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TITLE I.

CRIMES DEFINED AND OF PERSONS COMMITTING THEM.

(This Title is Chapter XCI. of the Statutes of 1866.)

SECTION 1. *Crimes, how divided.*—Crimes and public offenses are divided into:
First. Felonies; and,
Second. Misdemeanors.

SEC. 2. *Definition of felony and misdemeanor.*—A felony is a public offense punishable with death, or which is, or in the discretion of the court may be, punishable by imprisonment in the state prison. Every other public offense is a misdemeanor.

SEC. 3. *Accessory to be punished as principal.*—Whoever aids in the commission of any offense which is a felony, or who is accessory thereto before the fact, by counselling, hiring, or otherwise procuring such felony to be committed, shall be punished in the same manner as is prescribed for the punishment of the principal felon.

SEC. 4. *Accessory, where tried and punished.*—Whoever counsels, hires, or otherwise procures the commission of any felony, may be indicted, tried, and punished in the same court and in the same county where the principal felon might be indicted and tried, although the principal felon is neither indicted or tried, and although the offense of counselling, hiring, or abetting, or procuring the commission of such felony was committed elsewhere, either within or without the limits of this state.

SEC. 5. *Accessory after the fact, how punished.*—Whoever, after the commission of any felony, not standing in the relation of husband or wife, parent or child, by consanguinity or affinity to the offender, harbors, conceals, maintains, or assists the principal felon or accessory before the fact, or gives such offender any other aid, knowing that he has committed a felony, or has been accessory thereto before the fact, with intent that he shall avoid or escape from detection, arrest, trial, or punishment, shall be deemed an accessory after the fact, and be punished by imprisonment in the county jail, not more than one year, or by fine not exceeding two hundred dollars, or both.

SEC. 6. *Accessory after the fact may be convicted and punished, when and where.* Whoever becomes an accessory after the fact to a felony may be indicted, convicted, and punished, whether the principal felon has or has not been convicted previously, or is or is not amenable to justice by any court having jurisdiction to try the principal felon, either in the county where such person became an accessory, or in the county where such principal felony was committed.

SEC. 7. *Attempt to commit offense, how punished.*—Whoever attempts to commit an offense prohibited by law, and in such attempt does any act toward the commission of such offense, but fails in the perpetration or is prevented or intercepted in executing the same, where no provision is made by law for the punishment of such attempt, shall be punished as follows:

First. If the offense so attempted to be committed is punishable with death, the person convicted of such attempt shall be punished by imprisonment in the state prison not exceeding ten years.

Second. If the offense so attempted is punishable by imprisonment in the state prison for four years or more, or by imprisonment in a county jail, the person convicted of such attempt shall be punished by imprisonment in the state prison, or in a county jail, for a term not exceeding one half the longest term of imprisonment prescribed, upon a conviction for the offense so attempted.

Third. If the offense so attempted is punishable by imprisonment in a state prison for any term less than four years, the person convicted of such attempt shall be punished by imprisonment in a county jail, not more than one year.

Fourth. If the offense so attempted is punishable by fine, the offender convicted

of such attempt shall be liable to a fine not exceeding one half of the largest amount which may be imposed upon a conviction for the offense so attempted.

Fifth. If the offense so attempted is punishable by imprisonment and by fine, the offender convicted of such attempt may be punished by both imprisonment and fine not exceeding one half of the longest time of imprisonment, and one half of the greatest fine, which may be imposed, upon a conviction for the offense so attempted.

SEC. 8. *Willful neglect to perform official duty is a misdemeanor.*—Where any duty is enjoined by law, upon any public officer, or upon any person holding any public trust or employment, every willful neglect to perform such duty, and every misbehavior in office where no special provision is made for the punishment of such delinquency or malfeasance, is a misdemeanor punishable by fine and imprisonment.

SEC. 9. *Parties jointly indicted.*—Upon an indictment against several defendants, any one or more may be convicted or acquitted.

SEC. 10. *Distinction between principal and accessory, abrogated.*—The distinction between an accessory before the fact and a principal, and between principals in the first and second degree, in cases of felony, is abrogated; and all persons concerned in the commission of a felony, whether they directly commit the act constituting the offense, or aid and abet in its commission, though not present, shall be indicted, tried, and punished as principals.

State v. Beebe, 17 Minn. 241.

SEC. 11. *Proceedings when defendant is acquitted of part of offense charged.*—Whenever any person indicted for a felony is acquitted, by verdict, of part of the offense charged in the indictment, and convicted of the residue thereof, such verdict may be received and recorded by the court, and thereupon the person charged shall be adjudged guilty of the offense, if any, which appears to the court to be substantially charged by the residue of such indictment, and shall be sentenced and punished accordingly.

Bilinsky v. State, 3 Minn. 427; State v. Eno, 8 Minn. 320; State v. Lessing, 16 Minn. 75.

SEC. 12. *Defendant may be acquitted of felonious intent and convicted of assault.*—In all cases of indictment in the district court, for an assault with intent to commit any felony, the jury, in case they do not find the felonious intent charged, may convict of the assault; and the court shall sentence the person so convicted to be punished by imprisonment in the jail of the county for a term not exceeding one year, or by fine not exceeding five hundred dollars.

State v. Boyd, 4 Minn. 321.

SEC. 13. *Punishment for second or subsequent offense.*—If any person convicted of any offense punishable by fine or imprisonment, or both, is discharged on payment of such fine, or expiration of such imprisonment, or both: or on being pardoned, and is subsequently convicted of a like offense; or if the first offense was a felony, is subsequently convicted of any other felony, such person may for such second or subsequent offense, be punished by fine or imprisonment, or both, not exceeding double the amount or extent of that which might have been inflicted or imposed for the first offense.

TITLE II.

OF OFFENSES AGAINST THE SOVEREIGNTY OF THE STATE.

(This Title is Chapter XCIII. of the Statutes of 1866.)

SEC. 14 (1). *Treason against state, defined.*—Treason against this state shall consist only in levying war against the same, or in adhering to the enemies thereof, giving them aid and comfort.

SEC. 15 (2). *Punishment.*—Whoever commits treason against this state shall be punished by imprisonment in the state prison for life.

SEC. 16 (3). *Misprison of treason.*—Whoever, having knowledge of the commission of treason, conceals the same, and does not, as soon as may be, disclose and make known [such treason] to the governor or one of the judges of the supreme court, shall be adjudged guilty of the offense of misprison of treason, and be punished by fine not exceeding one thousand dollars, or by imprisonment in the state prison not exceeding five years, or in the common jail not exceeding two years.

SEC. 17 (4). *Treason—two witnesses required to convict.*—No person shall be convicted of treason but by the testimony of two lawful witnesses to the same overt act of treason whereof he stands indicted, unless he confesses the same in open court.

TITLE III.

OF OFFENSES AGAINST LIFE AND PERSON.

(This Title is Chapter XCIV. of the Statutes of 1866.)

SEC. 18 (1). *The killing of a human being is, what.*—The killing of a human being, without the authority of law, by poison, shooting, stabbing, or any other means, or in any other manner, is either murder, manslaughter, or excusable or justifiable homicide, according to the facts and circumstances of each case.

SEC. 19 (2). *Such killing is murder, when—punishment—different degrees—when warrant of execution shall issue.*—Such killing when perpetrated with a premeditated design to effect the death of the person killed, or any human being, shall be murder in the first degree, and whoever is convicted of the same shall suffer the penalty of death; but any person convicted of any capital crime shall be kept in solitary confinement for a period of not less than one month nor more than six months, in the discretion of the judge before whom the conviction is had; at the expiration of which time it shall be the duty of the governor to issue his warrant of execution. Such killing, when perpetrated by any act eminently dangerous to one or more persons, and evincing a depraved mind, regardless of the life of such person or persons, although without any design to effect death, shall be murder in the second degree, and shall be punished by imprisonment in the state prison for life; when perpetrated without any design to effect death by a person engaged in the commission of any felony, it shall be murder in the third degree, and be

punished by imprisonment in the state prison not more than thirty years nor less than seven years.

But *vide infra*, sec. 20.

State v. Bilinsky, 3 Minn. 427; *State v. Shippey*, 10 Minn. 223; *Same v. Brown*, 12 Minn. 538; *Same v. Gut*, 13 Minn. 341; *Same v. Hoyt*, 13 Minn. 132; *Same v. Stokly*, 16 Minn. 282.

SEC. 20 (ACT OF MARCH 5, 1868). *Penalty for murder in the first degree.*—The penalty of death as a punishment for crime is hereby abolished in this state, except in the cases provided for in subdivision two of this section (section two of this act), and hereafter the penalty for the crime of murder in the first degree shall be as prescribed in subdivisions (section) two and three of this act.

SUB-DIV. 2. Whenever upon the trial of any person upon an indictment for murder in the first degree, the jury shall have agreed upon a verdict of guilty of such offense, such jury may also determine in the same manner that the person so convicted shall be punished by death, and if they so determine, shall render their verdict accordingly; and in such case the person so convicted shall be punished by death, as prescribed by section nineteen (two) of this chapter, for the punishment of murder in the first degree.

SUB-DIV. 3. Whoever shall be convicted of murder in the first degree, if the jury upon whose conviction the penalty is inflicted, shall not by their verdict prescribe the penalty of death, shall be punished by imprisonment at hard labor in the state prison during the remainder of the term of his natural life, with solitary confinement upon bread and water diet for twelve days in each year during the term, to be apportioned in periods of not exceeding three days' duration each, with an interval of not less than fourteen days, intervening each two successive periods.

SUB-DIV. 4. The provisions of this act shall not apply nor extend to any act done nor offense committed prior to the passage hereof, but the provisions of law now in force and applicable to the crime of murder in the first degree, as well in respect to the penalty affixed to the commission of such crime, as in all other respects, shall be and remain in full force and effect as to any such offense heretofore committed.

SEC. 21 (3). *When justifiable or excusable homicide or manslaughter.*—The killing of one human being by the act, procurement, or omission of another, in cases where such killing is not murder according to the provisions of this chapter, is either justifiable or excusable homicide, or manslaughter.

SEC. 22 (4). *Justifiable homicide by public officers.*—Such homicide is justifiable when committed by public officers and those acting by their command, in their aid and assistance, either in obedience to any judgment of any competent court; or when necessarily committed in overcoming actual resistance to the execution of some legal process, or to the discharge of any other legal duty; or when necessarily committed in retaking felons who have been rescued, or who have escaped; or when necessarily committed in arresting felons fleeing from justice.

SEC. 23 (5). *Justifiable homicide by any person.*—Such homicide is also justifiable when committed by any person in either of the following cases:

First. When resisting any attempt to murder such person, or to commit any felony upon him or her, or upon or in any dwelling house in which such person is; or,

Second. When committed in the lawful defense of such person, or of his, or her husband, wife, parent, child, master, mistress, or servant, when there is a reason-

able ground to apprehend a design to commit a felony, or to do some great personal injury, and there is imminent danger of such design being accomplished; or,
Third. When necessarily committed in attempting by lawful ways and means to apprehend any person for any felony committed; or lawfully suppressing any riot, or in lawfully keeping and preserving the peace.

