by him necessary for the proper enforcement of this law, their compensation to be fixed by the commissioner. The sum of six thousand dollars, annually, is hereby appropriated to be paid for such purposes out of any moneys in the treasury not otherwise appropriated. 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 expenses of said commissioner shall not exceed the sum appropriated for the purposes of this act. The said commissioner shall make biennial reports to the legislature not later than the fifteenth day of January, of his work and proceedings, and shall report in detail the number of assistant commissioners, experts, chemists, agents, and counsel he has employed, with their expenses and disbursements. The said commissioner shall have a room in the capitol, to be set apart for his use by the governor. (*Id.* § 7.)

***§ 2¹⁰. Same—Privileges.**

The said commissioner and assistant commissioners, and such experts, chemists, agents, and counsel as they shall duly authorize for the purpose, shall have access, egress, and ingress 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 shall also have power and authority to open any package, car, 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 may take therefrom samples for analysis. (*Id.* § 8.)

***§ 2¹¹. Jurisdiction of courts.**

The district and municipal courts of this state shall have jurisdiction of all cases arising under this act, and their jurisdiction is hereby extended so as to enable them to enforce the penalties imposed by any or all of the sections hereof. (*Id.* § 9.)

***§ 2¹². Costs—Disposition of fines.**

In all prosecutions under this act the cost thereof shall be paid out of the fine, if one is collected; if not, the same shall be paid in the manner now provided for by law, and the rest of the fine shall be paid into the state treasury. (*Id.* § 10.)

***§ 2¹³. Impure and unhealthy milk defined.**

In all prosecutions under this act relating to the sale and manufacture of unclean, impure, unhealthy, adulterated, or unwholesome milk, if the milk

be shown to contain more than eighty-eight per centum of water or fluids, or less than twelve per centum milk solids, which shall contain not less than three per centum of fat, it shall be declared adulterated, and milk drawn from cows within fifteen days before and five days after parturition or from animals fed on distillery waste or any substance in the state of putrefaction or fermentation, or upon any unhealthy food whatever, shall be declared unclean, impure, unhealthy, and unwholesome milk. This section shall not prevent the feeding of ensilage from silos. (1885, c. 149 § 11.)

The legislature may prohibit the sale of milk containing less than a certain proportion of milk solids to water, although such milk is drawn from healthy cows, and is not adulterated. *People v. Cipperly*, (N. Y.) 4 N. E. Rep. 107. And it may make the fact of sale thereof, irrespective of any criminal intent, a penal offense. *People v. Kibler*, (N. Y.) 12 N. E. Rep. 795.

***§ 2¹⁴. Evidence of intent.**

The doing of anything prohibited being done, and the not doing of anything directed to be done in this act, shall be presumptive evidence of a willful intent to violate the different sections and provisions hereof. (*Id.* § 12.)

***§ 2¹⁵. Sale of impure or unhealthy dairy products—Penalty.**

No person or persons shall sell or exchange, or expose for sale or exchange, any unclean, unhealthy, adulterated, or unwholesome milk, or shall offer for sale any article of food made from the same, or of cream from the same. This provision shall not apply to pure skim cheese, made from milk which is pure, healthy, wholesome, and unadulterated, except by skimming. Whoever 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 two hundred dollars, or by imprisonment of not less than one month or more than six months, or both such fine and imprisonment for the first offense, and by six months' imprisonment for each subsequent offense. (1887, c. 140, § 1.*)

***§ 2¹⁶. Care and food for cows—Products of impure milk, etc.—Penalty.**

No person shall keep cows for the production of milk for market, or for sale or exchange, or for manufacturing the same or cream from the same into articles of food, in a crowded or unhealthy condition, or feed the cows on food that is unhealthy, or that produces impure, unhealthy, diseased, or unwholesome milk. No person shall manufacture from impure, unhealthy, diseased, or unwholesome milk, or of cream from the same, any article of food. Whoever 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 two hundred dollars, or by imprisonment of not less than one month or more than four months, or by both such fine and imprisonment for the first offense, and by four months' imprisonment for each subsequent offense. (*Id.* § 2.)

