

An act making it unlawful for justices of the peace to entertain complaints in certain cases, specifying when complaints shall be made before recorders in certain cities and giving them power to act thereon.

Approved April 1, 1895.

P. L. 1895, p. 767.

217. SEC. 1. That in all cities of this state having a population of less than thirty-five thousand having a recorder who is paid a definite salary for his services by such city, it shall be unlawful for any justice of the peace to entertain any complaint for any crime or misdemeanor alleged to have been committed within such city, but all complaints for crimes or misdemeanors alleged to have been committed within any such city not made directly before the grand jury or before the court of oyer and terminer or court of general quarter sessions of the peace of the county wherein such city is situate, shall be made before said recorder, who is hereby authorized to receive the same and to take all necessary and lawful proceedings thereon and who in relation to the same shall have and possess all the power now held and possessed by any justice of the peace; *provided, however*, that said recorder shall not be entitled to receive any extra compensation for his services under this act, and any fees paid or allowed to him for such services shall be paid by him to the treasurer of said city.

All complaints in certain cities shall be made before the recorder.

1163-217
R98-985

Proviso.

Dairy, Food and Drug Products.

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2. MILK.

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II. FOOD AND DRUGS.

I. Dairy products.

1. BUTTER AND CHEESE.

An act to regulate the tare of butter and cheese firkins, tubs and vessels.

P. L. 1864, p. 653.

Name of manufacturer and weight of vessel to be branded.

Penalty for neglect or defacing brand.

Approved April 7, 1864.

1. That every cooper or manufacturer of firkins, tubs or other vessels for the package of butter or cheese, shall brand in legible letters and characters, upon every such firkin, tub or vessel by him manufactured, his name, together with the actual and true weight of such firkin, tub or vessel, and if any cooper or manufacturer shall dispose of any such firkin, tub or vessel without such brand, or shall falsely brand the same, he shall forfeit and pay to such person as shall prosecute for the same, the sum of twenty-five dollars; to be recovered by action of debt in any court of competent jurisdiction.

2. That it shall not be lawful for any person to sell and dispose of any butter or cheese packed or placed in any firkin, tub or vessel manufactured or made for such purpose in this state, unless such firkin, tub or vessel shall be branded in the manner provided in the first section of this act, and if any person shall disregard this provision or shall alter or purposely deface the brand which may be made under the direction of this act, every such person shall forfeit and pay the sum of twenty-five dollars to such person as shall sue for the same, to be recovered in an action of debt, in any court of competent jurisdiction.

§ 2 An act to protect butter and cheese manufacturers.

P. L. 1865, p. 478.

Penalty for sale of diluted or adulterated milk, &c.

Approved March 23, 1865.

3. SEC. 1. That whoever shall knowingly sell, supply or bring to be manufactured, to any cheese or butter manufactory in this state, any milk diluted with water or in any way adulterated, or milk from which any cream has been taken, or milk commonly known as "skimmed milk," or whoever shall keep back any part of the milk known as "strippings," shall for each and every offense forfeit and pay a sum of fifteen dollars, with costs of suit, to be sued for in an action of debt, in any court of competent jurisdiction, for the benefit of the person or persons, firm, association or corporation upon whom such fraud shall be committed.

An act to prevent deception in the sale of oleomargarine, butterine or any imitation of dairy products, and to preserve the public health.

P. L. 1866, p. 107.

Approved March 22, 1866.

4. SEC. 1. That no person shall offer or expose for sale, or sell, or have in possession for the purposes of sale, any oleomargarine or butterine or suine, or any substance in imitation or semblance of natural butter or

cheese, or any substance that is rendered, made, manufactured or compounded out of any animal or vegetable or mineral fat or oil, not produced from pure milk or cream from pure milk, unless contained in, or sold out of or in tubs, pails, firkins, vessels or other packages marked and labeled as required by section three of this act.

No person to sell, or offer to sell, any imitation of dairy products, unless sold out of tubs, &c., marked or labeled.

5. SEC. 2. That no person shall offer or expose for sale, or sell, or have in possession for the purposes of sale any mixture or compound of natural butter or cheese with oleomargarine, butterine, suine, or any animal or vegetable or mineral fat or oil, or any substance not the product of pure milk or cream from pure milk, except such mixture or compound shall be sold out of or in or contained in tubs, firkins, pails, vessels or packages marked or labeled as required by section three of this act.

Mixture or compound of butter, &c., not to be offered or exposed for sale, except sold out of tubs, pails, &c., labeled or marked.

6. SEC. 3. That no oleomargarine, butterine or suine, or any substance or compound or mixture in imitation or semblance of natural butter or cheese, or any substance that is rendered, made, manufactured or compounded out of animal or vegetable or mineral fat or oil, not the product of pure milk or cream from pure milk, shall be sold or exposed or offered for sale, or held in possession for the purposes of sale, except when contained in tubs, pails, boxes, firkins, vessels or other packages that are marked or labeled as follows, to wit: every such tub, pail, box, firkin or other vessel or package shall have painted on the outside thereof, and midway between the top and bottom thereof, a stripe or band at least three inches wide, and extending completely around said vessel or package, and said stripe or band shall be painted with black paint; every such vessel or package shall have legibly branded and burnt in, by means of a branding or burning-iron, on the outside of the cover and on the outside of said vessel or package, in two places as nearly opposite each other as possible, the words "oleomargarine," "butterine," "suine" or "imitation butter," or "imitation cheese," as the case may be, and said name or title shall be composed of Roman letters at least one-half an inch high and at least one-quarter of an inch broad, and said name or title shall be at least ten inches long; and every such tub, pail, box, firkin or other vessel or package shall bear a label or shall have branded on it a mark giving the name and address of the maker of the contents thereof, and the name and location of the manufactory.

Imitation of dairy products not to be sold, held, &c., except in tubs, pails, &c., marked or labeled.

How tubs, pails, &c., are to be marked and branded.

7. SEC. 4. [Amended by Sec. 24, *post.*]

8. SEC. 5. That no person shall offer or expose for sale, or sell, or have in possession for the purposes of sale, any oleomargarine, butterine, suine or any substance in imitation of natural butter or cheese, or any substance that is rendered, made, manufactured or compounded out of any animal or vegetable or mineral fat or oil, not produced from pure milk or cream from pure milk, that is colored, stained or mixed with annatto or any other coloring matter or substance. (a)

No person to sell or expose for sale imitation butter, &c., colored or mixed, &c.

9. SEC. 6. That for the purposes of this act the terms "natural butter," or "natural butter or cheese," shall be taken to mean the product or products usually known by these names and which are made and manufactured exclusively from milk or cream, or both, with salt or salt and rennet, and with or without coloring matter or sage; and the terms "oleomargarine," "butterine," "suine" or "substance in imitation or semblance of natural butter or cheese," shall be to mean any substance that is rendered, made, manufactured or compounded out of any animal or vegetable or mineral oil or fat, not the product of pure milk or the cream from pure milk; also, any compound or mixture of natural butter or cheese, or milk or cream, with any of these substances not milk or cream.

