



Minnesota, Laws, statutes, etc

THE LAWS OF MINNESOTA

RELATING TO

BOARDS OF HEALTH AND HEALTH OFFICERS,

AND

OFFENSES AGAINST PUBLIC HEALTH.

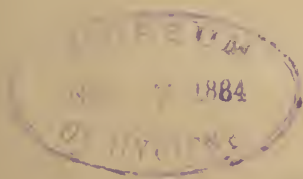
COMPILED AND ARRANGED

BY ORDER OF

THE STATE BOARD OF HEALTH,

BY THE

SECRETARY OF THE BOARD.



RED WING, MINN.:
RED WING PRINTING COMPANY.
1882.

WA

M.661L

1882

film no. ^{C.1} 10478 items

NATIONAL LIBRARY OF MEDICINE
BETHESDA 14, MD.

[11]

G 26 F 64

PREFACE.

This pamphlet consists of a reprint of the Laws of Minnesota, relating to Boards of Health, Health Officers and offenses against public health.

It has been compared with the Statutes under the direction of Hon. W. C. Williston, Attorney at Law. There are appended two letters of the Attorney General of the State, explanatory of the law. The charters of incorporated villages, towns and cities make special provision for the organization of their Boards of Health, but when not in conflict with said charters the General Laws here mentioned apply.

For the convenience of Health Officers and others interested I have added an analytical index, which is practically a summary of the laws to which it relates.

The whole is submitted as the first attempt ever made to collate and arrange the legislation of Minnesota respecting Public Health, and is commended, not only to the attention of Boards of Health and Health Officers, but to every citizen whose duty it is to aid and support the State and Local Health Boards in their efforts to make sanitary work a living and beneficent reality in our State.

By Order State Board of Health.

CHARLES N. HEWITT,

Secretary and Executive Officer.

[12]

ANALYTICAL INDEX :

	PAGE.
ASYLUMS,—	
State Board of Health, the advisory Board of State respecting Hygiene of.....	1
ADULTERATION,—	
Of Food and Liquors.....	6
ATTORNEY GENERAL,—	
Opinions of.....	10
BOARD OF HEALTH—STATE,—	
Act organizing.....	1
Seven physicians constitute.....	1
How appointed.....	1
Duties of.....	1
Secretary of—the Executive officer.....	2
When to report.....	2
Its communication with local Boards.....	1 and 2
Three members a quorum.....	2
No member of—except Secretary, to receive other than actual expenses when on duty.....	2
To have charge of quarantine.....	1
Shall hold regular meetings.....	2
Election of a President and Secretary.....	2
Investigations as to infectious diseases.....	3
Regular meetings once in three months.....	2
BOARD OF HEALTH—LOCAL,—	
All incorporate towns, villages, boroughs and cities shall have.....	2
Functions of.....	2
To hold monthly meetings.....	2
To consist of not less than three members.....	2
Shall have a physician as member when practicable.....	2
Shall have health officer a physician.....	2
Shall have president a physician.....	2
Health officers shall be compensated by the council or the body answering thereto.....	2
To be elected annually unless otherwise provided by law.....	3
Penalties for non-performance of duty by.....	3
Members of—convicted for violating laws are disqualified from membership.....	3
“ Violating law respecting scarlatina disqualified from holding any office to which is attached the duties of a member of a Board of Health.....	5
Township organization of.....	3
Town supervisors constitute.....	3
Duties of.....	3
Shall enforce regulations by fine or imprisonment.....	3
To give notice of orders and regulations in newspaper or by posting in five public places.....	3
Shall order removal of nuisance, etc., from private property at expense of occupant within twenty-four hours.....	3
Penalty for neglect to remove a nuisance when ordered by.....	3
May remove nuisance at expense of owner.....	3
May enter any building or vessel for sanitary purposes.....	4
Any justice on their complaint shall enforce their entry on private property for specified purpose.....	4
May remove persons suffering from contagious disease to a separate house under condition specified.....	4
To whom may be charged expenses incurred for contagious disease.....	4
Provision for care of infected person who cannot be removed.....	4
Provision for the removal of the well from the infected.....	4