SEC. 24 (6). *Excusable homicide.*—Such homicide is excusable when committed by accident or misfortune in lawfully correcting a child or servant, or in doing any other lawful act by lawful means, with ordinary caution, and without any unlawful intent.

SEC. 25 (7). *Jury shall acquit, when.*—Whenever it appears to the jury, on the trial of any person for murder or manslaughter, that the alleged homicide was committed under circumstances or in cases where by law such homicide was justifiable or excusable, the jury shall render a verdict of not guilty.

SEC. 26 (8). *Manslaughter in first degree.*—The killing of a human being, without a design to effect death, by the act, procurement, or culpable negligence of any other, while such other is engaged in the perpetration of any crime or misdemeanor, not amounting to felony; or in an attempt to perpetrate any such crime or misdemeanor, in cases where such killing would be murder, at the common law, is manslaughter in the first degree.

SEC. 27 (9). *Same.*—Whoever deliberately assists another in the commission of self-murder, is guilty of manslaughter in the first degree.

SEC. 28 (10). *Same.*—The willful killing of an unborn infant child, any injury to the mother of such child, which would be murder if it resulted in the death of such mother, is manslaughter in the first degree.

Sec. 11 of chapter xciv., G. S. 1866, repealed, and the following act substituted.

SEC. 29.

AN ACT

TO PUNISH ABORTIONISTS AND ATTEMPTS TO PROCURE ABORTION WITH IMPROPER ADVERTISING IN THAT DIRECTION.

Be it enacted by the Legislature of the State of Minnesota:

SEC. 1. That any person who shall administer to any woman with child, or prescribe for any such woman, or suggest to, or advise, or procure her to take any medicine, drug, substance, or thing whatever, or who shall use or employ, or advise or suggest the use or employment of any instrument, or other means or force whatever, with intent thereby to cause or procure the miscarriage or abortion or premature labor of any such woman, unless the same shall have been necessary to preserve her life, or the life of such child, or shall, in case the death of such child or of such woman results in whole or in part therefrom, be deemed guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison for a term not more than ten years nor less than three years.

SEC. 2. Any person who shall administer to any woman with child, or prescribe or procure, or provide for any such woman, or suggest to, or advise, or procure any such woman to take any medicine, drug, substance, or thing whatever, or shall use or employ, or suggest or advise the use or employment of any instrument or other means or force whatever, with intent thereby to cause or procure the miscarriage, or abortion, or premature labor of any such woman, shall, upon conviction thereof,

be punished by imprisonment in the state's prison for a term not more than two years nor less than one year, or by fine not more than five thousand dollars nor less than five hundred dollars, or by such fine and imprisonment both, at the discretion of the court.

Sec. 3. Any woman with child, who shall apply to, or solicit from any physician, druggist, or other person whomsoever, any medicine, drug, substance, or thing whatever, or shall take or administer the same, or shall submit to or perform upon herself any operation of any sort or character whatever, with intent thereby to cause or procure a miscarriage or abortion, or premature labor, unless the same shall have been necessary to preserve her life, or the life of such child, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment in the county jail for a term not more than two years nor less than three months, or by fine not exceeding one thousand dollars nor less than three hundred dollars, or by such fine and imprisonment both, at the discretion of the court.

Sec. 4. Any person who shall knowingly advertise, print, publish, distribute, or circulate in any form, or shall knowingly cause to be advertised, printed, published, distributed, or circulated in any form, any book, pamphlet, circular, printed paper, newspaper notice, or reference containing language or words, or characters giving or conveying any notice, hint, or reference to any person, or to the name of any person, real or fictitious, from whom, or to any house, shop, store, office, or other place whatever, where any poison, drug, mixture, preparation, medicine, or noxious thing, or any instrument or means whatever, or any advice, direction, information, or knowledge may be obtained, for the purpose of causing or procuring the miscarriage or abortion, or premature labor of any woman pregnant with child, shall, upon conviction thereof, be punished by imprisonment in the state prison for a term not more than two years, or in the county jail for a period not less than three months, or by fine not more than five hundred dollars nor less than one hundred dollars, or by such fine and imprisonment both, at the discretion of the court.

Sec. 5. On any preliminary examination, and on any inquiry before a grand jury, and on the trial of any indictment for any alleged offense under this act, no person shall be protected from testifying as a witness, for the reason that the testimony of such witness would tend to criminate or disgrace such witness: *provided, however,* that no testimony so given, of a character tending to criminate or disgrace such witness, shall ever be used in evidence in any action, prosecution, or proceeding, civil or criminal, against such witness, or against his or [her] personal representatives.

Sec. 6. All prosecutions under this act shall be commenced within two years after the commission of the offense.

Sec. 7. Section eleven of chapter ninety-four of the general statutes of the state of Minnesota is hereby repealed: *provided, however,* that such repeal shall not affect prosecutions thereunder now pending, nor any prosecution that may be hereafter commenced for violations of said section heretofore committed, in respect to all which said section shall be and remain in force as if this act had not been passed.

Sec. 8. This act shall take effect and be in force from and after its passage.

Approved March 10, 1873.

Sec. 30 (12). *Manslaughter in second degree.*—The killing of a human being

by another, in a heat of passion, upon sudden provocation, or in sudden combat, intentionally, but without premeditation, is manslaughter in the second degree.

State v. Hoyt, 13 Minn. 132.

SEC. 31 (13). *Same continued.*—Whoever unnecessarily kills another, except by accident or misfortune, and except in cases mentioned in subdivision two of section five of this chapter, either while resisting an attempt by such other person to commit any felony, or to do any other unlawful act, or after such attempt has failed, shall be guilty of manslaughter in the second degree.

SEC. 32 (14). *Same concluded.*—The killing of a human being by another, without a design to effect death, but with a dangerous weapon, or in a cruel and unusual manner, in the heat of passion, upon sudden provocation, or in sudden combat, is manslaughter in the second degree.

SEC. 33 (15). *Manslaughter in third degree.*—The involuntary killing of a human being, by the act, procurement, or culpable negligence of another, while such other person is engaged in the commission of a trespass, or other injury to private rights or property, or engaged in an attempt to commit such injury, or engaged in an unlawful act, which killing would not be manslaughter in the first or second degree, according to the provisions of the preceding sections of this chapter, is manslaughter in the third degree.

SEC. 34 (16). *Same continued.*—If the owner of a mischievous animal, knowing its propensities, willfully suffers it to go at large, or keeps it without ordinary care, and such animal while so at large or not confined, kills any human being who has taken all the precautions which the circumstances permit to avoid such animal, such owner is guilty of manslaughter in the third degree.

SEC. 35 (17). *Same continued.*—Any person navigating any boat or vessel for gain, who willfully or negligently receives so many passengers, or such a quantity of other lading, that by means thereof such boat or vessel sinks or oversets, and thereby any human being is drowned or otherwise killed, is guilty of manslaughter in the third degree.

SEC. 36 (18). *Same continued.*—If the captain, or any other person, having charge of any steamboat used for the conveyance of passengers, or if the engineer or other person, having charge of the boiler of such boat, or of any other apparatus for the generation of steam, shall, from ignorance or gross neglect, or for the purpose of excelling any other boat in speed, create or allow to be created such an undue quantity of steam as to burst or break the boiler or other apparatus in which it is generated, or any apparatus or machinery connected therewith, by which, in bursting or breaking, any person is killed, every such captain, engineer, or other person, is guilty of manslaughter in the third degree.

SEC. 37 (19). *Same continued.*—If any conductor, engineer, brakeman, or other person having the management or control of any railroad train, locomotive, engine, or cars, upon any railroad, is guilty of gross negligence or carelessness or neglect, in relation to the conduct, management, or control of such railroad train, engine, or cars, by reason of which any human being is killed, he is guilty of manslaughter in the first degree.

SEC. 38 (20). *Same concluded.*—If any physician, while in a state of intoxication, without a design to effect death, administers any poison, drug, or medicine, or does any other act to another person which produces the death of such other, he is guilty of manslaughter in the third degree.

SEC. 39 (21). *Manslaughter in fourth degree.*—The involuntary killing of a human being by another, with any weapon not dangerous, or by any means neither cruel nor unusual, in the heat of passion, is manslaughter in the fourth degree.

SEC. 40 (22). *Same continued.*—Every other killing of a human being by the act, procurement, or culpable negligence of another, where such killing is not justifiable or excusable, or is not declared, in this chapter, murder, or manslaughter of some other degree, is manslaughter in the fourth degree.

SEC. 41 (23). *Manslaughter in first, second, and third degrees, how punished.*—Persons convicted of manslaughter in the first, second, or third degrees, shall be punished by imprisonment in the state prison as follows :

Persons convicted of manslaughter in the first degree, for a term not less than seven years ; if convicted of manslaughter in the second degree, for a term not more than seven nor less than four years ; if convicted of manslaughter in the third degree, for a term not more than four years nor less than two years.

SEC. 42 (24). *Manslaughter in fourth degree, how punished.*—Whoever is convicted of manslaughter in the fourth degree, shall be punished by imprisonment in the state prison for two years, or by imprisonment in a county jail not exceeding one year, or by a fine not exceeding one thousand dollars, or by both such fine and imprisonment.

SEC. 43 (25). *Murder in second degree.*—Whoever by previous engagement or appointment, fights a duel within the jurisdiction of this state, and in so doing inflicts a wound upon any person, whereof the person so injured dies, is guilty of murder in the second degree.

SEC. 44 (26). *Same continued.*—Whoever is the second of either party in such duel as is mentioned in the preceding section, and is present when such wound is inflicted whereof death shall ensue, is an accessory before the fact to the crime of murder in the second degree.

SEC. 45 (27). *Penalty for fighting or acting in duel.*—Whoever fights a duel, without this state, or acts as a second or surgeon in the same, by previous arrangement, within this state, shall be incapable of voting or holding any office within this state, for ever thereafter.

SEC. 46 (28). *Engaging in duel or sending challenge, how punished.*—Whoever engages in a duel with any deadly weapon, although no homicide ensues, or challenges another to fight such duel, or sends or delivers any written or verbal message, purporting or intending to be such challenge, although no duel ensues, shall be punished by imprisonment in the state prison not more than ten years nor less than three years, and shall be incapable of voting or holding any office of trust or profit under the laws of this state.

SEC. 47 (29). *Accepting challenge, or aiding in duel, how punished.*—Whoever accepts such challenge, or who knowingly carries or delivers any such challenge or message, whether a duel ensues or not, and every person who is present at the fighting of a duel with deadly weapons, as an aid or second, or surgeon, or who advises, encourages, or promotes such duel, shall be punished by imprisonment in the state prison not more than two years nor less than one year.