Certain terms, how construed.

(a) Under this section it is not essential to the guilt of a person selling oleomargarine colored with annatto, that he should know that the oleomargarine was so colored. *Waterbury v. Newton*, 21 *Pr.* 534. This act rendering penal the sale of oleomargarine colored with annatto is valid, as applied to a sale made in this state by the agent of the manufacturer in Indiana, although the package sold here had been sent by the manufacturer from Indiana to this state for sale. *Ib.* See *McGuire v. Ammon & Person*, 16 *N. J. L. J.* 185, and note. The clause "annatto or any other coloring matter or substance," includes only those substances which, in the manufacture of oleomar-

garine, &c., are used, like annatto, solely or chiefly to color the product, and does not extend to the materials which are employed chiefly to make up the substance of the compound, and which impart color only as a necessary incident to their use. *Ammon v. Newton*, 21 *Pr.* 548. If oleomargarine derive any color or stain from "annatto or any other coloring matter or substance," mixed in it at any stage of the manufacture, whether of the several ingredients or of the final product, then the sale is forbidden by the act. *Waterbury v. Newton*, 21 *Pr.* 545.

What considered evidence of intent to sell.

10. SEC. 7. That the possession by any person who is either manufacturer, merchant, broker, wholesale or retail dealer, or a hotel, inn, restaurant, or boarding-house keeper, of any oleaginous substance, mixture or compound whatever as defined by this act, not natural butter, that is not contained in a tub, box, pail or vessel, plainly marked and branded in accordance with the provisions of section three of this act, shall be prima facie evidence of intent to sell the same.

No person to cancel, obliterate or erase band or brands.

11. SEC. 8. That no person shall in any way or manner erase, cancel or obliterate, deface or cover over or remove either the band or stripe of paint, or the brands required by section three of this act to be placed on the tub, box, pail or vessel containing any oleaginous substance, mixture or compound, as defined by this act.

Penalty for violation of act.

12. SEC. 9. That every person who shall violate any of the provisions of this act shall be liable to a penalty of one hundred dollars for the first offense, and two hundred dollars for each second or subsequent offense.

Courts empowered to hear and determine cases.

13. SEC. 10. That every district court in any city, and every justice of the peace in any county, and any recorder in any city, is hereby empowered on oath or affirmation made according to law that any person or persons has or have violated any provision of this act, to issue process at the suit of the commissioner hereafter named as plaintiff, for the use of the state of New Jersey, either in the manner of a summons or a warrant against the person or persons so charged, which process shall, when in the nature of a warrant, be returnable forthwith, and when in the nature of a summons shall be returnable in not less than one or more than ten entire days; such process shall state what provision of the law is alleged to have been violated by the defendant or defendants, and on the return of such process, or at any time to which the trial shall have been adjourned, the said court, justice of the peace or recorder shall proceed to hear testimony and to determine and give judgment in the matter, without the filing of any pleadings, for the plaintiff, for the recovery of such penalty, with costs, or for the defendant; and the said court, justice of the peace or recorder shall, if judgment be rendered for the plaintiff, forthwith issue execution against the goods and chattels and person of the defendant or defendants; and the said court, justice of the peace or recorder is further empowered to cause any such defendant who may refuse or neglect to pay the amount of the judgment rendered against him, and all the costs and charges incident thereto, unless an appeal is granted, to be committed to the county jail for any period not exceeding ninety days. (a)

To issue process.

May issue execution against goods and chattels, &c.

Who authorized to serve and execute process.

14. SEC. 11. That the officers to serve and execute all process under this act shall be the officers authorized to serve and execute process in said courts, and before such magistrates and officers as aforesaid, including the constables of such counties and all police officers of such cities.

Court may adjourn hearing, and bail persons charged.

15. SEC. 12. That said district court, justice of the peace or recorder shall have power to adjourn the hearing or trial in any case, from time to time, not exceeding thirty days from the return of the summons or warrant, and to bail the person so charged in such sum as he shall deem proper for his appearance at such time and place as said trial or hearing shall be adjourned to, and in default of bail to commit the person so charged to the common jail of said county, to be there detained until the trial or hearing of said charge.

When and how appeals may be taken.

16. SEC. 13. That either the complainant or defendant, upon paying all costs incurred and by filing with said district court, justice or recorder, within ten days after trial before him, a written notice of his or her intention to appeal from the decision of said court, justice or recorder, may appeal to the next court of general quarter sessions of the peace of the county in which said complaint may have been determined, and said court of general quarter sessions shall proceed and try the same and make such

(a) In a suit to recover a penalty for alleged violation of this act, the right to a trial by jury does not exist. *Carter Bros. v. Camden District Court*, 20 Vr. 600. *Newton v. Reed*, 10 N. J. L. J. 175. Proceedings under this act, and the record of them, must comply with the legal rules established for the framing of summary convictions. It must set forth the evidence on which the conviction rests and the offense of which the defendant was

found guilty. *Hoeborg v. Newton*, 20 Vr. 617. Partners may be convicted in the same action if the offense be committed by one in the course of the partnership business, but only one penalty is recoverable. *Bayles v. Newton*, 21 Vr. 549. One who sells by an agent in charge of his store is liable to the penalty as if he sold the contraband article himself. *Newton v. Reed*, 10 N. J. L. J. 175.

adjudications as are herein provided in case of such trial before said district court, justice or recorder.

17. SEC. 14. That all penalties imposed under this act shall be, immediately on receipt, paid into the treasury of this state by the commissioner.

Penalties to be paid into the state treasury.

18. SEC. 15. That the state board of health 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 three years and until his successor shall be appointed, and said commissioner shall be paid a salary of two thousand dollars per annum and his traveling and other expenses, payable by the treasurer of this state on warrant of the comptroller, in quarterly payments; and said commissioner shall be appointed within fifteen days after the passage of this act and shall be charged with the enforcement of the various provisions thereof; and said commissioner may be removed for just cause by the appointing power conferred by the act; *provided*, that charges shall be first made in writing and he be given time to reply thereto; and the said commissioner shall make annual reports to the legislature not later than the fifteenth day of January in each year, and also to the state board of health at its annual meeting; and said commissioner is hereby authorized and empowered to appoint or employ such assistants, chemists, agents, clerks and counsel as may be deemed necessary for the proper enforcement of this act, their compensation to be fixed by the commissioner. [See Secs. 31 and 91, *post*.]

Appointment of dairy commissioner, term of office, and salary, &c.

May be removed for cause.

Proviso.

19. SEC. 16. That the said commissioner shall be authorized to expend for the purposes of this act an amount not exceeding ten thousand dollars in any one year, and all expenses shall be paid by the treasurer of this state on warrant of the comptroller, upon presentation of properly-certified accounts made by said commissioner, but such expenses shall not exceed in any one year the amount stated in this section.