BOARD OF HEALTH—TOWNSHIP,—	
Shall provide hospital for diseases dangerous to public health.....	4
BUTTER,—	
To prevent adulteration of.....	6
CHILDREN,—	
Unvaccinated cannot be excluded from public schools by school boards.....	8
Cannot be excluded by Health boards.....	9
From families having infectious diseases may be excluded by school board....	9
Cannot be excluded by Health Boards.....	9
CHEESE,—	
To prevent adulteration of	6
DISEASES INFECTIOUS,—	
Duties of Local Boards respecting.....	3, 4 and 5
DISEASED AND UNWHOLESOME PROVISIONS,—	
The seller to make the same known to the buyer.....	5
The buyer to be fully informed of the true condition of	5
Fines and imprisonment for violation of law respecting.....	5
FINES,—	
For members of Boards of Health neglecting duties.....	3 and 5
Violation of regulation respecting scarlet fever.....	5
To be placed to the credit of the city etc.....	5
For selling diseased or unwholesome food	5
For milk diluted with water or any way adulterated.....	6
For milk the product of a diseased animal.....	6
For adulteration of food and liquor.....	6
For adulteration of drugs and medicines.....	6
Penalty for inoculation with small-pox to cause its spread.....	6
For physicians or other persons prescribing in a state of intoxication.....	6
For apothecaries selling poison without label.....	6
For apothecaries selling poison without a written prescription.....	7
For purchasers giving fictitious names.....	7
For depositing dead bodies or offal thereof in rivers, lakes and creeks.....	7
For importing or driving diseased sheep into the State.....	7
For suffering diseased sheep to run at large.....	7
For selling diseased sheep.....	7
The disposal of fines.....	7
For selling horses or other animals suffering from the disease known as glanders.....	7
Paying fines into school fund.....	8
Not lawful to bring or own Texas, Cherokee, Indian, or other diseased cattle.....	8
HEALTH—PUBLIC,—	
Against fraudulent adulteration of drugs or medicines.....	6
Against inoculation with small-pox with intent to spread the disease.....	6
To prevent any physician or other person while intoxicated prescribing drug or other medicine to another person.....	6
To compel apothecaries &c. selling or delivering any active poison without having upon label the word "Poison," and the true name thereon in English.....	6
To prevent the gift or sale of any active poison except the written prescription and record of such article.....	6 and 7
To prevent purchase of such poison under a false or fictitious name.....	7
To prevent deposit on or in any lake, creek or river in Minnesota, of the dead body of any animal or offal thereof.....	7
To prevent the running at large or sale of diseased sheep.....	7
To provide for the recovery of damages against persons importing or driving diseased sheep.....	7
To prevent the spread of "glanders" in Minnesota.....	7
To prevent importing or owning Texas, Cherokee, Indian, or diseased cattle.....	8
Definition of said act.....	8
Health, Boards of—cannot exclude unvaccinated children from the public schools.....	9
Health Boards cannot exclude from the public schools children from families having infectious disease.....	9
General statutes respecting offenses against.....	5, 6, 7 and 8
General statutes against sale of unwholesome provisions for meat or drink.....	5
General Statutes against sale of adulterated or diseased—to hutter or cheese factors.....	6
General statutes against fraudulent adulteration of food or drink.....	6
HOSPITALS—STATE BOARD OF HEALTH,—	
Advisory Board of Health as to hygiene of.....	1
For infectious diseases.....	4
HORSES,—	
The disposing of—suffering with "glanders" or permitting to run on public highways.....	7
HEALTH OFFICERS—LOCAL,—	
Duties of.....	2
Shall make sanitary inspection once in three months.....	2
Shall forward copy of monthly report to State Board of Health.....	2
Shall make investigations and reports and obey directions of State Board of Health respecting infectious diseases.....	3
Penalty for violation of duty.....	3
INFECTIOUS DISEASES,—	
Health officers to make investigations and reports of.....	3
Duties of Local Boards respecting.....	3, 4 and 5