***§ 2¹⁷. Manufactories — Sale of impure milk to — Account of deliveries.**

No person or persons shall sell, supply, or bring to be manufactured, to any butter or cheese factory, any milk diluted with water or any unclean, impure, unhealthy, adulterated, or unwholesome milk, or milk from which any cream has been taken, (except pure skim-milk to skim-cheese factories,) or shall

*"An act to prevent deception in the sale of dairy products, and to preserve the public health, being supplementary to and in aid of chapter 149 of the Laws of 1885, entitled 'An act to prohibit and prevent the sale or manufacture of unhealthy or adulterated dairy products.'" Approved March 2, 1887.

keep back any part of the milk commonly known as "strippings," or shall or supply milk to any butter or cheese manufactory that is sour, (except pure skim-milk to skim-cheese factories.) No butter or cheese manufactories, except those who buy all the milk they use, shall use for their own benefit, or allow any of their employes or any other person to use, or the product thereof, brought to said manufactories, without the consent of the owners thereof. Every butter or cheese manufacturer, except those who buy all the milk they use, shall keep a correct account of all the milk daily received, and the number of pounds and packages of butter, the number and aggregate weight of cheese made each day, the number of packages of cheese and butter disposed of, which shall be open to inspection to any person who delivers milk to such manufacturer. Whoever violates the provisions of this section shall be guilty of a misdemeanor, and shall be punished for each offense by a fine of not less than twenty-five dollars or more than two hundred dollars, or not less than one or more than six months' imprisonment, or both such fine and imprisonment. (*Id.* § 3.)

***§ 2¹⁸. Imitation butter or cheese—Manufacture or sale—Penalty.**

No person shall 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, or of cream from the same, any article designed to take the place of butter or cheese produced from pure, unadulterated milk or cream from the same, or shall sell or offer for sale the same as an article of food. This shall not apply to pure skim-milk cheese, made from pure skim-milk. Whoever violates the provisions of this section shall be guilty of a misdemeanor, and be punished by a fine of not less than one hundred or more than five hundred dollars, or not less than six months' or more than one year's imprisonment, or by both such fine and imprisonment for the first offense, and by imprisonment for one year for each subsequent offense. (*Id.* § 4.)

***§ 2¹⁹. Same—Adulteration, manufacture, or sale—Penalty.**

No person, by himself or his agents or servants, shall render or manufacture out of any animal fat, or animal or vegetable oils not produced from unadulterated milk or cream from the same, any article or product in imitation or semblance of, or designed to take the place of, natural butter or cheese produced from pure, unadulterated milk or cream of the same, nor shall he or they mix, compound with, or add to milk, cream, or butter, any acids or other deleterious substance, or any animal fats or animal or vegetable oils not produced from milk or cream, with designs or intent to render, make, or produce any article or substance, or human food, in imitation or semblance of natural butter or cheese; nor shall he sell, keep for sale, or offer for sale, any article, substance, or compound made, manufactured, or produced in violation of the provisions of this section, whether such article, substance, or compound shall be made or produced in this state or any other state or country. Whoever violates the provisions of this section shall be guilty of a misdemeanor, and be punished by a fine of not less than one hundred dollars, nor more than five hundred dollars, or less than six months' or more than one year's imprisonment for the first offense, and by imprisonment for one year for each subsequent offense. Nothing in this section shall impair the provisions of section four of this act. (*Id.* § 5.)

***§ 2²⁰. Same.**

No person shall manufacture, mix, or compound with or add to, natural milk, cream, or butter, any animal fats or animal or vegetable oils, nor shall he make or manufacture any oleaginous substance not produced from milk or cream, with intent to sell the same for butter or cheese made from unadulter-

ated milk or cream, or have the same in his possession, or offer the same for sale with such intent; nor shall any article or substance or compound so made or produced be sold for butter or cheese, the product of the dairy. If any person shall coat, powder, or color with annatto, or any coloring matter whatever, butterine or oleomargarine or any compounds of the same, or any product or manufacture made in whole or part from animal fats, or animal or vegetable oils not produced from unadulterated milk or cream, whereby the said product, manufacture, or compound shall be made to resemble butter or cheese, the product of the dairy, or shall have the same in his possession, or sell or offer for sale, or have in his possession, any of said products which shall be colored or coated in semblance of or to resemble butter or cheese, it shall be conclusive evidence of an intent to sell the same for butter or cheese, the product of the dairy. Whoever violates any of the provisions of this section shall be guilty of a misdemeanor, and be punished by a fine of not less than one hundred dollars nor more than one thousand dollars. This section shall not be construed to impair or affect the prohibitions of sections four and five of this act. (1887, c. 140, § 6.)