Expenditures in any one year not to exceed a certain amount, and by whom paid.

20. SEC. 17. That the said commissioner, and assistants, and clerks, and agents, as shall be duly commissioned so to do by the commissioner, shall have full and free access, ingress and egress to all places of business, factories, farms, buildings, hotels, restaurants, boarding-houses, carriages, cars, vessels and cans used in the manufacture and sale of any dairy products, or any imitation thereof; they shall also have the power to open any package, can or vessel containing such articles which may be manufactured, sold or exposed for sale in violation of the provisions of this act, if they have reason to believe it is being violated, and may inspect the contents therein, and may take therefrom samples for analysis.

Commissioner and assistants to be commissioned, and their powers.

21. SEC. 18. That this act and each section thereof is declared to be enacted to prevent deception in the sale of oleomargarine, butterine or any imitation of any dairy product, and to preserve the public health.

Declaration of act and sections.

22. SEC. 19. That an act entitled "An act for the protection of dairymen, and to prevent deception in sales of butter," approved February twenty-first, one thousand eight hundred and eighty-four, and an act entitled "An act to prohibit the manufacture and sale of impure and imitation dairy products," approved May fifth, one thousand eight hundred and eighty four, and all acts and parts of acts inconsistent or in conflict with this act be and the same are hereby repealed.

Certain acts repealed.

Supplement.

Approved April 21, 1887.

P. L. 1887, p. 192.

23. SEC. 1. That nothing in said act shall be so construed as to permit the sale or the offering or exposing for sale, or the having in possession for the purposes of sale, of any oleomargarine or butterine, or any substance in imitation of natural butter, that is colored, stained or mixed with annatto or any other coloring matter or substance.

Act, how construed.

24. SEC. 2. That section four of said act be and the same is hereby amended so as to read as follows:

[That no person shall sell any oleomargarine, butterine, suine or any substance in imitation or semblance of natural butter or cheese, or any substance that is rendered, made, manufactured or compounded out of any

Imitation of dairy products not to be sold in quantities less than tub or firkin unless purchaser is informed, &c.

Card or notice to be given purchaser.

Dairy commissioner to enforce provisions of certain act.

Powers of commissioner, assistants and agents and expenses, how paid.

Dairy commissioner may appoint chemists, &c.

Form of conviction.

Conviction, by whom signed.

On appeal, copies of papers to be sent to appellate court, &c.

When act to take effect.

animal or vegetable or mineral fat or oil, not produced from pure milk or the cream from pure milk, at retail or in quantities less than the original tub, firkin or other package, unless he shall first inform the purchaser that the substance is not natural butter or cheese, but is imitation butter or cheese, and at the time of sale and with each sale, he shall give to the purchaser a card or notice printed on which shall be the name of the substance sold and the name and address of the seller or vender, and nothing else shall be printed thereon unless it be the weight of the parcel; and said notice or card shall be at least six inches long and at least four inches wide, and the printing thereon shall be in letters at least of the size known as two-line English, and said notice or card shall be printed in black and in the English language, upon white paper, plainly and legibly, and shall be either upon the outside of the outer wrapper in which the substance is delivered to the purchaser or upon a separate card or paper attached thereto; in either case the notice shall be so placed that no part thereof shall be concealed from view.] (a)

25. SEC. 3. That the state dairy commissioner is hereby directed and empowered to aid in the enforcement of the provisions of an act entitled "An act to prevent the adulteration of food or drugs," approved March twenty-fifth, one thousand eight hundred and eighty-one, and said commissioner and his assistants and agents are hereby clothed with the same powers as are conferred on inspectors or officers by the provisions of said act, and the expenses of such enforcement shall be paid out of the appropriation made for the purposes of the act to which this is a supplement. [See Secs. 74 to 81, *post.*]

26. SEC. 4. That the state dairy commissioner may appoint the chemist or chemists, analyst or analysts required by the provisions of this act or the act to which this is a supplement, and fix the compensation to be paid such chemists or analysts.

27. SEC. 5. That the conviction in prosecutions under the act to which this is a supplement shall be in the following or similar form:

State of New Jersey, county of A., ss.

Be it remembered that on this _____ day of _____, at _____, in said county, C. D., defendant, was, by the district court of the city of J. (or by the recorder, or as the case is), convicted of violating the _____ section of "An act to prevent deception in the sale of oleomargarine, butterine or any imitation of dairy products, and to preserve the public health," approved March twenty-second, one thousand eight hundred and eighty-six, in a summary proceeding at the suit of A. B., state dairy commissioner, who sues for the use and benefit of the state of New Jersey, plaintiff, upon a complaint made by E. F.; and, further, that the witnesses in said proceeding who testified for the plaintiff were (name them), and the witnesses who testified for the defendant were (name them); wherefore the said court (or recorder, or as the case is) doth hereby give judgment that the plaintiff recover of the defendant one hundred dollars penalty, and _____ dollars costs of this proceeding;

The said conviction shall be signed by the judge of the district court, recorder or other magistrate before whom the conviction is had; in case of the infliction of a penalty of two hundred dollars the conviction shall contain a statement that it appeared that the defendant had been previously convicted of violating the said act; when an appeal is taken there shall be sent to the appellate court a copy of the complaint, summons, conviction or judgment and notice of appeal; the costs in prosecutions under the act to which this is a supplement shall be the same as costs in the district courts in actions on contract. (b)

28. SEC. 6. That this act shall take effect on May first, one thousand eight hundred and eighty-seven.

(a) In an action for a penalty for a violation of this section—*Held*, that notice must be given to each purchaser according to the terms of the statute; that the statute does not require it to be shown that the article sold is deleterious, or that deception was practiced; it is sufficient if notice be not given. *Bayles v.*

Newton, 21 Vr. 549; affirmed, 22 Vr. 553. Costs are given by the statute. *Ib.*

(b) This form of conviction may be used in prosecutions instituted after May 1st, 1887, for offenses previously committed. *Waterbury v. Newton*, 21 Vr. 534.

Supplement.

Approved March 25, 1895.

P. L. 1895, p. 658.

29. SEC. 1. That no person, by himself or his agents or servants, nor as an agent or servant, shall render or manufacture, sell, offer for sale, expose for sale or have in his possession with intent to sell, any article, product or compound made wholly or partly out of any fat, oil or oleaginous substance or compound thereof, not produced from unadulterated milk or cream from the same, which shall be artificially colored in imitation or semblance of yellow butter produced from pure unadulterated milk or cream of the same; *provided*, that nothing in this act shall be construed to prohibit the manufacture or sale of oleomargarine in the manner regulated by the act to which this is a supplement, and in such manner as will advise the consumer of its real character, free from artificial color that cause it to look like butter.

Manufacture and sale, or exposure for sale, of imitation butter forbidden.

Proviso.