LOCAL BOARDS,—	
To investigate and report on infectious diseases.....	3
Fines for neglect of duty.....	3
Election of	3
Resistance to—how.....	4
NUISANCES,—	
Duties of Local Boards respecting.....	3
PRISONS,—	
State Board of Health advisory Board of State respecting hygiene of	1
Public Institutions	1
REPORTS,—	
Annually required of State Board—to Legislature.....	1
SANITARY INVESTIGATIONS,—	
The duty of State Board of Health.....	1
SECRETARY OF STATE BOARD OF HEALTH,—	
The executive officer of Board	2
Salary of	2
Duties of	2
Necessary expenses of his office—how paid.....	2
SCARLATINA,—	
Scarlatina.....	4
Duties of Boards of Health respecting.....	5
Power to adopt quarantine and sanitary measures to prevent the spread of.....	5
Power to forbid persons going to or leaving premises infected by.....	5
Disinfecting premises and clothing.....	5
Conviction and fines of offenders	5
Members of boards of health neglecting duties respecting.....	5
Laws respecting fines for violation thereof.....	5
SMALL POX,—	
Duties of Local Boards respecting	4
Imprisonment for inoculation to spread the	6
SHEEP,—	
Suffering from contagious disease	7
TOWNSHIP ORGANIZATION OF BOARDS OF HEALTH,—	
Town supervisors shall constitute a.....	3
Power to examine into all nuisances.....	3
Fine for violating any order of the	3
Notice given of all orders and regulations by publishing the same.....	3
Power to remove source of filth or cause of sickness.....	3
Can enter a building for the purpose of examining into and destroying any nuisance.....	4
Duties of—respecting persons suffering from infectious diseases	4
The providing of hospitals for the sick	4

STATE BOARD OF HEALTH.

Being Chapter 15, General Laws, 1872, also found in "General Statutes, 1878," Chapter 6, Sections 98 to 102, both inclusive.

SECTION 1. The Governor shall appoint seven physicians, one from the city of St. Paul, and the other six from different sections of the State, who shall constitute the State Board of Health and Vital Statistics. The physicians so appointed shall hold their offices for four years, and until their successors are appointed, and all vacancies in the Board shall be filled by the Governor.

SEC. 2. The State Board of Health shall place themselves in communication with the local Board(s) of Health, the Hospitals, Asylums and public institutions throughout the State, and shall take cognizance of the interests of health and life among the citizens generally. They shall make sanitary investigations and inquiries respecting the causes of disease, especially [of] epidemics; the source of mortality, and the effects of localities, employments, conditions and circumstances on the public health; and they shall gather such information in respect to these matters as they may deem proper for diffusion among the people. They shall devise some scheme whereby medical and vital statistics of sanitary value may be obtained and act as an advisory Board to the State in all hygienic and medical matters, especially such as relate to the location, construction, sewerage, and administration of prisons, hospitals, asylums and other public institutions. They shall at each annual session of the legislature, make a report of their doings, investigations and discoveries, with such suggestions as to legislative action as they may deem proper. They shall also have charge of all matters pertaining to quarantine, and authority to enact and enforce such measures as may be necessary to the public health.

SEC. 3. The Board shall hold regular meetings at least once every three months, one of which meetings shall be held at the Capitol during the session of the legislature. Their first meeting shall be held at the Capitol within ten days after their appointment shall have been made, and three members shall always constitute a quorum for business. They shall elect, from their own number, a President and Permanent Secretary; the latter shall be their executive officer. No member, except the Secretary, shall receive any compensation; but the actual expenses of any and all the members, while engaged in the duties of the Board, shall be allowed and paid to the extent authorized by this act.

SEC. 4. The Secretary shall perform and superintend the work prescribed in this act, and shall perform such other duties as the Board may require. He shall furnish to the legislature when in session such information cognate to this act as from time to time they may deem necessary.