SEC. 48, (30). *Posting another, etc., how punished.*—Whoever posts another, or, in writing or print, uses any reproachful or contemptuous language to, or concerning another, for not fighting a duel, or for not sending or accepting a challenge, shall be punished by imprisonment in the state prison not more than one year nor

less than six months, or by fine not exceeding five hundred dollars nor less than one hundred dollars.

SEC. 49 (31). *Punishment for mayhem.*—Whoever, with malicious intent to maim or disfigure, cuts out or maims the tongue, puts out or destroys an eye, cuts or tears off an ear, cuts, slices, or mutilates the nose or lips, or cuts off or disables a limb or member of any person, and every person privy to such intent, who is present aiding in the commission of such offense, shall be punished by imprisonment in the state prison not more than five years nor less than one year, or by fine not exceeding one thousand dollars nor less than two hundred dollars.

SEC. 50 (32). *Assault with intent to murder or maim, how punished.*—Whoever assaults another, with intent to murder, or to maim, or to disfigure his person in any of the ways mentioned in the preceding section, shall be punished by imprisonment in the state prison not more than five years nor less than one year, or by fine not exceeding one thousand dollars nor less than one hundred dollars.

Bonfanti v. State, 2 Minn. 129.

SEC. 51 (33). *Assault with dangerous weapon, how punished.*—Whoever being armed with a dangerous weapon, assaults another, with intent to do great bodily harm, shall be punished by fine not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in the state prison not more than five years, in the discretion of the court.

State v. Dineen, 10 Minn. 407; *Samé v. Garvey*, 11 Minn. 154.

SEC. 52 (34). *Robbery, how punished.*—Whoever assaults another, and feloniously robs, steals, and takes from his person any money or other property which is the subject of larceny, such robber being armed with a dangerous weapon, with intent, if resisted, to kill or maim the person robbed, or if, being so armed, he wounds or strikes the person robbed, shall be punished by imprisonment in the state prison not more than ten years nor less than three years.

SEC. 53 (35). *Assault with intent to rob or murder, how punished.*—Whoever, being armed with a dangerous weapon, assaults another with intent to rob or to murder, shall be punished by imprisonment in the state prison not more than five years nor less than one year.

State v. Bonfanti, 2 Minn. 124.

SEC. 54 (36). *Robbery without dangerous weapon, how punished.*—Whoever by force and violence, or by assault and putting in fear, feloniously robs, steals, and takes from the person of another, any money or other property which is the subject of larceny, such robber not being armed with a dangerous weapon, shall be punished by imprisonment in the state prison not more than three years nor less than one year.

SEC. 55 (37). *Assault with intent to rob or steal, how punished.*—Whoever, not being armed with a dangerous weapon, assaults another with force and violence, and with intent to rob or steal, shall be punished by imprisonment in the state prison not more than two years nor less than six months.

SEC. 56 (38). *Attempt to extort money, etc., by threats, how punished.*—Whoever, either verbally or by any written or printed communication, maliciously threatens any injury to the person or property of another, with intent thereby to extort money or any pecuniary advantage whatever, or with intent to compel the person so threatened to do any act against his will, shall be punished by imprison-

ment in the state prison not more than one year nor less than six months, or by fine not exceeding five hundred dollars nor less than one hundred dollars.

State v. Ullman, 5 Minn. 13.

SEC. 57 (39). *Rape, how punished.*—Whoever ravishes and carnally knows any female of the age of ten years or more, by force and against her will, shall be punished by imprisonment in the state prison not more than thirty years nor less than ten years; but if the female on trial is proven to have been at the time of the offense a common prostitute, he may be imprisoned not more than one year.

O'Connell v. State, 6 Minn. 279.

SEC. 58 (40). *Carnal knowledge of child under ten years of age, how punished.*—Whoever unlawfully and carnally knows and abuses any female child under the age of ten years, shall be punished by imprisonment in the state prison for life.

SEC. 59 (41). *Assault with intent to commit rape, how punished.*—Whoever assaults any female, with intent to commit the crime of rape, shall be punished by imprisonment in the state prison not more than ten years nor less than one year.

O'Connell v. State, 6 Minn. 279.

SEC. 60 (42). *False imprisonment and kidnapping, how punished.*—Whoever, without lawful authority, and willfully or maliciously, and with a wrongful intent, forcibly or secretly confines or imprisons any other person in this state against his will, or forcibly carries or sends such person out of the state against his will, or forcibly seizes and confines, inveigles, or kidnaps any other person, with intent either to cause such person to be secretly confined or imprisoned in this state against his will, or to cause such person to be sent out of this state against his will, or to be sold as a slave, or in any way held to service against his will; and whoever sells, or in any manner transfers for any term, the service or labor of any negro, mulatto, or other person of color, who has been unlawfully seized, taken, inveigled, or kidnapped from this state to any state, place, or country, shall be punished by imprisonment in the state prison not more than five years nor less than one year, or by fine not exceeding one thousand dollars nor less than five hundred dollars.

SEC. 61 (43). *Offenses in such cases, where tried.*—Every offense mentioned in the preceding section may be tried either in the county in which the same was committed, or in any county in or to which the person so seized, taken, inveigled, kidnapped, or sold, or whose services were so sold or transferred, has been taken, confined, held, carried, or brought; and upon the trial of any such offense the consent thereto of the person so taken, inveigled, kidnapped, or confined shall not be a defense, unless it satisfactorily appears to the jury that such consent was not obtained by fraud, nor extorted by duress or by threats.

SEC. 62 (44). *Administering poison with intent to kill or injure, how punished.*—Whoever mingles any poison with any food, drink, or medicine, with intent to kill or injure any other person, or willfully poisons any spring, well, or reservoir of water with such intent, shall be punished by imprisonment in the state prison not more than ten years nor less than one year.

SEC. 63 (45). *Assault with intent to commit felony, how punished.*—Whoever assaults another with intent to commit any burglary, robbery, rape, manslaughter, mayhem, or any felony, the punishment of which assault is not herein prescribed, shall be punished by imprisonment in the state prison not more than three years nor less than six months, or by fine not exceeding one thousand dollars nor less than one hundred dollars.

SEC. 64 (1 OF ACT OF FEBRUARY 27, 1869). *Unlawful to set spring guns, etc.*—The setting of a so-called trap or spring gun, pistol, rifle, or other deadly weapon in this state is hereby prohibited, and declared to be unlawful.

SEC. 65 (2 *ib.*) *Punishment for violating the foregoing section.*—Any person offending against the foregoing section shall be punished as follows: If no injury results therefrom to any person, the person so offending shall be punished by imprisonment in the county jail of the proper county for a period not less than six months, or by fine not exceeding five hundred dollars, or by both fine and imprisonment, at the discretion of the court. If death results to any human being from the discharge of a weapon so unlawfully set, the person so offending shall, upon conviction thereof, be punished by imprisonment in the state prison for a term not exceeding fifteen nor less than ten years. If any person is injured, but not fatally, by the discharge of any weapon so unlawfully set, the person so offending, upon conviction thereof, shall be punished by imprisonment in the state prison for a term not exceeding five years, in the discretion of the court.

S. L. 1869, 50.

SEC. 66 (1 OF ACT OF MARCH 5, 1868). *Penalty for obstructing railroad.*—Whoever shall willfully and maliciously obstruct the passage of any carriage upon any railroad, or in any way injure such road or anything appertaining thereto, or any materials or implements for the construction and use thereof, and whoever shall be aiding and abetting in such trespass, shall forfeit to the use of the corporation for every such offense treble the amount of the damages which shall appear on the trial to have been sustained thereby.

SEC. 67 (2). *Penalty for obstructing engine or carriage.*—Whoever shall willfully obstruct any engine or carriage passing upon any railroad, so as to endanger the safety of persons conveyed in and upon the same, or shall assist or aid therein, shall be punished by imprisonment in the state prison not exceeding twenty years.

SEC. 68 (3). *Penalty for aiding in same.*—Whoever shall willfully do or cause to be done anything with intent to obstruct any engine or carriage passing upon any railroad, or with intent to endanger the safety of persons conveyed in or upon the same, or whoever shall aid or assist therein, shall be punished by imprisonment in the state prison not more than five years, or by fine, not exceeding five hundred dollars nor less than one hundred dollars, and by imprisonment in the county jail not more than one year nor less than three months.

SEC. 69 (4). *No prior liabilities to be affected by this act.*—No liabilities already incurred, or proceedings pending, shall be affected by the passage of this act.

S. L. 1868, 96.

TITLE IV.

OFFENSES AGAINST PROPERTY.

(This Title is Chapter XCV. of the Statutes of 1866.)

SEC. 70 (1). *Burning dwelling in night time by which human life is destroyed, how punished.*—Whoever willfully and maliciously burns in the night time the dwelling house of another, whereby the life of any person is destroyed, or in the

night time willfully and maliciously sets fire to any other building owned by himself or another, by the burning whereof such dwelling house is burned in the night time, whereby the life of any person is destroyed, shall suffer the same punishment as is provided for the crime of murder in the second degree; but if the life of no person was destroyed; he shall be punished by imprisonment in the state prison not more than fourteen years nor less than seven years; and if, at the time of committing the offense, there was no person lawfully in the dwelling house so burnt, he shall be punished by imprisonment in the state prison not more than ten years nor less than three years.

SEC. 71 (2). *Burning dwelling in day time, etc., how punished.*—Whoever willfully and maliciously burns in the day time the dwelling house of another, or any building adjoining such dwelling house, and willfully and maliciously sets fire to any building owned by himself or another, by the burning whereof such dwelling house is burnt in the day time, or in the day time willfully and maliciously sets fire to any building owned by himself or another, by the burning whereof such dwelling house is burned in the night time, shall be punished by imprisonment in the state prison not more than fifteen years nor less than five years.

SEC. 72 (3). *Burning church, etc., in night time, how punished.*—Whoever willfully and maliciously burns in the night time any meeting house, church, court house, town house, college, academy, jail, or other building erected for public uses, or any ship, steanboat, or other vessel, or any banking house, warehouse, store, manufactory, or mill of another, or any barn, stable, shop, or office of another, within the curtilage of any dwelling house, or any other building, by the burning whereof any building mentioned in this section is burnt in the night time, shall be punished by imprisonment in the state prison not more than fifteen years nor less than five years.

SEC. 73 (4). *Burning church, etc., in day time, how punished.*—Whoever willfully and maliciously burns in the day time any building mentioned in the preceding section, the punishment for which if burnt in the night time would be imprisonment in the state prison not more than fifteen years nor less than five years, shall be punished by imprisonment in the state prison not more than eight years nor less than four years.

SEC. 74 (5). *Burning store, mill, etc., how punished.*—Whoever willfully and maliciously burns in the night time or day time, any banking house, warehouse, store, manufactory, mill, barn, stable, shop, outhouse, or other building whatever of another, other than is mentioned in the third section of this chapter, or any bridge, lock, dam, or flume, shall be punished by imprisonment in the state prison not more than eight years nor less than four years; and whoever makes an unsuccessful attempt to commit either of the offenses mentioned in this or the preceding sections of this chapter, shall be punished by imprisonment in the state prison for a term not exceeding five years nor less than one year.