30. SEC. 2. That any person or persons who shall sell any article mentioned in the preceding section of this act representing the same as butter made from unadulterated milk or cream or any product other than it really is except in the manner provided in existing laws, shall be guilty of a misdemeanor, and upon conviction thereof be punished by imprisonment not exceeding six months or a penalty of two hundred dollars in the discretion of the committing magistrate or court.

Penalty.

An act relative to the dairy commissioner.

Approved June 13, 1895.

P. L. 1895, p. 806.

31. SEC. 1. That the sum hereafter annually appropriated may be expended by the dairy commissioner in the enforcement of the several laws regulating the sale of milk, butterine, oleomargarine, food and drugs, from which sum the salary of the dairy commissioner shall be paid; and he shall hereafter monthly submit his accounts and vouchers to the state board of health, who shall audit and approve the same, and the same shall be paid by warrants drawn by the comptroller made payable directly to the several persons employed by the dairy commissioner, except in the case of small and incidental expenses, in which cases the dairy commissioner may present bills in his own name. [See Sec. 91, *post.*]

Appropriation, how expended by dairy commissioner.

To submit accounts monthly, and how paid.

32. SEC. 2. That all acts and parts of acts inconsistent with this act be and are hereby repealed, and that this act shall take effect November first, eighteen hundred and ninety-five.

Repealer.

2. MILK.

An act to prevent the adulteration, and to regulate the sale of milk.

Approved March 14, 1882.

P. L. 1882, p. 97.

33. SEC. 1. That every person who shall sell, or who shall offer or expose for sale, or who shall transport or carry, or who shall have in possession with intent to sell or offer for sale, any milk from which the cream or any part thereof has been removed, shall distinctly, durably and permanently solder a label or tag of metal in a conspicuous place upon the outside and not more than six inches from the top of every can, vessel or package containing such milk, and such metal label or tag shall have the words "skimmed milk" stamped, indented or engraved thereon in letters not less than two inches in height, and such milk shall only be sold or shipped in, or retailed out of a can, vessel or package so marked.

Persons selling, or offering for sale, skimmed milk, to solder a label or tag upon can or package.

34. SEC. 2. That every person who shall sell, or who shall offer for sale, or who shall transport or carry for the purpose of sale, or who shall have in possession with intent to sell or offer for sale, any impure, adulterated or unwholesome milk, and every person who shall adulterate milk, or who shall keep cows for the production of milk in a crowded or unhealthy condition, or feed the same on food that produces impure, diseased or unwholesome milk, or shall feed cows on distillery waste, usually called "swill," or upon any substance in a state of putrefaction or rotteness, or upon any

Penalty for selling, or offering for sale, impure or adulterated milk, or keeping cows in an unhealthy condition.

substance of an unwholesome nature, shall be liable to the penalties hereinafter provided for in this act. (a)

Addition of water or other substance declared an adulteration.

35. SEC. 3. That the addition of water or any other substance or thing is hereby declared an adulteration, and milk that is obtained from animals that are fed on distillery waste, usually called "swill," or upon any substance in a state of putrefaction or rotteness, or upon any substance of an unhealthful nature, or milk that has been exposed to or contaminated by the emanations, discharges or exhalation from persons sick with any contagious disease, by which the health or life of any person may be endangered or compromised, is hereby declared to be impure and unwholesome.

When milk deemed to be adulterated in prosecutions under this act.

36. SEC. 4. That in all prosecutions under this act, if the milk shall be shown, upon analysis by a member of the council of public analysts of this state or the chemist of the state experiment station, to contain more than eighty-eight per centum of watery fluids, or to contain less than twelve per centum of milk solids, such milk shall be deemed, for the purpose of this act, to be adulterated (b) [See Sec. 50, *post.*]

1170-36
37V-92

Penalty for violation.

37. SEC. 5. That every person who shall violate any of the provisions of this act shall be liable to a penalty of fifty dollars for the first offense and one hundred dollars for a second or subsequent offense.

1170-37
37V-96

Justices of the peace and recorders to have jurisdiction to try and punish offenders.

38. SEC. 6. That justices of the peace and recorders shall have jurisdiction to try and punish all persons for violating the provisions of this act, and the penalties prescribed in section five of this act, for the violation of any of the provisions of this act, may be enforced before any justice of the peace or recorder in any county where the offense is committed or where the offender is first apprehended.

Upon proof to cause persons to be arrested.

39. SEC. 7. That said justice of the peace or recorder, upon receiving due proof, made before him by the affidavit of one or more persons, of the violation of any of the provisions of said act by any person or persons, is hereby authorized and required by his warrant, under his hand and seal, directed to any constable or police officer of his county, to cause such person or persons to be arrested and brought before said justice or recorder, who shall hear and determine the guilt or innocence of the person or persons so charged, and upon conviction of said person or persons, the said justice or recorder is hereby authorized and required to impose upon the offender so convicted before him the penalties prescribed for such offenses; and if any person so convicted shall fail to pay the penalty so imposed, together with the costs of the prosecution, the said justice or recorder is hereby authorized and required to commit such offender to the common jail of the said county for a period of not less than ten nor more than sixty days; *provided, however,* that an analysis of condemned milk shall be made by a member of the council of public analysts of this state or the chemist of the state experiment station. (c) [See Sec. 50, *post.*]

Person convicted failing to pay penalty to be committed to jail.

Proviso.

Certificates of analysts or chemist to be accepted as evidence.

40. SEC. 8. That the certificate of any member of the council of public analysts, or chemist of the state experiment station, given under his hand and seal, and sworn to and subscribed before any justice of the peace or notary public in this state, shall be taken and accepted as prima facie evidence.

1170-40
37V-94

State board of health empowered to appoint state inspector of milk.

41. SEC. 9. That the state board of health is hereby empowered and directed to appoint, each year, a competent person, who shall act as a state inspector of milk, at a salary of eight hundred dollars per annum, payable by the treasurer of this state, by warrant of the comptroller, in quarterly payments, for the purposes of this act, and in addition thereto said inspector shall be paid his actual traveling expenses while in the performance of his duties, and actual expenses of suits and costs of analysis brought by him under this act, payable by the treasurer of this state, by warrant of the comptroller; said inspector shall act until removed by said board, or

1171-41
37V-96

Compensation and expenses, how paid.

(a) That part of the act which prohibits the production of impure milk by any other means than adulteration, without regard to the existence of an intent to sell the same, is unconstitutional on the ground that it is legislation on a matter not within the expressed object of the title of the act. *Shivers v. Newton*, 16 Vr. 469.