***§ 2¹. Uniform brand—False brand—Penalty.**

No person shall offer, sell, or expose for sale, butter or cheese branded or labeled with a false brand or label as to the quality of the article, or to the county or state in which the article is made. The Minnesota state dairy commissioner is hereby authorized and directed to procure and issue to the cheese manufacturers of the state, upon proper application therefor, and under such regulations as to the custody and use thereof as he may prescribe, a uniform stencil brand bearing a suitable device or motto, and the words "Minnesota State Full Cream Cheese." Every brand issued shall be used upon the outside of the cheese, and also upon the package containing the same, and shall bear a different number for each separate manufactory, and the commissioner shall keep a book in which shall be registered the name, location, and number of each manufactory using the said brand, and the name or names of the persons at each manufactory authorized to use the same. It shall be unlawful to use or permit such stencil brand to be used upon any other than full cream cheese, or packages containing the same. Whoever violates the provisions of this section shall be guilty of a misdemeanor, and for each and every cheese or package so falsely branded shall be punished by a fine of not less than twenty-five or more than fifty dollars, or imprisonment of not less than fifteen or more than thirty days. (*Id.* § 7.)

***§ 2². Dairy commissioner—Clerk—Report—Appropriation.**

The governor shall appoint a commissioner who shall be known as the state dairy commissioner, who shall be a citizen of this state, and who shall hold his office for the term of two years, or until his successor is appointed, and shall receive a salary of eighteen hundred dollars per annum, and his necessary expenses incurred in the discharge of his duties under this act, and shall be charged, under the direction of the governor, with the enforcement of the various provisions thereof. Said commissioner may be removed from office at the pleasure of the governor, and his successor appointed as above provided for. The said commissioner is hereby authorized and empowered to appoint a clerk, whose salary shall be twelve hundred dollars per year, and such assistant commissioners, and to employ such experts, chemists, agents, and such counsel as may be deemed by him necessary for the proper enforcement of this law, their compensation to be fixed by the commissioner. The sum of fifteen thousand dollars annually is hereby appropriated to be paid for such purposes out of any moneys in the treasury not otherwise appropriated. 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 expenses of said commissioner shall not exceed the sum appropriated for the

purpose of this act. The said commissioner shall make biennial reports to the legislature, not later than the fifteenth day of January, of his work and proceedings, and shall report in detail the number of assistant commissioners, experts, chemists, agents, and counsel he has employed, with their expenses and disbursements. The said commissioner shall have a room in the capitol, to be set apart for his use by the governor. This section shall not affect the tenure of office of the present commissioner, nor be construed to impair or affect any of the provisions in section seven of chapter one hundred and forty-nine of the law of one thousand eight hundred and eighty-five, except in the sum of money appropriated. (*Id.* § 8.)

***§ 2³. Same—Privileges—Duty of assisting—Violation—Penalty.**

The said commissioner and assistant commissioners, and such experts, chemists, agents, and counsel as they shall duly authorize 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 shall also have power and authority to open any package, car, 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 may take samples therefrom for analysis. All clerks, book-keepers, express agents, railroad officials, employes, or common carriers shall render to them all the assistance in their power, when so requested, in tracing, finding, or discovering the presence of any prohibited article named in this act. Any refusal or neglect on the part of such clerks, book-keepers, express agents, railroad officials, employes, or common carriers to render such friendly aid shall be deemed a misdemeanor, and be punished by a fine of not less than fifty dollars, nor more than one hundred dollars, for each and every offense. (*Id.* § 9.)

***§ 2⁴. Reports to commissioner—Blanks.**

The commissioner shall provide blanks, which shall be furnished to all proprietors or managers of creameries, cheese factories, or milk dairies that ship milk to the cities, and all venders or peddlers of milk in the cities within the state, for the purpose of making a report of the amount of milk and dairy goods handled, and all owners or managers of such creameries and cheese factories shall, on the first day of November of each year, send to the dairy commissioner a full and accurate report of the amount of business done during the year, and all milk dairies, milk venders, or milk peddlers shall send to the state dairy commissioner quarterly reports of all the business done by each and every such person, firm, or company in handling dairy products during the last three months past, as designated under the different headings of such printed blanks. Any neglect or failure or false statement on the part of any proprietor or manager of such creamery, cheese factory, dairy, or any milk vender or milk peddler, shall be considered guilty of a misdemeanor, and to be punished by a fine of not less than ten dollars nor more than one hundred dollars. (*Id.* § 10.)

***§ 2⁵. Impure or unhealthy cream—Sale—Penalty.**

No person shall sell or offer for sale any cream taken from impure or diseased milk, or cream that contains less than thirty-five per centum of fat. Whoever 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 two hundred dollars. (*Id.* § 11.)