SEC. 75 (6). *Burning boards, timber, etc., how punished.*—Whoever willfully and maliciously burns any pile or parcel of boards, timber, or other lumber, or any stack of hay, grain, or other vegetable product severed from the soil but not stacked, or any standing grain, grass, or other standing product of the soil, shall be punished by imprisonment in the state prison not more than two years nor less than six months.

SEC. 76 (7). *Preceding sections shall extend to married women.*—The preceding

sections shall severally extend to a married woman who may commit either of the offenses therein described, though the property burnt or set fire to may belong partly or wholly to her husband.

SEC. 77 (8). *Burning property to injure insurer, how punished.*—Whoever willfully burns any goods, wares, merchandise, or other chattels, or any dwelling house, hotel, store, or other building, which is at the time insured against loss or damage by fire, with intent to injure the insurer, whether such person is the owner of the property burnt or not, shall be punished by imprisonment in the state prison not more than ten years nor less than three years.

SEC. 78 (9). *Burglary in dwelling by person armed with dangerous weapon, with intent, etc., how punished.*—Whoever breaks and enters any dwelling house in the night time, with intent to commit the crime of murder, rape, robbery, larceny, or any other felony, or after having entered with such intent, breaks any such dwelling house in the night time, any person being then lawfully therein, and the offender being armed with a dangerous weapon at the time of such breaking or entering, or so arming himself in such house, or making an actual assault on any person lawfully therein, shall be punished by imprisonment in the state prison not more than twelve years nor less than four years.

SEC. 79 (10). *Burglary in dwelling by person not armed, how punished.*—Whoever breaks and enters any dwelling house in the night time with such intent as is mentioned in the preceding section, or having entered with such intent, breaks such dwelling house in the night time, the offender not being armed nor arming himself in such house with a dangerous weapon, nor making an assault upon any person then being lawfully therein, shall be punished by imprisonment in the state prison not more than five years nor less than two years.

SEC. 80 (11). *Breaking and entering office, etc., with intent, etc., how punished.* Whoever breaks and enters in the night time any office, shop, or warehouse, not adjoining to, or occupied with, a dwelling house, or any ship, steamboat, or vessel, within the body of any county, with intent to commit the crime of murder, rape, robbery, larceny, or any other felony, shall be punished by imprisonment in the state prison not more than three years nor less than one year.

SEC. 81 (12). *Entering any building in day time or night time, with intent, etc., how punished.*—Whoever enters in the night time without breaking, or breaks and enters in the day time, any dwelling house, or any outhouse thereto adjoining and occupied therewith, or any office, shop, or warehouse, or any ship, steamboat, or vessel, within the body of any county, with intent to commit the crime of murder, rape, robbery, larceny, or other felony, shall be punished by imprisonment in the state prison not more than four years nor less than six months; and every person who makes an unsuccessful attempt to commit either of the offenses specified in this or the preceding six sections of this chapter, shall be punished by imprisonment in the state prison for a term not exceeding two years nor less than six months.

SEC. 82 (13). *Larceny in dwelling house, office, etc., how punished.*—Whoever commits the crime of larceny in any dwelling house, office, shop, bank, or warehouse, ship, steamboat, or vessel, or breaks and enters in the night time or day time any meeting house, church, court house, town house, college, academy, or other public building erected for public use, and steals therein, shall be punished by imprisonment in the state prison not more than three years nor less than one year,

or by imprisonment in the county jail not more than one year, nor less than three months, or by fine not exceeding five hundred dollars.

SEC. 83 (14). *Larceny from the person, how punished.*—Whoever commits the offense of larceny, by stealing from the person of another, shall be punished by imprisonment in the state prison not more than four years nor less than two years, or by imprisonment in the county jail not more than two years nor less than three months, or by fine not exceeding five hundred dollars.

State v. Eno, 8 Minn. 220 ; State v. Hazard, 12 Minn. 293.

SEC. 84 (15, AS AMENDED BY ACT OF MARCH 1, 1872). *Larceny exceeding \$100 in value, how punished—less than \$100, how punished.*—Whoever commits the crime of larceny by stealing of the property of another any money, goods, or chattels, or both, [bank] note, bond, promissory note, bill of exchange, or other bill, order or certificate, or any book of accounts, for or concerning money or goods due or to become due, or to be delivered, or any deed or writing containing a conveyance of land, or any other valuable contract in force, or any receipt, or release, or defeasance, or any writ, process, or public record, if the value of the property stolen is one hundred dollars or over, shall be punished by imprisonment in the state prison not more than seven years nor less than one year ; if the value of the property stolen is less than one hundred dollars, and more than twenty dollars, he shall be punished by imprisonment in the state prison not more than three years nor less than six months, or by imprisonment in the county jail not more than six months nor less than three months, or by fine not exceeding three hundred dollars ; and if the value of the property stolen does not exceed twenty dollars, he shall be punished by imprisonment in the county jail not more than three months or by fine not exceeding one hundred dollars.

S. L. 1872, 141 ; also S. L. 1867, 116.

State v. Hinckley, 4 Minn. 345 ; Same v. Taunt, 16 Minn. 109.

SEC. 85 (16). *Stealing railroad tickets is larceny.*—Whoever steals, takes, and carries away any railroad passenger ticket, or tickets, prepared for sale to passengers, previous to or after the sale thereof, being the personal property of any railroad company, or any other corporation or person, is guilty of larceny.

SEC. 86 (17). *Railroad tickets defined.*—Railroad passenger tickets of any railroad company, as well before the same are delivered or issued to its receivers or other agents for sale, as after, and whether indorsed or stamped by such receivers or other agents or not, are to be deemed railroad tickets within the meaning of the last section, and the prices authorized to be charged for such tickets on a scale thereof, shall be deemed the value of such ticket or tickets in all cases arising under said section.

SEC. 87 (18). *Receiving stolen goods, etc., how punished.*—Whoever buys, receives, or aids in the concealment of stolen money, goods, or property, knowing the same to have been stolen, shall be punished by imprisonment in the state prison not more than four years nor less than one year, or by imprisonment in the county jail not more than two years nor less than three months, or by fine not exceeding five hundred dollars.

SEC. 88 (19). *Justice of the peace to have jurisdiction, when.*—Every justice of the peace shall have jurisdiction, concurrent with the district court, of all offenses of buying, receiving, or aiding in the concealment of stolen goods or other property, in all cases in which they would have had jurisdiction of a larceny of the same

goods or other property; and the punishment of buying, receiving, or aiding in the concealment of such goods or other property, shall be the same as in the case of a larceny of the same goods or other property with the same right of appeal on conviction.

SEC. 89 (20). *Receiver of stolen property may be tried before thief.*—In any prosecution for the offense of buying, receiving, or aiding in the concealment of stolen money or other property known to have been stolen, it shall not be necessary to aver, nor on the trial prove, that the person who stole such property has been convicted.

SEC. 90 (21, AS AMENDED BY ACT OF MARCH 9, 1867). *Duty of officer.*—The officer who arrests any person charged as principal or accessory in any robbery or larceny shall use reasonable diligence to secure the property alleged to be stolen, and after seizure shall be answerable for the same, and he shall annex a schedule thereof to his return of the warrant, and upon conviction of the offender the stolen property shall be restored to the owner: *provided*, that when such property alleged to be stolen is held by such officer, and is by the county attorney of the proper county deemed necessary to be used as evidence upon the trial or examination of the person charged with the larceny, the said officer arresting such person charged shall, upon demand thereof by such county attorney, deliver such property alleged to be stolen into the possession of such county attorney, and take his receipt therefor, and such county attorney shall thereupon hold such alleged stolen property, and be answerable for the same in the place of such sheriff, and upon conviction of the offender shall restore the stolen property to the owner.

S. L. 1867, 132.

SEC. 91 (22). *Embezzlement by officer or agent of bank, deemed larceny.*—If any cashier or other officer, or any agent, clerk, or servant, of any incorporated bank, embezzles or fraudulently converts to his own use, or fraudulently takes or secretes, with intent to convert to his own use, any bullion, money, note, bill, obligation, or security, or any other effects or property belonging to and in possession of such bank, or belonging to any person and deposited therein, he shall be deemed to have committed larceny in such bank.

SEC. 92 (23). *Embezzlement by officer or agent of corporation, etc., deemed larceny.*—If any officer, agent, clerk, or servant of any incorporated company, or if any clerk, agent, or servant of any private person, or of any copartnership, except apprentices and other persons under the age of sixteen years, embezzles or fraudulently converts to his own use, or takes and secretes, with intent to embezzle and convert to his own use, without consent of his employer or master, any money or property of another which has come to his possession, or is under his care by virtue of such employment, he shall be deemed to have committed larceny.

State v. McCarty, 17 Minn. 76.

SEC. 93 (24). *Embezzlement by carrier of goods, etc., deemed larceny.*—If any carrier or other person to whom any money, goods, or other property, which is the subject of larceny, is delivered to be carried for hire, or if any other person who is intrusted with such property, embezzles or fraudulently converts to his own use, or secretes with intent to embezzle or fraudulently convert to his own use, any money, goods, or property, either in the mass as the same were delivered, or otherwise, and before delivery of such money, goods, or property, at the places where or

to the persons to whom they were to be delivered, he shall be deemed to have committed larceny.

SEC. 94 (25). *Embezzlement or fraudulent sale by warehouseman, et als., deemed larceny.*—Any warehouseman, storage, forwarding, or commission merchant or miller, or his agents, clerks, or servants, who embezzles or fraudulently converts to his or their own use, or fraudulently sells or otherwise disposes of for his or their own gain, profit, or advantage, without the consent of the owner thereof, any grain, flour, pork, beef, wool, or other goods, wares, or merchandise, which have been received by such warehouseman, miller, or storage, forwarding, or commission merchant, to be stored for hire or for other purpose, shall be deemed to have committed larceny.

SEC. 95 (26). *Conversion of or neglect to pay over public moneys, deemed embezzlement.*—If any person having in his possession any money belonging to this state, or any county, town, city, or other municipal corporation or school district, or in which this state, or any county, town, city, village, or other municipal corporation, or school district, has any interest, or if any collector or treasurer of any town or county, or incorporated city, town, or village, or school district, or the treasurer or other disbursing officer of the state, or any other person holding any office under any law of this state, or any officer of an incorporated company, who is by virtue of his office intrusted with the collection, safe keeping, transfer, or disbursement of any tax, revenue, fine, or other money, converts to his own use, in any way or manner whatever, any part thereof, or loans, with or without interest, any portion of the money intrusted to him as aforesaid, or improperly neglects or refuses to pay over the same, or any part thereof, according to the provisions of law, he is guilty of embezzlement.