(b) This section is not intended to operate as a rule of evidence by which the act of the analyst is to be conclusive of the guilt of the defendant in selling adulterated milk, but was intended

to prohibit the sale of milk, under a certain standard of excellence, and this exercise of authority is within the discretion of the legislature in the exercise of the police power inherent in the state. *Shivers v. Newton*, 16 Vr. 469. The complaint for selling, and the having in possession with intent to sell, of milk under the standard fixed by this section, should be special, and not in the form of a complaint for selling milk which is in fact adulterated. *Id.*

(c) See *Board of Health v. Meyer*, 14 N. J. L. J. 302.

until his successor is appointed, and shall make such reports to said board at such time as it may direct; said inspector having reason to believe the provisions of this act are being violated, shall have power to open any can, vessel or package containing milk, whether sealed, locked or otherwise, or whether in transit or otherwise; and if upon inspection, he shall find such can, vessel or package to contain any milk which has been adulterated, or from which the cream, or any part thereof, has been removed, or which is sold, offered or exposed for sale, or held in possession with intent to sell or offer for sale, in violation of any section of this act, said inspector is empowered and directed to take a sample of the same for analysis and put into a can, vessel or package, to be sealed in the presence of one or more witnesses, and sent to any member of council of public analysts or the chemist of the state experimental station, and also to condemn the same and pour the contents of such can, vessel or package upon the ground or return the same to the consignor, and, if upon analysis such milk shall prove to be adulterated, shall bring suit against the person or party so violating the law; *provided, however*, that if, upon analysis, it is proved that the condemned milk is unadulterated, the state shall be liable for the value of the article destroyed, which shall be paid by the treasurer of this state, by warrant of the comptroller; and said inspector is empowered to employ one or more assistants, who shall have power to inspect milk, as provided by this act, said assistants to be paid not more than five dollars per day for each and every day of actual service in performance of their duties, as provided by this act, payable by the treasurer of this state, by warrant of the comptroller. (a) [See Sec. 49, *post.*]

Duties of inspector.

Proviso.

42. SEC. 10. That all penalties imposed shall be paid into the treasury of this state, except in case the local board of health of any city, borough, town or township shall prosecute the offender, in which case the penalties shall be paid into the treasury of the city, borough, town or township so prosecuting; *provided*, that in prosecutions by the executive officer of any local board of health no expense shall be incurred to the state.

Penalties, to whom paid.

Proviso.

43. SEC. 11. That an act entitled "An act to prevent the adulteration of milk and to regulate the sale of milk," approved March twenty-second, one thousand eight hundred and eighty-one [P. L. 1881, p. 170], and all other acts or parts of acts inconsistent with this act be and the same are hereby repealed.

Act repealed.

Supplement.

Approved April 2, 1884.

P. L. 1884, p. 127.

44. SEC. 1. That any time previous to the hearing of a complaint against any person under the provisions of the aforesaid act, either party may appear before the justice or recorder and demand a trial by jury, whereupon the said justice or recorder shall issue a venire facias to summon a jury of twelve men qualified by law to act as jurors, to try said complaint.

Previous to hearing of complaint either party may demand trial by jury.

45. SEC. 2. That in case the said jury find such person or persons guilty, then the said justice or recorder shall proceed as though he had determined such complaint without a jury; and in case such jury shall find such person or persons not guilty, the said justice or recorder shall enter judgment in his, her or their favor accordingly, with costs.

Proceedings upon finding of jury.

46. SEC. 3. That either party, upon paying all costs incurred and by filing with said justice or recorder, within ten days after trial before him, a written notice of his or her intention to appeal from the decision of said justice or recorder or jury, may appeal to the next court of general quarter sessions of the peace of the county in which such complaint was made and determined.

May appeal to court of quarter sessions.

47. SEC. 4. That either party, on appeal, may demand a trial by jury, and said court of general quarter sessions shall proceed and try the same and make such adjudications as are herein provided in case of such trial before said justice or recorder.

On appeal, may demand jury trial.

48. SEC. 5. That all acts and parts of acts inconsistent with the provisions of this act shall be and the same are hereby repealed.

Repealer.

(a) This provision conferring the power to condemn and pour upon the ground, or return to the consignor, any milk found, upon inspection, to be adulterated, is constitutional. *Shivers v. Newton*, 16 Vr. 469.

P. L. 1886, p. 254.

State dairy commissioner to assume duties, &c., of inspector of milk.

Proviso.

Supplement.

Approved April 20, 1886.

49. SEC. 1. That the appointment of a state inspector of milk, provided for in section nine of the act to which this is a supplement, be and the same is hereby discontinued, and that the state dairy commissioner shall be and is hereby empowered and directed to assume all the duties, privileges and powers conferred on said state inspector of milk in section nine of the act to which this is a supplement; *provided*, that said dairy commissioner shall not receive the salary, or any portion thereof, heretofore provided for said state inspector of milk.

P. L. 1887, p. 12.

Analysis of milk, by whom to be made.

Supplement.

Approved February 24, 1887.

50. SEC. 1. That the analysis of milk required by the provisions of sections four, seven, eight and nine of the act to which this is a supplement may be made by any chemist or chemists appointed or designated by the state board of health, the provisions of said act to the contrary notwithstanding.

1172-50
87V-94

P. L. 1891, p. 402.

Inspector taking sample of milk for analysis shall divide it into two parts, one of which he shall deliver to vender.

Supplement.

Approved April 14, 1891.

51. SEC. 1. That when any inspector or his deputy acting under the act to which this is a supplement shall take any sample of milk for analysis, he shall divide said sample into two parts, shall duly seal each part in a suitable can, vessel or package, shall tender, and if accepted deliver, at the time of such taking one part to the vender of said milk or to the person having the custody of the same, with a statement in writing of the cause of the sample having been taken.

Defendants may produce evidence at trial to show the percentage of milk solids contained in the sample delivered to him.

52. SEC. 2. That in all prosecutions under the act to which this is a supplement, the defendant may at the trial produce competent evidence to show the percentage of milk solids contained in the sample delivered to him, or to his agent or servant, as provided in section one thereof.

May produce evidence to show that milk has not been adulterated.

53. SEC. 3. That in all prosecutions under the act to which this is a supplement, where the violation charged is the addition of water or any other substance or thing, the defendant may at the trial produce competent evidence to show that the same has not been altered or adulterated.

Repealer.

54. SEC. 4. That all acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

An act for the protection of producers and shippers of milk.

P. L. 1883, p. 84.

Not lawful to use, sell, &c., any milk can without consent of owner.

Approved March 8, 1883.

55. SEC. 1. That it shall be unlawful for any person, without the permission of the owner thereof, to use, sell, dispose of, buy or traffic in, any milk can or cans marked or stamped with the name or initials of any shipper of milk residing within this state, or to willfully mar or erase said name or initials of any such shipper of milk so marked or stamped upon said can or cans.

Penalty for so using, selling, &c.

56. SEC. 2. That any person who shall so use, sell, dispose of, buy or traffic in, any such can or cans, or who shall so willfully mar or erase the said name or initials thereon, shall be liable to a penalty not less than fifty nor more than one hundred dollars, to be recovered by proceedings as hereinafter provided and set forth, together with all costs of such proceedings, which said penalty shall be for the use of the poor of the city, town or township wherein such offense shall be committed.