SEC. 5. The Secretary of the Board shall receive from the treasury, in quarterly payments, an annual salary of one thousand dollars, and his necessary and actual traveling expenses incurred in the performance of official duties, after they have been audited by the Board and approved by the Governor; and all other necessary expenses arising in his office shall be paid out of the treasury in the same manner as those of the different departments of State government.

Provided, That the expenses of said Board shall not exceed the sum of fifteen hundred dollars per annum.

(As amended by Chapter 21, General Laws, Extra Session, 1881.)

An Act relating to Boards of Health, being Chapter 8, General Laws, 1873, also found in Chapter 10, "General Statutes, 1878," Sections 117 to 120; both inclusive, as amended by General Laws, Extra Session, 1881, Chapter 11.

Chapter 8, General Laws, 1873:

SECTION 1. All incorporate towns, villages, boroughs and cities shall have a Board of Health, who shall have and exercise all the powers necessary for the preservation of the public health, and who shall hold regular monthly meetings.

SEC. 2. Said Board shall consist of not less than three members, one of whom, when practicable, shall be a physician, and such physician shall be health officer and ex-officio President of the Board, and shall receive such compensation for his services as the Council, or other body answering thereto, of the town, village, borough or city, shall determine.

SEC. 3. It shall be the duty of the health officer to make, once in every three months and oftener if necessary, a thorough sanitary inspection of said town, village, borough or city, and present a written report of such inspection at the next meeting of the Board of Health, and he shall forward a copy of his monthly report as soon as rendered to the State Board of Health; and all local Boards of Health and

health officers shall make such investigations and reports, and obey such directions as to infectious diseases as shall be directed by the State Board of Health. "And any member of any Board of Health, or health officer, who shall neglect to perform the duties required of him under the provisions of this act, or any other act relating to the duties of the Boards of Health, or health officers of this State, or who shall neglect or refuse to obey any reasonable directions as to infectious diseases as shall be directed by the State Board of Health, shall be liable, upon conviction in any court having competent jurisdiction, to be fined in a sum not less than twenty-five (25) dollars, or more than one hundred (100) dollars, and shall become disqualified from holding the office of a member of a Board of Health." (Part in " " added) (Laws Extra Session, 1881, Chapter 11.)

SEC. 4. The Board of Health referred to in Section one, shall be elected annually by the Council, or other body answering thereto, of each incorporate town, village, borough and city, unless a different term or mode is now provided by law, and such election shall be had at the next election that shall be held in such places.

Township Organization of Boards of Health :

Chapter 10, General Statutes of 1878.

SECTION 51. The Town Supervisors shall constitute a Board of Health, and within their respective towns shall have and exercise all the powers necessary for the preservation of the public health.

SEC. 52. The Board of Health may examine into all nuisances, sources of filth and causes of sickness, and make such regulations respecting the same as they may judge necessary for the public health and safety of the inhabitants; and every person who shall violate any order or regulation made by any Board of Health, and duly published, shall be deemed guilty of misdemeanor, and punished by a fine not exceeding one hundred dollars, or by imprisonment in the county jail not exceeding three months.

SEC. 53. Notice shall be given by the Board of Health of all orders and regulations made by them, by publishing the same in some newspaper, if there is one published in such town; if there is none, then by posting up such notice in five public places therein; and such publication of said orders and regulations shall be deemed a legal notice to all persons.

SEC. 54. Whenever any nuisance, source of filth, or cause of sickness, is found on private property, the Board of Health shall order the owner or occupant thereof, at his own expense, to remove the same within twenty-four hours; and if the owner or occupant neglects so to do, he shall forfeit a sum not exceeding fifty dollars, to be recovered in the name of and for the use of the town.

SEC. 55. Whenever such owner or occupant shall not comply with such order of the Board of Health, said Board may cause the said nuisance, source of filth, or cause of sickness to be removed, and all

expenses incurred thereby shall be paid by the said owner, or occupant, or by such other person as has caused or permitted the same.