SEC. 96 (27). *Embezzlement, how punished.*—Whoever is guilty of embezzling any money prohibited by this or the preceding section, not exceeding in amount the sum of one hundred dollars, shall be punished by imprisonment in the county jail not more than twelve months, nor less than three months; and whoever is convicted of embezzling a greater sum than one hundred dollars, shall be punished by imprisonment in the state prison not more than three years, nor less than one year, and by a fine in each case of twice the amount so embezzled; and if the court cannot determine from the verdict of the jury or otherwise, the amount of the sum embezzled, it shall impose such fine as shall be adequate and corresponding as nearly as may be with the penalty imposed by this section; and every refusal by an officer to pay any sum lawfully demanded, shall be deemed an embezzlement of the sum so demanded.

SEC. 97 (28). *Who deemed an accessory, and how punished.*—Any person demanding of an officer any sum of money which he may be entitled to demand and receive, and who is unable to obtain the same, by reason of the money having been embezzled as aforesaid, if he neglects or refuses for thirty days after making such demand, to make complaint against such officer, is an accessory, and shall be punished by fine not exceeding one hundred dollars.

SEC. 98 (29). *Refusal of an officer to pay over public money, not deemed embezzlement, when.*—The refusal of an officer to pay any demand in specie, where the sum so demanded was actually received by such officer in good faith, in checks, drafts, certificates of deposit, or currency which have depreciated in value, provided payment is tendered in the checks, drafts, certificates of deposit, or currency by

such officer, or to pay any sum demanded of him, when there is reasonable doubt as to his duty or authority to pay the same, on such demand, or where such refusal is not with a wrongful intent, shall not be construed to be an embezzlement, according to the intent and meaning of the ninety-fifth (twenty-sixth) and ninety-sixth (twenty-seventh) sections of this title (chapter).

SEC. 99 (30). *Certain officers to pay over same moneys received, when.*—Whoever is mentioned in the ninety-fifth (twenty-sixth) section of this title (chapter), shall pay over the same money that he received in the discharge of his duties, and shall not set up any amount as a set-off against any money so received, and all justices of the peace, clerks of the district courts, sheriffs, and other officers, shall pay into the respective treasuries all the money collected on fines, within thirty days after said moneys are collected.

SEC. 100 (31). *Warehouseman, et als., making false receipt, etc., how punished.*—If any warehouseman, miller, or storage, forwarding, or commission merchant, or his agents, clerks, or servants, willfully and fraudulently makes or utters any receipt, or other written evidence of the delivery into any warehouse, mill, store, or other building belonging to him, them, or his or their employers, of any grain, flour, pork, beef, wool, or other goods, wares, or merchandise, which have not been so received or delivered into such mill, warehouse, store, or other building, previous to the making and uttering of such receipt or other written evidence thereof, shall be punished by imprisonment in the state prison not more than two years nor less than one year.

SEC. 101 (32). *Obtaining money, etc., by falsely personating another, with intent, etc., deemed larceny.*—Whoever falsely personates or represents another, and in such assumed character receives any money or other property whatever, intended to be delivered to the party so personated, with intent to convert the same to his own use, is guilty of larceny.

SEC. 102 (33). *Obtaining money, etc., by false pretenses, how punished.*—Whoever designedly, by any false pretense or by any privy or false token, and with intent to defraud, obtains from any other person any money or goods, wares, merchandise, or other property, or obtains with such intent the signature of any person to any written instrument, the false making whereof would be punishable as forgery, shall be punished by imprisonment in the state prison not more than five years nor less than one year, or by fine not exceeding five hundred dollars nor less than fifty dollars.

SEC. 103 (34). *Gross fraud, how punished.*—Whoever is convicted of any gross fraud or cheat at common law, shall be punished by imprisonment in the state prison not more than four years nor less than one year, or by fine not exceeding one thousand dollars nor less than fifty dollars.

SEC. 104 (35). *Destroying ship with intent, etc., how punished.*—Whoever willfully casts away, burns, sinks, or otherwise destroys any ship, steamboat, or vessel within the body of any county, with intent to injure or defraud any owner of such vessel, steamboat, or ship, or the owner of any property laden on board the same, or any insurer of such vessel or property, or of any part thereof, shall be punished by imprisonment in the state prison not more than ten years nor less than three years.

SEC. 105 (36). *Equipping steamboat or ship with intent to destroy it, etc., how punished.*—Whoever equips, or fits out, or assists in lading, equipping, and fitting out any steamboat, ship, or vessel, with the intent that the same shall be cast away,

burnt, sunk, or otherwise destroyed, to injure or defraud any owner or insurer of such vessel, or of any property laden on board the same, shall be punished by imprisonment in the state prison not more than five years nor less than two years, or by fine not exceeding five thousand dollars nor less than one hundred dollars.

SEC. 106 (37). *Making or exhibiting false invoice of cargo, with intent, etc., how punished.*—If the owner of any ship, steamboat, or vessel, or any property laden or pretended to be laden on board the same, or if any other person concerned in the lading or fitting out of such ship, steamboat, or vessel, makes out or exhibits, or causes to be made out or exhibited, any false or fraudulent invoice, bill of lading, bill of parcels, or other false estimates of any goods or property laden or pretended to be laden on board such vessel, with intent to injure or defraud any insurer of such vessel or property, or any part thereof, he shall be punished by imprisonment in the state prison not more than three years nor less than one year, or by fine not more than five hundred dollars nor less than one hundred dollars.

SEC. 107 (38). *Making false affidavit or protest, with intent, etc., how punished.*—If any master, or other officer or mariner of a ship, steamboat, or vessel, makes or causes to be made, or swears to, any false affidavit or protest, or if any owner or other person concerned in such vessel, or in the goods or property laden on board of such vessel, procures any such false affidavit or protest to be made, or exhibits the same with intent to injure, or deceive, or defraud any insurer of such ship, steamboat, or vessel, or of the goods or property laden on board the same, or any other person, he shall be punished by imprisonment in the state prison not more than five years nor less than two years, or by fine not exceeding one thousand dollars nor less than one hundred dollars.

SEC. 108 (39). *Malicious killing or maiming horses, etc., how punished.*—Whoever willfully and maliciously kills, maims, or disfigures any horses, cattle, or other beasts of another person, or willfully and maliciously administers poison to any such beasts, or exposes any poisonous substance with intent that the same may be taken or swallowed by them, or willfully and maliciously destroys or injures the personal property of another in any manner, by any means not particularly mentioned or described in this chapter, shall be punished by imprisonment in the county jail not more than two years nor less than three months, or by fine not exceeding five hundred dollars nor less than fifty dollars.

United States v. Gideon, 1 Minn. 292.

SEC. 109 (40). *False representations concerning title to land, with intent, etc., how punished.*—Whoever falsely and fraudulently represents that he is the owner of any parcel of land or tract of land to which he has no title, and executes any deed of the same, with intent to defraud any person whatever, shall be punished by imprisonment in the state prison not more than two years nor less than six months.

SEC. 110 (41). *Malicious injury to dams, etc., how punished.*—Whoever willfully and maliciously breaks down, injures, removes, or destroys any dam, reservoir, canal, or trench, or any gate, flume, flash boards, or other appurtenances thereof, or of the wheels, mill gear, or machinery of any mill, or willfully or wantonly, and without color of right, draws off the water contained in any millpond, reservoir, canal, or trench, shall be punished by imprisonment in the state prison not more than two years nor less than six months, or by fine not exceeding four hundred dollars nor less than fifty dollars.

SEC. 111 (42). *Malicious injury to bridge, road, telegraph post, etc., how punished.*—Whoever willfully or maliciously breaks down, injures, removes, or destroys any public or toll bridge, or railroad, or plank road, or telegraph posts or wires, or any turnpike or plank road gate, or any lock, culvert, or embankment of any canal, or willfully or maliciously makes any aperture or breach in any such embankment, with intent to destroy or injure the same, shall be punished by imprisonment in the state prison for not more than three years nor less than six months, or by fine not exceeding six hundred dollars nor less than fifty dollars.

SEC. 112 (43). *Malicious injury to fruit trees, fences, etc., how punished.*—Whoever willfully and maliciously or wantonly and without cause, cuts down and destroys, or by girdling, lopping, or otherwise, injures any fruit tree, or any other trees not his own, standing or growing for shade, ornament, or other useful purposes, or maliciously or wantonly breaks the glass, or any part of it, in any building not his own, or maliciously breaks down any fence belonging to or inclosing land not his own, or maliciously throws down or opens any bars, gate, or fence, and leaves the same down or open, or maliciously and injuriously severs from the freehold of another any produce thereof, or anything attached thereto, shall be punished by imprisonment in the county jail not more than one year nor less than three months, or by fine not exceeding two hundred dollars.

SEC. 113 (44). *Malicious injury to monuments, guide board, etc., how punished.*—Whoever willfully and maliciously breaks down, injures, removes, or destroys any monument erected for the purpose of designating the boundaries of any tract or lot of land, or any tree marked for that purpose, or so breaks down, injures, removes, or destroys any milestone, mile board, or guide board, erected upon any highway, or other public way, turnpike, railroad, or plank road, or willfully or maliciously defaces or alters the inscription on any such stone or board, or willfully or maliciously mars or defaces any building, or any sign board, or extinguishes any lamp, or breaks, destroys, or removes any lamp, or lamp post, or any railing or post, erected on any bridge, sidewalk, street, highway, court, or passage, shall be punished by fine not exceeding one hundred dollars, or by imprisonment in the county jail not more than six months.

SEC. 114 (45). *Willful trespass on garden, orchard, etc., how punished.*—Whoever willfully commits any trespass by entering upon the garden, orchard, or other improved land of another without permission of the owner thereof, and with intent to cut, take, carry away, destroy, or injure the trees, grain, grass, hay, fruit, or vegetables there growing, or being, shall be punished by fine not exceeding fifteen dollars nor less than three dollars.

SEC. 115 (46). *Jurisdiction of justices of the peace.*—Every justice of the peace has concurrent jurisdiction in his own county, with the district court, of all offenses mentioned in the three preceding sections of this chapter, when the value of the trees, fruit, grain, or other property injured, destroyed, taken or carried away, or the injury occasioned by the trespass does not exceed the sum of one hundred dollars, and in such case the punishment shall be by fine, not exceeding fifty dollars nor less than five dollars.

SEC. 116 (47). *Willful injury to trees on private property, digging earth, etc., how punished.*—Whoever willfully and without authority cuts down or destroys, or injures by girdling or otherwise, any trees growing or standing upon the private property of any individual, or cuts any timber or wood upon such property, or

takes, carries, or hauls away therefrom, any timber or wood previously cut or severed from the freehold, or who willfully and without authority digs or carries away any mineral, earth, or stone from any such land, is guilty of a misdemeanor, and upon conviction of any of the said offenses, before any justice of the peace, shall be punished by imprisonment in the county jail for a period of not more than ninety days nor less than thirty days, or by fine not exceeding one hundred dollars nor less than thirty dollars.

SEC. 117 (48). *Willful cutting of trees and carrying away wood, etc., to be separate offenses.*—The cutting down willfully of any tree or the girdling or otherwise injuring any tree, willfully, growing or standing upon the private property of any individual, or the willful carrying away therefrom of any one quantity or load of timber, wood, earth, mineral, or stone, shall constitute, and be distinct and separate offenses, and the party or parties so offending shall be punished for each of said offenses in the manner prescribed in the foregoing section.