Owner may make complaint against person using cans.

57. SEC. 3. That if any such owner, or his or her agent, has reason to believe and does believe that any of his or her can or cans so marked or stamped, has or have been unlawfully used as aforesaid by any person, or that any person has any of his or her said can or cans secreted in or upon his premises, or in any other place or places, any such owner, or his or her agent, may go before any justice of the peace of the county, or any police

justice or recorder of any city wherein such offense may be or have been committed, and make complaint thereof under oath.

58. SEC. 4. That it shall be the duty of any justice of the peace, or any other magistrate as aforesaid, before whom any such complaint shall be made as aforesaid, thereupon to issue a process in the nature of a search warrant, directed to any constable or police officer of said city, town or township, which shall recite said complaint as aforesaid, and shall command said constable or officers to immediately search the premises, place or places mentioned in said complaint; and if, upon such search, any such can or cans as mentioned in said complaint be found, to bring the same, together with the body of the person in whose possession they may be found, before such justice.

Magistrate to cause the arrest of person complained of.

59. SEC. 5. That when any such person as aforesaid shall be brought before any justice of the peace or such other magistrate upon a process issued as aforesaid, such person shall enter into a recognizance with good security, to be approved by said justice, in the penalty of one hundred dollars, to appear at such time as the said justice shall appoint for a hearing under said complaint, which hearing shall not be less than five nor more than ten days from the day of said arrest, and may be adjourned by such justice from time to time on good and sufficient cause being shown therefor, and in default of such recognizance such person shall be committed by said justice to the county jail to abide a hearing, upon which hearing the said justice shall proceed to hear and determine as to the truth of said complaint, and the ownership of such can or cans that may be brought before him; and if said justice shall determine such person to be guilty of the offense as charged in said complaint, he shall thereupon render judgment against such person for an amount of not less than fifty dollars nor more than one hundred dollars and all costs of such proceedings, and in default of payment thereof issue execution therefor against the goods and chattels and the body of such person, and shall immediately deliver such can or cans into the possession of such owner to whom the same shall appear to belong.

Proceedings before justice.

Hearing.

Penalty.

60. SEC. 6. That if, upon the issue of any such process as aforesaid, the said constable or other officer shall be unable to find the person therein named, but shall find any can or cans as therein set forth, he shall bring such can or cans before such justice, who shall thereupon proceed to determine the right of such complainant thereto; and if upon the hearing had thereon he shall be satisfied that such can or cans rightfully belong to such complainant, he shall forthwith deliver the same into his or her possession, or the possession of his or her agent.

When person is not found, magistrate to determine possession of cans.

61. SEC. 7. That any time previous to the hearing of said complaint as aforesaid, either party may demand a trial by jury, whereupon said justice shall issue a venire facias to summon a jury of twelve men, competent as jurymen, to try said complaint, and to decide whether the person complained of be guilty or not guilty, which said jury shall also determine the rightful ownership of every such can or cans, if any there be; and in case the said jury decide such person guilty, then said justice shall proceed as though he had so determined, no jury having been demanded.

May demand a jury trial.

62. SEC. 8. That either party, upon paying all costs incurred and by filing with said justice, within ten days after trial before him, a written notice of his or her intention to appeal from the decision of said justice or jury, may appeal to the next court of general quarter sessions of the peace of said county, and may there demand a trial by jury, which court shall proceed to try the same and make such adjudication and delivery thereon as is herein provided in case of such trial before said justice.

May appeal to court of quarter sessions.

63. SEC. 9. That except as herein provided, all proceedings had under the provisions of this act shall, as nearly as may be, be regulated by the provisions of and conducted in the manner prescribed in and by an act entitled "An act constituting courts for the trial of small causes," and the several supplements thereto.

Proceedings, how conducted.

64. SEC. 10. That all acts and parts of acts inconsistent with the provisions of this act are hereby repealed, and that this act shall take effect immediately.

Repealer.

An act to prohibit the sale of adulterated and skimmed milk in cities of this state.

P. L. 1883, p. 230.

Adulterated or skimmed milk shall not be sold in cities of first class.

Penalty, how recovered.

Approved March 23, 1883.

65. SEC. 1. That no milk which has been watered, adulterated, or changed in any respect by the addition of water, or other substance, or by removal of cream, or any part thereof, shall be kept or offered for sale in any city of the first class in this state.

66. SEC. 2. That any person who shall violate any of the provisions of this act shall be liable to a penalty of fifty dollars for the first offense and one hundred dollars for a second or subsequent offense, and that such penalties shall be recovered upon like evidence, by like procedure, and in the same method now provided for the collection of fines and penalties, under the act entitled "An act to prevent the adulteration and to regulate the sale of milk," approved March fourteenth, one thousand eight hundred and eighty-two.

An act in relation to milk cans.

P. L. 1891, p. 480.

Illegal to use, &c., milk cans belonging to dealers without their consent, or to erase or deface markings thereon.

Evidence of unlawful use or traffic.

Cans used in violation of this act may be emptied.

Proviso.

Penalty for violation of act.

How recovered.

Agents may sue in their own names.

Approved April 16, 1891.

67. SEC. 1. That it is hereby declared to be unlawful for any person or persons, without the consent of the owner or owners, or shipper or shippers, or his, her or their agent, to use or sell, dispose of, buy or traffic in any milk or cream can or cans belonging to any dealer or dealers, shipper or shippers of milk or cream, residing in the state of New Jersey or elsewhere, who may ship milk or cream to any city, town or place within this state, having the name or initials of the owner or owners of such dealer or dealers, or shipper or shippers stamped, marked or fastened on such can or cans, or to willfully mar, erase or change by re-marking or otherwise said name or initials of any such owner or owners, or dealer or dealers, or shipper or shippers, so stamped, marked or fastened upon said can or cans.

68. SEC. 2. That the fact of any person or persons, without the consent of the owner, dealer or dealers, or shipper or shippers thereof, or his, her or their agent, either using, selling, disposing of, buying, trafficking in, or having in his, her or their possession, or under his, her or their control, any such milk or cream can or cans, shall be presumptive evidence of the unlawful use, purchase of or traffic in such can or cans.

69. SEC. 3. That such can or cans, full or partly full of milk or cream used in violation of this act, may be emptied into the street or elsewhere of their contents by owner or owners, dealer or dealers, shipper or shippers, or his, her or their agent, and taken possession of by any of said several parties who shall not be liable for damages therefor; *provided*, that any of said several parties entitled to the possession of such can or cans, shall first give notice to the party or parties having the possession of such can or cans to empty the same.

70. SEC. 4. That any person or persons who shall, in violation of this act, either use, sell, dispose of, buy, traffic in, or have in his, her or their possession, any such can or cans, or who shall willfully mar, erase or change by re-marking or otherwise, the said name or initials of any such owner or owners, dealer or dealers, shipper or shippers, so stamped, marked or fastened upon said can or cans as in this act provided, shall be liable to a penalty of fifty dollars for any such can either so used, sold, disposed of, bought, trafficked in, or found in his, her or their possession; such penalties may be recovered by action in the supreme court of this state, with costs and disbursements, and the place of trial of such actions may be in the county in which the owner or owners, dealer or dealers, shipper or shippers of any such cans may reside at the commencement of such action.