SEC. 56. Whenever the Board of Health thinks it necessary, for the preservation of the health of the inhabitants to enter any building or vessel in their town for the purpose of examining into and destroying, removing or preventing any nuisance, source of filth, or cause of sickness, and shall be refused such entry, any member of the Board may make complaint under oath to a Justice of the Peace of his town, stating the facts in the case so far as he has knowledge thereof.

SEC. 57. Such Justice shall thereupon issue a warrant, directed to the sheriff or any constable of the county, commanding him to take sufficient aid, and being accompanied by two or more of the Board of Health, between the hours of sunrise and sunset, to repair to the place where such nuisance, source of filth or cause of sickness complained of may be, and the same destroy, remove, or prevent, under the direction of the members of such Board of Health.

SEC. 58. When any person coming from abroad, or residing in any town or city within this State, is infected or lately has been infected with the small-pox or other contagious disease dangerous to the public health, the Board of Health of the town or city where such sick or infected person is, may immediately cause such person to be removed to a separate house, if it can be done without danger to his health, and shall provide for such person or persons, nurses, medical attendance, and other necessaries, which shall be a charge in favor of such town or city upon the person so provided for, his parents, guardian or master, if able, otherwise upon the county to which he belongs, or upon the State, if said person be a non-resident of the State.

(As amended 1872, Chapter 60.)

SEC. 59. If such infected person cannot be removed without danger to his health the Board of Health shall make provision as directed in the preceeding section for such person in the house where he may be, and in such case, they may cause the persons in the neighborhood to be removed, and may take such other measures as they may deem necessary for the safety of the inhabitants.

SEC. 60. When a disease dangerous to the public health breaks out in any town, the Board shall immediately provide such hospital or place of reception for the sick and infected as is judged best for their accommodation and the safety of the inhabitants, which shall be subject to the regulations of the Board; and the Board may cause any sick and infected persons to be removed thereto, unless his condition will not admit of such removal without danger to his health, in which case the house or place where he remains shall be considered as a hospital, and, with all its inmates, subject to the regulations of the Board.

An Act in regard to Scarlatina, Being Chapter 137, General Laws of 1877, also found in Sections 121 to 123, both inclusive, of Chapter 10, "General Statutes, 1878."

SECTION 1. It shall be the duty of any and every member of all

Boards of Health within this State, whenever they are informed that there is a case of Scarlet Fever within the territory over which the Board of Health, of which he is a member, has jurisdiction, to notify a majority of said Board of such supposed facts within six hours after said information is received by said member of said Board; and they shall immediately examine into the facts of the case, and if the disease appears to be Scarlet Fever, they shall adopt such quarantine and sanitary measures as may, in their judgment, tend to prevent the spread of said disease in its locality.

SEC. 2. And said Board of Health shall have power to forbid, by notices posted upon the entrances to premises where there may be a patient sick with Scarlatina, any person except the medical attendant and his advisors, from going to or leaving said premises without their permission, or carrying, or causing to be carried, any material whereby said disease may be conveyed, until after said disease has abated and the premises, dwelling and clothing have been rendered free from disease, by such disinfecting means as the Board may direct; and if said Board shall be informed that the above, or any reasonable and sanitary measures which they have adopted and made public, is or has been violated, then [the] said Board may cause said offender against this act to be apprehended and brought before an officer having jurisdiction; and said offender shall, upon conviction, be liable to a fine in the sum of not less [than] five dollars (\$5) nor more than twenty-five dollars (\$25) for any violation under this act. Any member of any Board of Health who shall neglect his duties under the provisions of this act, shall be liable, upon conviction in a court having competent jurisdiction, to be fined in a sum not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100) for the first offense; and for conviction for violation of this act the second time, shall, in addition to the fines already provided, become disqualified from holding the office of, or to which is attached the duties of, a member of a Board of Health.

SEC. 3. All fines collected under this act shall be placed to the credit of the general fund of the city, village or town in which the offense is committed.

Chapter 101, "General Statutes, 1878." Offences against the Public Health.