SEC. 118 (49). *Willful marking horses, etc., with mark previously recorded and in use, how punished.*—Whoever willfully marks any of his horses, cattle, sheep, or hogs with the same mark or brand previously recorded by any resident of the same county, and while the same mark is used by such resident, shall forfeit for every such offense five dollars, to be recovered before any justice of the peace of such county; whoever willfully marks or brands the horses, cattle, sheep, or hogs of any other person with his own brand or mark, shall forfeit for every such offense not less than ten nor more than fifty dollars, to be recovered before any justice of the peace of the proper county; and whoever willfully destroys or alters any mark or brand upon any horses, cattle, sheep, or hogs, the property of another, shall, on conviction thereof before any justice of the peace, forfeit and pay for every such offense a sum not less than ten nor over fifty dollars, and shall moreover pay to the party injured double damages.

SEC. 119 (50). *Willful or negligent setting on fire, woods, prairies, how punished—exceptions.*—Whoever willfully and intentionally, or negligently and carelessly, sets on fire, or causes to be set on fire, any woods, prairies, or other grounds, shall forfeit and pay a fine of not less than five dollars nor more than one hundred dollars, and in default of the payment of said fine shall be committed to the county jail for not less than thirty days nor more than three months; but this shall not extend to any person who sets on fire any woods or prairies adjoining his or her own farm or inclosure, for the necessary protection thereof from accident by fire, by giving to his or her neighbors one day's notice of such intention: *provided*, that in case the neighbors come together and participate in the burning of any woods, prairies, or grounds, the notice aforesaid need not be given: *provided also*, that this section shall not be construed to take away any civil remedy which any person is entitled to for any injury done or received in consequence of such firing.

SEC. 120 (51). *Penalties, how recovered.*—The penalties provided in the foregoing section shall be recovered by action before any justice of the peace in the county where such offense is committed, upon complaint of any legal voter thereof.

SEC. 121 (1 OF ACT OF MARCH 6, 1871). *Mixing grains without consent deemed unlawful.*—It shall be unlawful for any warehouseman or agent of an elevator to mix grain received by them or either of them, as of an inferior grade, with grain received by them as of a better grade, and deliver the same to the owner for grain of the better grade, without the consent of the owner.

SEC. 122 (2 *ib.*) *Deemed a misdemeanor, how punished.*—Any warehouseman or agent of an elevator who mixes grain received by them or either of them, as on an inferior grade, with grain received by them or either of them, as of a better grade, without the consent of the owner, and delivers or offers to deliver the same to the owner for grain of the better grade, shall be held to have committed a misdemeanor, and shall be subject to a fine not exceeding five hundred dollars nor less than one hundred dollars, and to imprisonment for not more than one year nor less than thirty days.

S. L. 1871, 66.

SEC. 123 (1 OF ACT OF MARCH 3, 1867). *Fruit and ornamental trees despoiled, a misdemeanor.*—If any person or persons in this state shall hereafter enter the inclosure of any person without the leave or license of such owner, and pick, destroy, or carry away the fruit, or any portion thereof, of any apple, pear, peach, plum, grape, or other fruit tree, bush, or vine, or any vegetable products, such persons shall be deemed guilty of a misdemeanor, and upon conviction thereof, may be fined any sum not less than ten nor more than fifty dollars, and may be imprisoned in the county jail for any period not exceeding thirty days.

SEC. 124 (2 *ib.*) *Malicious or willful cutting of same, how punished.*—If any person or persons in this state shall willfully and maliciously and without lawful authority, cut down, root up, sever, injure, pull, destroy, or carry away any fruit or ornamental tree, or shrub, cultivated root, plant, or vine, of whatsoever kind, or any fruit or other vegetable production, standing or growing on, or being attached to the land of another, or shall willfully and without lawful authority, cut down, root up, destroy, or injure in any manner, or carry away any fruit or ornamental tree, plant, shrub, or vine, upon any street, lane, alley, public highway, or public grounds, in any city, town, or village, in this state, such person or persons so offending shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than five hundred dollars, or by imprisonment in the county jail not exceeding three months, or both fine and imprisonment, at the discretion of the court having jurisdiction of the case, and shall moreover be liable in double the amount of damages to the party injured.

SEC. 125 (3 *ib.*) *Penalties enforced, how.*—The penalties incurred by violation of this act may be enforced by indictment in any court having jurisdiction of misdemeanors in the county where the offense is committed, or the fine may be recovered in an action for debt before any justice of the peace of such county.

S. L. 1867, 61.

SEC. 126 (1 OF ACT OF MARCH 5, 1867). *Draining of lakes unlawful.*—No person or persons shall drain or attempt to drain any lake, pond, or body of water in this state which has been meandered, and metes and bounds established by the government of the United States in the survey of the public lands.

SEC. 127 (2 *ib.*) *How punished.*—Any person or persons who shall drain or cause to be drained, or shall attempt to drain in any manner, any lake or lakes, ponds or bodies of water, which shall have been meandered by the survey of the United States government, shall be considered guilty of a misdemeanor, and shall be punished by a fine not less than twenty-five dollars, and not exceeding five thousand dollars, and shall be also liable in a civil action for all damages sustained by private individuals by reason of such draining, or attempting to drain, any of the lakes, ponds, or bodies of water aforesaid, or for supplying any incorporated

town or city with water: *provided*, that the provisions of this act shall not prevent the reasonable use of said lakes, ponds, or bodies of water, as reservoirs, for the benefit of any kind of milling or manufacturing establishment, or for the purpose of driving logs.

S. L. 1867, 70.

SEC. 128 (I OF ACT OF FEBRUARY 1, 1866). *Smoking in mills, etc., prohibited.*—No person shall enter any mill, machine shop, stable, or other building, having with him a lighted pipe or cigar, or shall light or smoke any pipe or cigar therein, under a penalty of ten dollars: *provided*, that a notice in plain legible characters is kept posted up in a conspicuous position over or near each principal entrance to such building or place of entrance, that no smoking is allowed therein. And if any person shall deface, destroy, or remove any such notice, he shall forfeit and pay ten dollars for each offense.

SEC. 129 (2 *ib.*) *How penalty recoverable.*—Any penalty incurred under the provisions of this act shall be recoverable before any justice of the peace of the town wherein the offense is committed, for the benefit of said town, upon the written complaint on oath of any person showing the commission of any such offense, in an action wherein such town shall be plaintiff. Such action shall be commenced by summons, and shall be prosecuted in the same manner as civil actions.

S. L. 1866, 77.

SEC. 130 (I OF ACT OF FEBRUARY 15, 1868). *Threshing machines to be protected.*—It shall be the duty of any person or persons, company or companies, having and operating a threshing machine or machines, the horse-power and separator of which are connected by what is termed a tumbling rod, to box or cover and inclose the knuckles and rods between the outside horse and the machine with a board box, so that no part or portion thereof shall be exposed, whereby persons shall be liable to be injured when the machine is in operation.

SEC. 131 (2 *ib.*) *Penalty for neglect.*—Any person or persons, company or companies, who shall refuse or neglect to comply with the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof before any magistrate or court having jurisdiction, shall be fined not more than fifty dollars for each and every offense, and pay all costs of prosecution.

SEC. 132 (3 *ib.*) *Actions under this act, how commenced—how fines to be paid.*—All actions under this act shall be commenced within thirty days from the time the offense was committed. All fines imposed and collected under this act shall be paid one-half to the complainant, and the other half into the county treasury for the use of common schools.

S. L. 1868, 99.

SEC. 133 (I OF ACT OF MARCH 1, 1866). *Protects mortgagee against fraud by imposing penalties.*—If any person having conveyed any article of personal property by mortgage shall, during the existence of the lien or title created by such mortgage, sell, transfer, conceal, take, drive, or carry away, or in any way or manner dispose of said property, or any part thereof, with intent to defraud, or cause or suffer the same to be done without the written consent of the mortgagee of said property, he shall be deemed guilty of a misdemeanor, and shall be liable to indictment, and on conviction thereof shall be punished by fine not less than twice the value of the property so sold or disposed of, or confined in the county jail not

exceeding one year, or both, at the discretion of the court, and until the fine and all costs of such prosecution are paid.

S. L. 1866, 72.

TITLE V.

OF FORGERY AND COUNTERFEITING.

(This Title is Chapter *XCVI.* of the Statutes of 1866.)

SEC. 134 (1). *Forgery of records, contracts, etc., how punished.*—Whoever falsely makes, alters, forges, or counterfeits any public record, or any certificate, return, or attestation of any clerk of a court, register, notary public, justice of the peace, or any other public officer, in relation to any matter wherein such certificate, return, or attestation may be received as legal proof, or any charter, deed, will, testament, bond, or writing obligatory, letter of attorney, policy of insurance, bill of lading, bill of exchange, promissory note, or any order, acquittance, or discharge for money or other property, or any acceptance of a bill of exchange, indorsement, or assignment of a bill of exchange or promissory note, or any accountable receipt for money, goods, or other property, with intent to injure or defraud any person, shall be punished by imprisonment in the state prison not more than five years nor less than two years, or by imprisonment in the county jail not more than two years nor less than one year.

SEC. 135 (2). *Uttering forged record, deed, etc., how punished.*—Whoever utters and publishes as true any false, forged, or altered record, deed, instrument, or other writing mentioned in the preceding section, knowing the same to be false, forged, or altered, with intent to injure or defraud as aforesaid, shall be punished by imprisonment in the state prison not more than five years nor less than one year.

SEC. 136 (3). *Forgery of note, certificate, etc., how punished.*—Whoever falsely makes, alters, forges, or counterfeits any note, certificate, or other bill of credit issued by any commissioner or other officer authorized to issue the same for any debt of this state, with intent to injure or defraud as aforesaid, shall be punished by imprisonment in the state prison not more than seven years nor less than three years.

SEC. 137 (4). *Forgery of bank bill, draft, etc., how punished.*—Whoever makes, alters, forges, or counterfeits any bank bill, promissory note, draft, or other evidence of debt issued by any corporation or company duly authorized for that purpose by the laws of the United States, or of any state of the United States, or of any territory of the United States, or of any other state, government, or country, with intent to injure or defraud, shall be punished by imprisonment in the state prison not more than five years nor less than one year.

State v. Mournier, 8 Minn. 212; Same v. Mott, 16 Minn. 472.

SEC. 138 (5). *Having in possession counterfeit bill, draft, etc., with intent, etc., how punished.*—Whoever has in his possession any forged, counterfeit, or altered bank bill, promissory note, draft, or other evidence of debt issued or purporting to have been issued as is mentioned in the preceding section, with intent to utter the same as true or false, knowing the same to be so forged, counterfeited, or altered

as aforesaid, shall be punished by imprisonment in the state prison not more than five years nor less than one year.