71. SEC. 5. That the agent of such owner or owners, dealer or dealers or shipper or shippers shall have full power and authority to sue in his name and take any proceedings authorized by this act without joining the real party or parties in interest that he represents, and may join in persons as shall jointly or severally have violated any of the provisions of this act,

notwithstanding that the cause of action is separate and distinct as to each and every one of such plaintiffs and defendants; and may recover against any one or more of such person or persons.

72. SEC. 6. That if any such owner or owners, dealer or dealers, shipper or shippers, his, her or their agent has reason to believe and does believe that any of such can or cans so stamped or marked has or have been unlawfully used as aforesaid, by any person or persons, or that any person or persons has any of such can or cans secreted in or upon his, her or their premises or any other place or places, any such owner or owners, dealer or dealers, shipper or shippers, or his, her or their agent may go before any justice of the peace or magistrate having civil jurisdiction in the city, town or place, or any part thereof, wherein such offenses may be or have been committed and make complaint thereof under oath, which complaint may be wholly upon information and belief, whereupon said justice of the peace or magistrate before whom such complaint shall have been made shall issue a process in the nature of a search warrant, directed to any constable, marshal or other executive officer, of any city, town or place which shall recite the complaint or the substance thereof, and shall command the said constable, marshal or other executive officer to immediately search the premises, place or places mentioned in said complaint, be found, to bring the same, together with the body of the person or persons in whose possession they may be found, before such justice of the peace or magistrate, and such proceedings shall be had as are now had in cases wherein search warrants are issued.

Owners to make complaints.

Justice to issue process.

73. SEC. 7. That all acts and parts of acts inconsistent herewith be and the same are hereby repealed, and that this act shall take effect immediately.

Repealer.

II. Food and drugs.

An act to prevent the adulteration of food or drugs.

Approved March 25, 1881.

P. L. 1881, p. 283.

74. SEC. 1. [Amended by Sec. 82, *post.*]

75. SEC. 2. That the term "food," as used in this act, shall include every article used for food or drink by man, and that the term "drug," as used in this act, shall include all medicines for internal or external use.

Word "food," how construed.

76. SEC. 3. That any article shall be deemed to be adulterated, within the meaning of this act:

(a)—IN THE CASE OF DRUGS.

I. If when sold under or by a name recognized in the United States pharmacopœia, it differs from the standard of strength, quality or purity laid down therein;

What drugs shall be deemed to be adulterated.

II. If when sold under or by a name not recognized in the United States pharmacopœia, but which is found in some other pharmacopœia, or other standard work on materia medica, it differs materially from the standard of strength, quality or purity laid down in such work;

III. If its strength or purity fall below the professed standard under which it is sold;

(b)—IN THE CASE OF FOOD OR DRINK.

I. If any substance or substances has or have been mixed with it so as to reduce or lower, or injuriously affect its quality or strength;

What food shall be deemed to be adulterated.

II. If any inferior or cheaper substance or substances have been substituted wholly or in part for the article;

III. If any valuable constituent of the article has been wholly or in part abstracted;

IV. If it be an imitation of or be sold under the name of another article;

V. If it consist wholly or in part of a diseased or decomposed, or putrid or rotten animal or vegetable substance, whether manufactured or not; or in case of milk, if it is the produce of a diseased animal;

DAIRY, FOOD AND DRUG PRODUCTS.

VI. If it be colored, or coated, or polished, or powdered, whereby damage is concealed, or it is made to appear better than it really is, or of greater value;

VII. If it contain any added, poisonous ingredient, or any ingredient which may render such article injurious to the health of a person consuming it; *provided*, that the state board of health may, with the approval of the governor, from time to time, declare certain articles or preparations to be exempt from the provisions of this act; *and provided further*, that the provisions of this act shall not apply to mixtures or compounds recognized as ordinary articles of food; *provided*, that the same are not injurious to health, and that the articles are distinctly labeled as a mixture.

How limits of variability to be fixed.

77. SEC. 4. That the state board of health shall, from time to time, fix the limits of variability permissible in any article of food, or drug or compound, the standard of which is not established by any national pharmacopœia.

78. SEC. 5. [Amended by Sec. 83, *post.*]

Persons selling bound to deliver to inspector sample of foods or drugs for analysis.

79. SEC. 6. That every person selling, or offering or exposing any article of food or drugs for sale, or delivering any article to purchasers, shall be bound to serve or supply any inspector appointed under this act, who shall apply to him for that purpose, and on his tendering the value of the same for a sample sufficient for the purpose of analysis of any article which is included in this act, and which is in the possession of the person selling, under a penalty not exceeding fifty dollars for a first offense, and one hundred dollars for a second and subsequent offense.

Penalty.

80. SEC. 7. [Amended by Sec. 84, *post.*]

Repealer.

81. SEC. 8. That any acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

Supplement.

P. L. 1883, p. 185.

Approved March 23, 1883.

82. SEC. 1. That section one of the act to which this is a supplement, be amended so as to read as follows:

Penalty for selling adulterated food or drugs.

[That no person shall manufacture, have, offer for sale, or sell any article of food or drugs which is adulterated within the meaning of this act, and any person violating any of the provisions of this act shall be liable to a penalty of fifty dollars for a first offense, and one hundred dollars for a second or any subsequent offense.]

83. SEC. 2. That section five of the act to which this is a supplement, be amended so as to read as follows:

Power of state board of health.

[That the state board shall take cognizance of the interest of the public health as it relates to the sale of foods and drugs, and the adulteration of the same, and make all necessary inquiries and investigations relating thereto; it shall also have the appointment and supervision of public analysts and chemists, or inspectors, to serve for general service, or for such special service or length of time as it may deem necessary; and the board of health shall, from time to time, meet and adopt such measures as it may deem necessary for the enforcement of this act, and of the act to which it is a supplement, and prepare rules and regulations with regard to the proper method of collecting and examining articles of food or drink or drugs; and the analysts, chemists or inspectors appointed may act singly or associated in a council for such time as may be approved or authorized by said board.]

84. SEC. 3. That section seven of the act to which this is a supplement, be amended so as to read as follows:

Penalty for violating provisions of act.

[That any person violating any of the provisions of this act, and any person who shall hinder, impede, obstruct or otherwise prevent any analyst, inspector or prosecuting officer in the performance of his duty, shall be liable to a penalty of fifty dollars for the first offense, and one hundred dollars for a second or subsequent offense.]

What courts may try offenders.