SECTION 1. Whoever knowingly sells any kind of diseased, corrupted or unwholesome provisions, whether for meat or drink, without making the same fully known to the buyer, or whoever having bought or come into the possession of any such diseased, corrupted or unwholesome provisions, shall offer or furnish the same or any part thereof as food or drink to any person or persons without first fully informing such person or persons to whom such provisions are offered, of the true condition of the same, shall be punished by imprisonment in the county jail not more than six months, or by fine not exceeding five hundred dollars (\$500), or by both, such fine and imprisonment in the discretion of the court.

(As amended General Laws, 1879, Chapter 9.)

SEC. 2. That whoever shall knowingly sell to any person or persons, or sell, deliver 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 shall keep back any part of milk known as "strippings," with intent to defraud, or shall knowingly sell milk, the product of a diseased animal or animals, or shall knowingly use any poisonous or deleterious material in the manufacture of cheese or butter, shall, upon conviction thereof, be fined in any sum not less than twenty-five dollars, nor more than one hundred dollars, or imprisonment in the county jail not exceeding thirty days, or both, such fine and imprisonment, or liable in double the amount, of damages, to the person or persons, firm, association or corporation, upon whom such fraud shall be committed.

(General Laws, 1871, Chapter 32, Section 1.)

SEC. 3. 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 (1) year or by a fine not exceeding two hundred dollars (\$200).

(As amended General Laws, 1881, Chapter 19.)

SEC. 4. Whoever fraudulently adulterates, for the purpose of sale, any drug or medicine, or sells any drug or medicine knowing it to be adulterated, or offers the same for sale, shall be punished by imprisonment in the county jail not more than one year, or by a fine not exceeding three hundred dollars; and such adulterated drugs and medicines shall be forfeited and destroyed by order of the court.

(General Statutes, Chapter 101, Section 3.)

SEC. 5. Whoever inoculates himself or or any other person, or suffers himself to be inoculated with the small-pox, within this State, with intent to cause the prevalence or spread of this infectious disease, shall be punished by imprisonment in the State prison not more than three years, nor less than one year.

(General Statutes, Chapter 101, Section 4.)

SEC. 6. If any physician or other person, while in a state of intoxication, prescribes any poison, drug or medicine to another person, he shall be punished by imprisonment in the county jail not more than one year, or by fine not exceeding five hundred dollars.

(General Statutes, Chapter 101, Section 5.)

SEC. 7. Every apothecary, druggist or other person who sells and delivers any arsenic, corrosive sublimate, prussic acid, or any other active poison, without having the word "poison," and the true name thereof in English, written or printed upon a label attached to the vial, box or parcel containing the same, shall be punished by a fine not exceeding one hundred dollars.

(General Statutes, Chapter 101, Section 6.)

SEC. 8. If any druggist or other person sells or gives away any

arsenic, strychnine, corrosive sublimate, or prussic acid, not upon the written prescription of a physician, and fails to keep a record of the date of such sale or gift, the article, and amount thereof sold or given away, and the person to whom delivered, he shall be fined not exceeding fifty dollars for each neglect.

(Laws, 1875, Chapter 91, Section 1.)

SEC. 9. Whoever purchases any such poison and gives a false or fictitious name, shall be punished in the same manner by a fine not exceeding fifty dollars.

(Laws, 1875, Chapter 91, Section 2.)

SEC. 10. Whoever wilfully or knowingly deposits or casts into the Mississippi river, or Lake Pepin, or any other lake, creek, or river in the State of Minnesota, or deposits upon the ice of either, the dead body of any horse, ox, or other animal, or the offal of any such animal, shall be punished by imprisonment in the county jail not more than fifteen days, or by fine not exceeding twenty dollars, nor less than five dollars.

(General Laws, 1866, Chapter 32, Section 1.)