***§ 2⁶. Adulterated and unhealthy milk defined.**

In all prosecutions under this act relating to the sale and manufacture of unclean, impure, unhealthy, adulterated, or unwholesome milk, if the milk

be shown to contain more than eighty-seven per centum of water fluids, or less than thirteen per centum milk solids, which shall contain not less than three and one-half per centum of fat, it shall be declared adulterated, and milk drawn from cows within fifteen days' before and four days after parturition, or from animals fed on distillery waste, or brewers' malt, or any substance in a state of putrefaction or fermentation, or upon any unhealthy food whatever, shall be declared unclean, impure, unhealthy, and unwholesome milk. This section shall not prevent the feeding of ensilage from silos. (1887, c. 140, § 12.)

***§ 2²⁷. Evidence—Seizure of property.**

The having in possession by any person or firm of any of the articles or substances prohibited by this act shall be considered *prima facie* evidence that the same is kept by such person or firm in violation of the provisions of this act, and the commissioner shall be authorized to seize upon and take possession of such articles or substances, and upon the order of any court which has jurisdiction under this act, he shall sell the same for any purpose other than to be used for food, the proceeds to be placed to the credit of the state dairy commissioner's fund. (*Id.* § 13.)

***§ 2²⁸. Jurisdiction of courts.**

The district and municipal courts of this state shall have jurisdiction of all cases arising under this act, and their jurisdiction is hereby extended so as to enable them to enforce the penalties imposed by any or all of the sections hereof. (*Id.* § 14.)

***§ 2²⁹. Costs—Disposition of fines.**

In all prosecutions under this act the costs thereof shall be paid out of the fine, if one is collected; if not, the same shall be paid in the manner now provided by law, and the rest of the fine shall be paid into the state treasury. (*Id.* § 15.)

***§ 2³⁰. Evidence of intent.**

The doing of anything prohibited being done, and the not doing of anything directed to be done in this act, shall be presumptive evidence of a willful intent to violate the different sections and provisions thereof. If any person shall suffer any violation of the provisions of this act by his agent, servant, or in any room or building occupied or controlled by him, he shall be deemed a principal in such violation, and punished accordingly. (*Id.* § 16.)

***§ 2³¹. Imitation butter to be stamped—Violation—Penalty.**

Any person or firm who shall make or manufacture imitation butter, or butter made of part cream and part caseine and other ingredients under what is known as the "Quinness patent" or process, or any other similar process, whereby the caseine of milk and other ingredients are made to imitate and resemble genuine butter made from cream, shall stamp each package of the same on the top and side with lampblack and oil the words "Patent Butter," in letters at least one-fourth of an inch wide and one-half of an inch long. Whoever violates the provisions of this section is guilty of a misdemeanor, and shall be punished for each offense by a fine of not less than twenty-five dollars, nor more than one hundred dollars. (1887, c. 141, § 1.*)

***§ 2³². Same—Sale—Printed statement to be given.**

Whoever sells or offers for sale any imitation or patent butter, as described in section one of this act, shall give to each purchaser of said goods a printed card stating correctly the different ingredients contained in the said compound.

*"An act to prevent fraud in dairy products, and to preserve health." Approved March 7, 1887.

Whoever violates the provisions of this section is guilty of a misdemeanor, and shall be punished for each offense by a fine of not less than twenty-five dollars, nor more than one hundred dollars. (*Id.* § 2.)

§ 3. (Sec. 2.) Adulteration of food, etc.—Penalty.

Whoever fraudulently adulterates, for the purpose of sale, or knowingly sells or offers for sale, any substance intended for food, or any wine, spirits, malt liquor, or other liquor intended for drinking, with any substance injurious to health, shall be punished by imprisonment in the county jail not more than one year, or by fine not exceeding two hundred dollars. (*As amended* 1881, c. 19, § 1.)

[See *post*, Penal Code, tit. 12.]

***§ 3a. Manufactured honey to be labeled, etc.**

It shall be unlawful for any person or persons, within the state of Minnesota, to offer for sale, sell, or cause to be sold, any compounded or manufactured honey, unless the same is so marked, represented, and designated as such, and bearing a label upon each package either printed or written thereon the name of the person or persons having compounded or manufactured the same. (1879, c. 87, § 1.*)

***§ 3b. Same—Violation—Penalty.**

Any person violating the provisions of section one (*§ 3a) of this act shall, for the first offense, be fined in any sum not less than ten, nor more than one hundred, dollars, and for each repeated offense shall be fined not less than fifty, nor more than two hundred and fifty, dollars, or be imprisoned in the county jail for a period not exceeding six months, or both, at the discretion of the court. (*Id.* § 2.)