SEC. 139 (6). *Passing counterfeit note, bill, etc., how punished.*—Whoever utters, or passes, or tenders in payment as true, any false, altered, forged, or counterfeit note, certificate, or bill of credit for any debt of this state, or bank bill, promissory note, draft, or other evidence of debt, issued or purporting to have been issued as is mentioned in the fourth section of this chapter, knowing the same to be false, altered, forged, or counterfeit, with intent to injure or defraud, shall be punished by imprisonment in the state prison not more than five years nor less than one year.

Benson v. State, 5 Minn. 19.

SEC. 140 (7). *Making or having tools, etc., for counterfeiting, with intent, etc., how punished.*—Whoever engraves, makes, or mends, or begins to engrave, make, or mend, any plate, block, press, or other tool, instrument, or implement, or makes or provides any paper or other materials adapted and designed for the forging or making any false and counterfeit note, certificate, or other bill of credit in the similitude of the notes, certificates, or bills of credit issued by lawful authority, for any debt of this state, or any false counterfeit note, or bill in the similitude of the notes or bills issued by any bank or banking company established in this state, or within the United States, or any territory thereof, or within any other government or country, and every person who has in his possession any such plate or block engraved in any part, or any press or other tool, instrument or implement, paper or other material adapted and designed as aforesaid, with intent to use the same, or to cause or permit the same to be used in forging or making any such false and forged certificates, Bills, or notes, shall be punished by imprisonment in the state prison not more than five years nor less than one year.

SEC. 141 (8). *Fraudulently connecting parts of several bank notes, etc., is forgery.*—Whoever fraudulently connects together different parts of several bank notes, or other genuine instruments, in such manner as to produce an additional note or instrument, with intent to pass all of them as genuine, is guilty of forgery in like manner as if each of them had been falsely made or forged.

SEC. 142 (9). *Fraudulently affixing signature to note, etc., deemed forgery.*—If any fictitious or pretended signature, purporting to be the signature of an officer or agent of any corporation, is fraudulently affixed to any instrument or writing, purporting to be a note, draft, or other evidence of debt issued by such corporation, with intent to pass the same as true, it shall be deemed a forgery, though no such person was ever an officer or agent of such corporation, nor such corporation ever existed.

SEC. 143 (10). *Indictment for forgery is sufficient, when—variance.*—In any case where the intent to defraud is necessary to constitute the offense of forgery, or any other offense that may be prosecuted, it shall be sufficient to allege in the indictment an intent to defraud, without naming therein the particular person or body corporate intended to be defrauded; and on the trial of such indictment it is sufficient, and shall not be deemed a variance, if there appears to be an attempt to defraud the United States, or any state, territory, county, city, town, or village, or any body corporate, or any public officer in his official capacity, or any copartnership or member thereof, or any particular person.

SEC. 144 (11). *Counterfeiting coin, or having ten pieces in possession with intent, etc., how punished.*—Whoever counterfeits any gold or silver coin, current by

law or usage within this state, and whoever has in his possession, at the same time, ten or more pieces of false money or coin, counterfeited in the similitude of any gold or silver coin current as aforesaid, knowing the same to be false and counterfeited, and with intent to utter or pass the same as true, shall be punished by imprisonment in the state prison not more than five years nor less than one year.

SEC. 145 (12). *Having in possession less than ten pieces, with intent, etc., how punished.*—Whoever has in his possession any number of pieces less than ten of the counterfeit coin mentioned in the preceding section, knowing the same to be counterfeit, with intent to utter or pass the same as true, and whoever utters, passes, or tenders in payment as true, any such counterfeit coin, knowing the same to be false and counterfeit, with intent to injure or defraud, shall be punished by imprisonment in the state prison, not more than three years, nor less than one year.

SEC. 146. *Manufacturing tools for coining counterfeit money, or having such tools in possession with intent, etc., how punished.*—Whoever casts, stamps, engraves, makes or mends, or knowingly has in his possession any mould, pattern, die, puncheon, engine, press, or other tool or instrument, adapted and designed for coining or making any counterfeit coin in the similitude of any gold or silver coin, current by law or usage in this state, with intent to use the same, or causes or permits the same to be used or employed in coining or making any such false and counterfeit coin as aforesaid, shall be punished by imprisonment in the state prison, not more than five years, nor less than two years.

TITLE VI.

OFFENSES AGAINST CHASTITY, MORALITY, AND DECENCY.

(This Title is Chapter C. of the Statutes of 1866.)

SECTION 147 (1). *Adultery, how punished.*—Whoever commits the crime of adultery, shall be punished by imprisonment in the state prison not more than two years, or by fine not exceeding three hundred dollars nor less than seventy dollars; and when the crime is committed between a married woman and a man who is unmarried, the man shall be deemed guilty of adultery, and be liable to the same punishment. But no prosecution for adultery shall be commenced, except on the complaint of the husband or the wife, and no such prosecution shall be commenced after one year from the time of committing the offense.

State v. Armstrong, 4 Minn. 335.

SEC. 148 (2). *Polygamy, how punished.*—If any person who has a former husband or wife living marries another person, or continues to cohabit with such second husband or wife, he or she shall, except in the cases mentioned in the third section, be deemed guilty of the crime of polygamy, and shall be punished by imprisonment in the state prison, not more than four years nor less than two years, or by fine not exceeding five hundred dollars nor less than three hundred dollars.

State v. Armstrong, 4 Minn. 335; Same v. Johnson, 12 Minn. 476.

SEC. 149 (3). *Excepted cases.*—The provisions of the preceding section shall not extend to any person whose husband or wife has been continually remaining beyond the sea, or has voluntarily withdrawn from the other, and remained absent for the space of seven years together, the party marrying again, not knowing the

other to be living within that time ; nor to any person who has been legally divorced from the bonds of matrimony, and was not the guilty cause of such divorce.

SEC. 150 (4). *Lewd and lascivious conduct, how punished.*—If any man or woman, not being married to each other, lewdly and lasciviously cohabit and associate together, or if any man or woman, married or unmarried, is guilty of open and gross lewdness or lascivious behavior, every such person shall be punished, by fine not exceeding three hundred dollars, or by imprisonment in a county jail not exceeding three months.

SEC. 151 (5). *Fornication, how punished.*—If any man commits fornication with any single woman, each of them shall be punished by imprisonment in the jail not more than thirty days, or by fine not exceeding thirty dollars.

State v. Armstrong, 4 Minn. 335.

SEC. 152 (6). *Seduction, how punished.*—Any unmarried man who, under promise of marriage, or any married man who seduces and has illicit connexion with any unmarried female of previous chaste character, is guilty of a felony, and shall be punished by imprisonment in the state prison not exceeding five years, or by imprisonment in a county jail not exceeding one year ; but no conviction shall be had under the provisions of this section on the testimony of the female seduced, unsupported by other evidence, or unless indictment is found within two years after the commission of the offense : *provided*, that the subsequent intermarriage of the parties may be plead in bar of a conviction.

State v. Timmes, 4 Minn. 328 ; Same v. Armstrong, 4 Minn. 335.

SEC. 153 (7). *Mother concealing death of bastard, how punished.*—If any woman conceals the death of any issue of her body, which, if born alive, would be a bastard, so that it may not be known whether such issue was born alive or not, or whether it was not murdered, she shall be punished by imprisonment in the state prison not more than one year nor less than six months, or by fine not exceeding three hundred dollars nor less than one hundred dollars.

SEC. 154 (8). *Offense may be inserted in indictment for murder.*—Any woman indicted for the murder of her infant bastard child may also be charged in the same indictment, with the offense described in the preceding section ; and if on the trial the jury acquit her of the charge of murder, and find her guilty of the other offense, judgment and sentence may be awarded against her for the same.

SEC. 155 (9). *Keeping house of ill fame, how punished.*—Whoever keeps a house of ill fame, resorted to for the purpose of prostitution or lewdness, shall be punished by imprisonment in the state prison not more than one year nor less than six months, or by fine not exceeding three hundred dollars nor less than one hundred dollars.

SEC. 156 (10). *Lease of such house void, when.*—Whenever the lessee of any dwelling house is convicted of the offense mentioned in the preceding section, the lease or contract for letting such house shall, at the option of the lessor, become void ; and such lessor shall thereupon have the like remedy to recover the possession as against a tenant for holding over after the expiration of his term.

SEC. 157 (11). *Printing or selling obscene books, how punished.*—Whoever imports, prints, publishes, sells, or distributes any book, or any pamphlet, ballad, printed paper, or other thing containing obscene language, or obscene prints, pictures, figures, or other descriptions manifestly tending to the corruption of the

morals of youth, or introduces into any family, school, or place of education, or buys, procures, receives, or has in his possession any such book, pamphlet, ballad, printed paper, or other thing, either for the purpose of loan, sale, exhibition, or circulation, or with intent to introduce the same into any family, school, or place of education, shall be punished by imprisonment in the county jail not more than six months, or by fine not exceeding two hundred dollars.

SEC. 158 (12). *Incest, how punished.*—Persons within the degrees of consanguinity, within which marriages are prohibited, or declared by law to be incestuous and void, who intermarry with each other, or commit adultery or fornication with each other, shall be punished by imprisonment in the state prison not more than two years nor less than six months.

SEC. 159 (13). *Sodomy, how punished.*—Whoever commits sodomy, or the crime against nature, either with mankind or any beast, shall be punished by imprisonment in the state prison not more than five years nor less than one year.

SEC. 160 (14). *Disturbing public worship, how punished.*—Whoever, on the Lord's day, or at any other time, willfully interrupts or disturbs any assembly of the people, met for worship, within the place of such meeting or about it, shall be punished by fine not exceeding twenty dollars nor less than five dollars, or by imprisonment in the county jail not exceeding thirty days.

SEC. 161 (15). *Violation of sepulture, how punished.*—Whoever not being lawfully authorized, willfully digs up, disinters, removes, or conveys any human body, or the remains thereof, or knowingly aids in such disinterment, removal, or conveying away, every such offender and every accessory thereto, either before or after the fact, shall be punished by imprisonment in the state prison not more than two years nor less than six months, or by fine not exceeding two hundred dollars.

SEC. 162 (16). *Removing or defacing tomb, etc., how punished.*—Whoever willfully, or with evil intent, destroys, mutilates, defaces, or removes any tomb, monument, gravestone, or other structure or thing placed or designed for a memorial of the dead, or any fence, railing, curb, or other thing intended for the protection, or for the ornament of any tomb, monument, gravestone, or other structure before mentioned, or of any inclosure for the burial of the dead, or willfully, or with evil intent, destroys, mutilates, removes, cuts, breaks, or injures any tree, shrub, or plant, placed or being within any such inclosure, the person so offending shall be punished by a fine not exceeding one thousand dollars nor less than twenty-five dollars.

SEC. 163 (17). *Opening roads through burial grounds, how punished.*—Whoever opens or makes any highway or town way, or constructs any railroad, turnpike, or canal, or any other thing in the nature of a public easement, over, through, in, or upon such part of any inclosure, being the property of a town, village, or religious society, or of private proprietors, as may be used for the burial of the dead, unless an authority for that purpose is granted by law, or unless the consent of such town, village, or religious society, or private proprietors respectively, is first obtained, shall be punished by fine not exceeding three hundred dollars.