SEC. 11. That any person, being the owner of sheep, or having the same in charge, who shall import or drive into this State, or shall turn out or suffer to run at large upon any common, highway or uninclosed lands, or joining or against any inclosed lands occupied by any person for pasturing sheep, any sheep having any contagious disease, or who shall sell, let or dispose of such sheep, knowing the same to be diseased, without first apprising the purchaser thereof, or person taking them, of such disease, shall be deemed guilty of a misdemeanor, and shall be punished by fine in a sum not less than fifty dollars, nor more than two hundred dollars, to be collected before any court having proper jurisdiction in this State. One-half of the fine so collected shall be paid to the person making the complaint, and the other half to the county in which the complaint was made.

(General Laws, 1866, Chapter 42, Section 1.)

SEC. 12. Nothing in this act shall be so construed as to prevent the recovery of damages in civil actions against any person or persons who shall import or drive such diseased sheep into this State, or who shall sell or let such diseased sheep, or suffer the same to run at large.

(General Laws, 1866, Chapter 42, Section 2.)

SEC 13. 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 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 misdemeanor, 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 (\$100),

or less than twenty-five dollars (\$25), or be imprisoned in the county jail not more than ninety (90) days, or less than ten (10) days.

(General Laws, 1868, Chapter 59, Section 1, as amended by General Laws, 1879, Chapter 46.)

SEC. 14. That it shall not be lawful for any one to bring into the State, or have in possession, any Texas, Cherokee, Indian, or any diseased cattle, except as hereinafter provided.

(General Laws, 1869, Chapter 42, Section 1.)

SEC. 15. This act shall not apply to any Texas, Cherokee or Indian cattle, or other diseased cattle, now on hand within this State; but persons having such shall be compelled to keep them within the bounds of their own premises, or separate from other cattle; and any damage that may accrue from allowing such cattle to run at large, and thereby spreading disease among other cattle, shall be recovered from the owner or owners thereof, who shall be liable to all the pains and penalties, as provided in section four of this act.

(General Laws, 1869, Chapter 42, Section 2.)

SEC. 16. Nothing contained in this act shall be so construed as to prevent the transportation of such cattle through this State on railroads; or to prohibit the driving through any portion of this State such Texas or southern cattle as have been wintered at least one winter north of the northern boundary of the State of Missouri.

(General Laws, 1869, Chapter 42, Section 3.)

SEC. 17. Any person who shall violate the provisions of this act shall, for every such violation, forfeit and pay into the school fund of the county where the offense is committed, a sum not exceeding one thousand dollars, or to be fined and imprisoned in the county jail, at the discretion of the court, though such time of imprisonment shall not exceed six months; and such person or persons shall pay all damages that may accrue to any person by reason of such violation of this act.

(General Laws, 1869, Chapter 42, Section 4.)

For duties of Town Supervisors as a Board of Health—see "General Statutes, 1878," Chapter 10—Sections 55 to 64 both inclusive; also, to be found in "General Statutes" (1869), Chapter 10, Sections 51 to 60, both inclusive, and Chapter 60, General Laws, 1872.

STATE OF MINNESOTA—ATTORNEY GENERAL'S OFFICE, }
ST. PAUL, April 20, 1882. }

Charles N. Hewitt, M. D., Secretary State Board of Health,

Dear Sir:—Your favor has remained unanswered on account of the press of other matters pending at the time of its reception. I will answer your questions in the order of their asking:

1st. Can School Boards exclude unvaccinated children from the public school's?

His Honor, Judge Lochren, in a recent case arising in Anoka county decided that they could not. This opinion I have no doubt is correct.

The only provisions of the Statutes under which such power could be claimed is the third proviso to Section 32 of the Laws of Minnesota, relating to public schools. It provides, "that Boards of Trustees and Boards of Education may suspend or expel pupils for insubordination, immorality or infectious disease." It seems to me clear that under neither of these heads could such exclusion be made. "Infectious disease," the only one at all applicable, clearly means a pupil having a disease that is infectious, or coming from a family, or perhaps a neighborhood where a disease of an infectious character is prevailing—the object and purpose being to prevent the spread of an *existing* sickness, liable to be communicated by such excluded pupil. The exclusion is made because the scholar himself is infected, or because persons with whom he comes in contact *are* infected with a contagious disease and not because he refuses to submit to what may be deemed necessary by the Board to protect him from liability to contract a given sickness.