***§ 3c. Fumigating grain, etc., to change color.**

No person shall subject, or procure to be subjected, any barley or other grain, to fumigation by sulphur or other material, or to any other chemical process affecting the color of such barley or grain. (1879, c. 73, § 1.†)

***§ 3d. Same—Sale prohibited.**

No person shall sell or offer for sale any barley or other grain which shall have been subjected to fumigation or other process mentioned in the last section, knowing the same to have been so subjected. (*Id.* § 2.)

***§ 3e. Same—Penalty.**

Any person violating the provisions of this act shall, upon conviction thereof, be punished by a fine not exceeding five hundred dollars, or imprisonment not exceeding one year in the state prison, or both such fine and imprisonment, and shall be liable to treble the damages sustained by any person injured by such violation. (*Id.* § 3.)

***§ 13. Permitting glandered animal to run at large—Penalty.**

Any person being the owner of any horse or other animal, or having the same in his care or under his control, having the disease known as the glanders, who shall knowingly permit such animal to run at large, or be driven upon any of the highways of this state, or who shall sell or in any manner dispose of the same to any other person, or any hotel-keeper or keeper of any public barn, who shall knowingly permit any horse or other animal having such disease to be stabled in such public barn, shall be guilty of a misde-

*"An act to prevent the sale of adulterated honey." Approved March 10, 1879.

†"An act to prevent fraud by coloring grain." Approved March 6, 1879.

meanor, and, upon conviction before any justice of the peace of any such offense, shall be punished by a fine of not more than one hundred dollars or less than twenty-five dollars, or be imprisoned in the county jail not more than ninety days or less than ten days. (1868, c. 59, § 1, as amended 1879, c. 46, § 1.)

CHAPTER 102.

SEARCH-WARRANTS.

§ 1. Complaint—Warrant.

A complaint and warrant described the premises to be searched as "a certain building, the cellar under the same, and the out-buildings within the curtilage thereof situated," etc. Property was taken from the basement of a building situated on an adjoining lot, separated by a fence, but connected by a covered passage-way. Held, that the description did not cover such building, and the seizure was unlawful. *Commonwealth v. Intoxicating Liquors, etc.*, (Mass.) 3 N. E. Rep. 4; and see *Wright v. Dressel*, Id. 6. See *Jordan v. Henry*, 22 Minn. 245.

CHAPTER 103.

DEMANDING FUGITIVES FROM JUSTICE.

§ 1. Agents to demand fugitives—Investigations.

"Fugitive from justice," see *State v. Richter*, (Minn.) 35 N. W. Rep. 9.

To be a fugitive from justice it is not necessary that the party should have left the state after indictment, or to avoid prosecution. *Roberts v. Reilly*, 6 Sup. Ct. Rep. 291; *Ex parte Brown*, 28 Fed. Rep. 653.

One who goes into another state, and commits a crime there, and then returns to his own state, is a fugitive from justice. *In re Roberts*, 24 Fed. Rep. 132.

The warrant for the arrest and return must bear upon its face the evidence that it was duly issued, and must set forth the indictment or affidavit upon which it is founded. *In re Doo Woon*, 18 Fed. Rep. 898.

Use of stratagem in procuring the arrest. *Ex parte Brown*, 28 Fed. Rep. 653.

One extradited for seduction cannot be arrested for bastardy. *In re Cannon*, (Mich.) 11 N. W. Rep. 230. See, as to arrest of extradited person for a different offense, *State v. Stewart*, (Wis.) 19 N. W. Rep. 429.

See *Hackney v. Welsh*, (Ind.) 8 N. E. Rep. 141; *Ex parte Morgan*, 20 Fed. Rep. 298.

§ 2. Demand from another state—Proceedings—Warrant of extradition.

When a demand is made upon the governor by the executive of any state or territory, in any case authorized by the constitution and laws of the United States, for the delivery over of any person charged, in such state or territory, with treason, felony, or any other crime, the attorney general, when required by the governor, shall forthwith investigate the ground of such demand, or cause the same to be investigated by any county attorney, and report to the governor all material facts which may come to his knowledge as to the situation and circumstances of the person so demanded, especially whether he is held in custody, or is under recognizance, to answer for any offense against