85. SEC. 4. That every district court in any city, and every justice of the peace in any county, and any police justice or recorder in any city, is hereby empowered, on oath or affirmation made according to law that any

person or persons has or have violated any provision of the act to which this is a supplement, to issue process at the suit of any person, either in the manner of a summons or warrant, against the person or persons so charged, which process shall, when in the nature of a warrant, be returnable forthwith, and when in the nature of a summons, shall be returnable in not less than one nor more than ten entire days; such process shall state what provision of the law is alleged to have been violated by the defendant or defendants; and on the return of such process or at any time to which the trial shall have been adjourned, the said court, justice of the peace, police justice or recorder, shall proceed to hear testimony and to determine and give judgment in the matter, without the filing of any pleadings; and the said court, justice of the peace, police justice or recorder shall, if judgment be rendered for the plaintiff, forthwith issue execution against the goods and chattels and person of the defendant or defendants; and the said court, justice of the peace, police justice or recorder, is further empowered to cause any such defendant who may refuse or neglect to pay the amount of the judgment rendered against him and all the costs and charges incident thereto, unless an appeal is granted, to be committed to the county jail for any period not exceeding ninety days; but no district court of any city, justice of the peace, police justice or recorder, shall have jurisdiction of any offense against the act to which this is a supplement, which offense shall take place outside of the territorial jurisdiction of such district court, justice of the peace, police justice or recorder, as such territorial jurisdiction is now established by law.

Process to be issued.

86. SEC. 5. That the officers to serve and execute all process under this act shall be the officers authorized by law to serve and execute process in said courts, and before such magistrates and officers as aforesaid, including the constables of such counties and all police officers of such cities.

What officers shall serve process.

87. SEC. 6. That all penalties imposed under the act to which this is a supplement shall be disposed of as follows: in case the suit is brought by any officer appointed by the state board of health, the penalty shall be paid into the treasury of this state; in case the suit is brought by any officer of any local board of health or of any city, borough, town or township, the penalty shall be paid into the treasury of said local board of health, city, borough, town or township; in case of any suit not otherwise provided for, the penalty shall be paid to the person bringing the suit.

Penalties, how disposed of.

88. SEC. 7. That the state board of health shall be authorized to expend annually, in addition to all sums already appropriated for such board, an amount not exceeding one thousand dollars, for the purpose of including in its work the carrying out of the provisions of this act and for the protection of the public health.

State board of health may expend \$1,000 annually.

89. SEC. 8. That any analyst or inspector appointed by the state board of health, and any inspector or other officer of any local board of health, shall have power to inspect any article of food, or drugs, wherever exposed for sale, or offered or held for sale, or whether in transit or otherwise; and if, upon inspection of such food or drugs, the same shall be found adulterated within the meaning of this act or the act to which this is a supplement, the said inspector or other officers aforesaid shall have power and may prohibit the sale or disposal of said articles until decision shall be rendered by the court, justice of the peace, recorder or police justice before whom the defendant may be brought.

Powers of analyst or inspector.

90. SEC. 9. That this act shall not be so construed as to interfere with the special provisions of an act, approved March fourth, eighteen hundred and eighty-two, entitled "An act to prevent the adulteration and to regulate the sale of milk."

Act, how construed.

Supplement.

Approved April 11, 1887.

P. L. 1887, p. 160.

91. SEC. 1. That the state dairy commissioner is hereby directed and empowered to aid in the enforcement of the provisions of the act to which this is a supplement; and said commissioner and his assistants duly commissioned shall be and are hereby made inspectors under the act to which

Dairy commissioner directed to aid in enforcing act.

Expenses of enforcing act, how paid.

this act is a supplement; the expense of enforcing said act shall be paid out of the appropriation already made for the use of said dairy commissioner for the enforcement of the act of March twenty-second, one thousand eight hundred and eighty-six, entitled "An act to prevent deception in the sale of oleomargarine, butterine or any imitation of dairy products, and to preserve the public health." [See Secs. 4 to 19, *ante.*]

Supplement.

Approved March 5, 1890.

P. L. 1890, p. 51.

When person accused may be discharged.

92. SEC. 1. That any person accused before any court of selling or offering for sale any article adulterated within the meaning of the act to which this is a supplement, and the supplements thereto, who shall prove that he procured such article under a warranty from any person or persons that reside within this state, in the form hereinafter set forth, that said article was pure and unadulterated within the meaning of said acts, said person shall be discharged from prosecution; *provided*, that such proof in defense shall be filed in court prior to the trial of such case and a copy thereof left with the attorney for the prosecutor of the case.

Proviso.

What warranty to state.

93. SEC. 2. That no warranty shall be considered as within the meaning of this act, unless in the form hereinafter given, and unless the article or articles warranted shall be specifically named and described in the body of said warranty; and no warranty shall be a defense if the person offering it shall have been notified, prior to the sale complained of, that the articles mentioned in said warranty are adulterated within the meaning of said acts.

Penalty for giving a false warranty or swearing falsely.

94. SEC. 3. That any person uttering or giving a false warranty, or swearing falsely in relation thereto, shall be guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not more than five hundred dollars, or imprisonment at hard labor for not more than one year, at the discretion of the court.

Form of warranty.

95. SEC. 4. That the warranty herein provided for shall be in the form following, to wit:

WARRANTY.

It is hereby warranted that the following-described article or articles are pure and unadulterated within the meaning of the acts of the legislature of the state of New Jersey, regulating the sale of food or drugs.

(Signature,) _____

Dated at _____ this _____ day of _____, anno domini _____.

Deaf-Mutes, Blind and Feeble-Minded.

1. Annual appropriation for.
2. Additional sum, when allowed.
3. Applications for admission.
4. Governor shall receive and decide all applications.
5. Name of pupil may be withdrawn. Notice to be given.
6. Term may be extended.
7. Annual statements to be made.
8. Amended by section 18.
9. Expenses, when to be defrayed by township.
10. Vienna writing-box to be supplied.
11. When parents and guardians shall defray part of expense.
12. Repealer.
13. Extension of term may be granted.
14. Amended by section 17.
15. Annual appropriation for each female.
16. Act not to conflict with certain sections.
17. Governor may send indigent and feeble-minded females to suitable home.
18. Who entitled to benefit of act.
19. Property set apart for deaf and dumb institution.
20. Amended by section 33.
21. Repealed by section 34.
22. Appropriation for altering buildings.
23. When persons to be admitted.
24. Who to be entitled to privileges of school. Applications. Powers of trustees, &c.
25. Trustees to receive no compensation.
26. Amended by sections 31 and 35.
27. When trustees may pay part of expense of instruction, &c.
28. Improvements, repairs, &c., to be by contract. Proposals for supplies.
29. Trustees to make return or statement to the governor.
30. Repealer.
31. Amended by section 35.
32. Title of institution.
33. Institution to be under control of state board of education.
34. Repealer.
35. Deaf-mutes within certain age may be admitted to institution.
36. Repealer.
37. Trustees to make report to governor.
38. Repealed by section 40.