The right of the legislature itself to specifically enforce compulsory vaccination, is, perhaps, open to question. But whether they have, or have not such authority, it is not necessary to decide now. But in the absence of express and positive sanction there seems to me no room to doubt that no officer of the Government could, under any plea, insist upon a person submitting to this ordeal as a necessary prerequisite to the enjoyment of the privileges of our common schools.

2d. Can Boards of Health order such exclusion ?

I think not. They have no control over the admission or rejection of pupils in our public schools. The Board of Trustees or the Boards of Education have, under the law, the general charge of the interests of schools and school houses in their districts. To authorize an interference with this power by any other person or body, such as the exclusion of pupils for any cause, the authority so to do must be clearly expressed. Inference or implication would not be a sufficient warrant for so doing. There is no express grant of such right to Boards of Health, nor indeed any provision from which a legal inference or implication therefor could be drawn or claimed.

3d. Can School Boards exclude from school, children from families having infectious disease ?

I think they can. What has already been said in answer to your first question sufficiently answers this in the affirmative.

4th. Can we, as Boards of Health, order such exclusion ?

I think not, for reasons given in answer to your second query. Boards of Health may have the power to order school closed where an infectious disease is prevailing in a community. Town Boards, under Section 62, page 175, General Statutes, '78, may, where persons are, or lately have been infected with a contagious disease, dangerous to the public health, cause such person to be removed to a separate house, &c. The State or Town Boards might possibly make regulations relative to persons staying in families where a contagious disease is prevailing; that would be obligatory on School Boards and Trustees; but they could not, in my opinion, order a given pupil to be excluded from the

public school and have such order effectual without some action on the part of such Board or Trustees.

5th. Does the power of the State Board of Health include such action?

It does not; and for the reasons already given. The Statute creating this Board provides that "they shall also have charge of all matters pertaining to quarantine and authority to enact and enforce such measures as may be necessary to the public health;" but save as prescribed in Chapter 11 of Laws of Extra Session of 1881, there are no means provided for the enforcement of such measures. The last named chapter only applies to Boards of Health and health officers, and does not include school officers.

Respectfully Yours,
WILLIAM J. HAHN,
Attorney General.

STATE OF MINNESOTA—ATTORNEY GENERAL'S OFFICE. }
ST. PAUL, May 26, 1882. }

Dr. C. N. Hewitt, Secretary State Board of Health.

Dear Sir:—Your favor received during my absence at court in Wabasha county. I will answer your questions in the order of their asking:

1st. Do the provisions of sections 52 60 [old numbers,] both inclusive, chapter 10, General Statutes, 1878, or any of them apply to Boards of Health of incorporated villages or cities when not in conflict with the provisions of the charters of such villages or cities?

The sections referred to down to section 58, refer exclusively to towns. Section 58 is made applicable to cities as well towns; and I can see no reason why it should not be held to apply to all cities unless perhaps it should appear to be in conflict with their charters.

2d. Are the provisions or any of them of chapter 8, General Laws, 1873, as amended by chapter 11, General Laws, Extra Session, 1881, applicable to Boards of Health of incorporated villages or cities, whose acts of incorporation rest in the city council or other body, the power to appoint Boards of Health? This with especial reference to section 3 of said act.

It seems to me that section 3 of the act of 1873 must be held to be applicable to all Boards of Health, whether in incorporated cities or not. This is the important section of the act. The other sections, where in conflict with the charters of a city would not apply.

3d. Whose duty is it to look after the offenses against public health defined in chapter 101, General Statutes, 1878?

It is the duty of every good citizen to see that the laws are faithfully executed, and especially laws affecting the public health. But more especially, as it seems to me, is it the duty of all health officers to see that all offenders against the provisions of chapter 101 are prosecuted. It is not specifically made the duty of these officers to look after these matters, but it is clearly in the line of their duties.

Yours truly,

W. J. HAHN,
Attorney General.