SEC. 164 (18). *Cruelty to animals, how punished.*—Whoever cruelly beats or tortures any horse, ox, or other animal, whether belonging to himself or another,

shall be punished by imprisonment in the county jail not more than thirty days, or by fine not exceeding fifty dollars nor less than five dollars.

Vide Act of March 6, 1871, title xi. chapter xxviii. ante.

SEC. 165 (19). *Laboring on Sunday, how punished.*—No person shall keep open his shop, warehouse, or workhouse, or shall do any manner of labor, business, or work, except only works of necessity and charity, or be present at any dancing, or any public diversion, show, or entertainment, or take part in any sport, game, or play on the Lord's day, commonly called Sunday; and every person so offending shall be punished by a fine not exceeding two dollars for each offense.

Brimhall v. Van Crampen, 8 Minn. 13; Finney v. Callendar, 8 Minn. 41; Finley v. Quirk, 9 Minn. 194.

SEC. 166 (20). *Sunday shall include what time.*—For the purposes of the provisions of the one hundred and sixty-fifth (nineteenth) section, the Lord's day shall include the time between the midnight preceding and the midnight following the said day.

SEC. 167 (21). *Service of civil process on Sunday, void.*—No person shall serve or execute any civil process from midnight preceding to midnight following said Lord's day, but such service shall be void, and the person serving or executing such process shall be liable in damages to the party aggrieved, in like manner as if he had not had any such process.

SEC. 168 (22). *Jurisdiction of justices.*—Justices of the peace have jurisdiction of the offenses mentioned in the one hundred and thirty-second (fifth), one hundred and forty-first (fourteenth), one hundred and forty-fifth (eighteenth), and one hundred and forty-sixth (nineteenth) sections of this title (chapter).

SEC. 169 (23). *Selling liquor, goods, etc., within two miles of camp meeting, etc., prohibited.*—No person shall keep any shop, tent, booth, wagon, carriage, for the sale of, or shall sell, give, or expose to sale, any spirituous or intoxicating liquors, goods, or merchandise of any kind, within two miles of any public assembly, camp, or grove meeting, convened for the purpose of religious worship; but this shall not be construed to prevent any person from selling merchandise at the shop or store where he usually transacts business, nor from selling liquors in any place where he has received a license therefor, before the appointment of such religious meeting; nor to prevent any peddler from selling his goods to any person at the usual place of business or residence of such person.

SEC. 170 (24). *Violation of preceding section, how punished.*—Whoever is guilty of a breach of the preceding section, upon conviction thereof before any justice of the peace, shall be fined not exceeding thirty dollars, or imprisoned in the county jail for any term not exceeding thirty days, or may be sentenced to both said punishments.

SEC. 171 (25). *Exhibiting shows, etc., near religious meetings, how punished.*—Whoever is guilty of noisy, rude, or indecent behavior, of exhibiting shows or plays, or promoting or engaging in horse racing or gambling, at or near any such religious meeting, so as to interrupt or disturb the same, or at any religious meeting of the citizens of this state, maliciously cuts or otherwise injures or destroys any harness, or tents, or other property belonging to any tent holder or other person, upon conviction thereof before any justice of the peace, shall be fined not exceeding fifty dollars, or if the offense is of an aggravated nature, he may be held to recognize with sufficient sureties to appear at the district court next to be holden in the same

county, and upon conviction before such court, he shall be fined in any sum not exceeding one hundred dollars, or imprisoned in the county jail not exceeding ninety days, or by both such fine and imprisonment.

SEC. 172 (26). *Prosecution for violation of last section, commenced, when.*—No prosecution for any violation of the provisions of the last three sections shall be sustained unless commenced within sixty days after the commission of such offense.

TITLE VII.

OFFENSES OF A PUBLIC NATURE.

ARTICLE I.

AGAINST PUBLIC JUSTICE.

(This Article is Chapter XCVII. of the Statutes of 1866.)

SEC. 173 (1). *Perjury, how punished.*—Whoever, being lawfully required to depose the truth in any proceedings in a court of justice, commits perjury, shall be punished, if such perjury was committed on the trial of an indictment for a capital crime, by imprisonment in the state prison not more than fifteen years nor less than three years, and if committed in any other case, by imprisonment in the state prison not more than five years nor less than two years.

SEC. 174 (2). *What deemed perjury.*—Whoever, being required or authorized by law to take an oath or affirmation, willfully swears, affirms, promises, or declares falsely, in regard to any matter or thing respecting which such oath, affirmation, promise, or declaration is required or authorized, is guilty of perjury.

SEC. 175 (3). *Subornation of perjury.*—Whoever is guilty of subornation of perjury, by procuring another person to commit the crime of perjury, as aforesaid, shall be punished in the same manner as for the crime of perjury.

SEC. 176 (4). *Inciting person to commit perjury, how punished.*—Whoever endeavors to procure or incite any other person to commit the crime of perjury, though no perjury is committed, shall be punished by imprisonment in the state prison not more than three years nor less than one year.

SEC. 177 (5). *Witness appearing to have committed perjury may be required to recognize.*—Whenever it appears to any court of record that any witness or party who has been legally sworn and examined, or has made an affidavit in any proceedings in a court of justice, has testified in such a manner as to induce a reasonable presumption that he has been guilty of perjury therein, the court may take a recognizance with sureties for his appearing to answer to an indictment for perjury, and thereupon the witness to establish such perjury may be bound over to the proper court, and notice of the proceedings shall forthwith be given to the county attorney.

SEC. 178 (6). *Copies of papers, etc., may be taken.*—If in any proceeding in a court of justice, in which perjury is reasonably presumed as aforesaid, any papers, books, or documents have been produced which are deemed necessary to be used in any prosecution for such perjury, the court may order a certified copy of such books, papers, or documents to be taken, to be used in such prosecution, and such certified copy shall be used in such prosecution in the same manner as the original might have been.

SEC. 179 (7). *Giving or offering bribes to officers, how punished.*—Whoever corruptly gives, offers, or promises to any executive, judicial, or legislative officer, after his election or appointment, and either before or after he has been qualified or taken his seat, any gift or gratuity whatever, with intent to influence his act, vote, opinion, decision, or judgment in any matter, question, cause, or proceeding, which may then be pending, or may by law come to be brought before him in his official capacity, shall be punished by imprisonment in the state prison not more than three years nor less than one year, or by fine not exceeding five hundred dollars nor less than one hundred dollars.

SEC. 180 (8). *Accepting bribes by officers, how punished.*—Every executive, legislative, or judicial officer who accepts any gift or gratuity, or any promise to make any gift or do any act beneficial to such officer, under an agreement or with an understanding that his vote, opinion, or judgment shall be given in any particular manner, or upon a particular side of any question, cause, or proceeding which is or may be by law brought before him in his official capacity, or that in such capacity he shall make any particular nomination or appointment, shall be punished by imprisonment in the state prison not more than four years nor less than two years, or by fine not exceeding six hundred dollars nor less than two hundred dollars.

SEC. 181 (9). *Corrupting or attempting to corrupt court, juror, or other officer, how punished.*—Whoever corrupts or attempts to corrupt any court, commissioner, juror, arbitrator, umpire, or referee, by giving, offering, or promising any gift or gratuity whatever, with intent to bias his opinion, or influence the decision of such court, commissioner, juror, arbitrator, umpire, or referee, in relation to any cause or matter which may be pending in the court or before an inquest, or for the decision of such arbitrator, umpire, or referee has been appointed, shall be punished by imprisonment in the state prison not more than three years nor less than one year, or by fine not exceeding five hundred dollars nor less than one hundred dollars.

SEC. 182 (10). *Accepting bribes by judicial officers, how punished.*—If any person summoned as a juror, chosen or appointed as an arbitrator, umpire, or referee, or if any court commissioner takes any money or other thing to give his verdict, award, or report, or receives any gift or gratuity whatever, from a party to any action or proceeding, for the trial or decision of which such juror has been summoned, or for the hearing or determining of which such court commissioner, arbitrator, umpire, or referee has been chosen or appointed, he shall be punished by imprisonment in the state prison not more than three years nor less than one year, or by fine not exceeding six hundred dollars nor less than two hundred dollars.

SEC. 183 (11). *Attempts to aid escapes from prison and rescuing prisoners, how punished.*—Whoever conveys into any jail, house of correction, house of reformation, or other like place of confinement, any disguise, or any instrument, tool, weapon, or other thing, adapted or useful to aid any prisoner to make his escape, with intent to facilitate the escape of any prisoner there lawfully committed or detained, or by any means whatever, aids or assists any such prisoner in his endeavor to escape therefrom, whether such escape is attempted or effected or not; and every person who forcibly rescues any prisoner held in custody, upon any conviction or charge of an offense, shall be punished by imprisonment in the state prison not more than four years nor less than two years, or if the person, whose

escape or rescue was effected or intended, was charged with an offense not capital, nor punishable by imprisonment in the state prison, then the punishment for the offense mentioned in this section shall be by imprisonment in the county jail not more than one year, or by fine not exceeding two hundred dollars.

SEC. 184 (12). *Aiding in an escape from an officer, how punished.*—Whoever aids or assists any prisoner in escaping or in attempting to escape from any officer or person who has the lawful custody of such prisoner, shall be punished by imprisonment in the county jail not more than one year, or by fine not exceeding five hundred dollars.

SEC. 185 (13). *Voluntarily suffering prisoner to escape from prison, how punished.*—If any jailor or other officer voluntarily suffers any prisoner in his custody, upon conviction of any criminal charge, to escape, he shall suffer, unless the prisoner was charged with or convicted of a capital offense, the like punishment and penalties as the prisoner so suffered to escape was sentenced to, or would be liable to suffer upon conviction for the crime or offense wherewith he stood charged; and if the prisoner was charged with or convicted of a capital offense, he shall be punished by imprisonment in the state prison not more than thirty years nor less than five years.

SEC. 186 (14). *Suffering an escape through negligence, how punished.*—If any jailor or other officer, through negligence, suffers any prisoner in his custody, upon conviction or upon any criminal charge, to escape, or willfully refuses to receive into his custody any prisoner lawfully committed thereto on any criminal charge or conviction, or on any lawful process whatever, he shall be punished by imprisonment in the county jail not more than two years, or by fine not exceeding three hundred dollars.

SEC. 187 (15). *Refusing to arrest and suffering escape, how punished.*—If any officer, authorized to serve process, willfully and corruptly refuses to execute any lawful process to him directed, and requiring him to apprehend or confine any person convicted or charged with an offense, or willfully and corruptly omits or delays to execute such process, whereby such person escapes and goes at large, he shall be punished by imprisonment in the county jail not more than one year, or by fine not exceeding three hundred dollars.

SEC. 188 (16). *Refusing to aid officer, how punished.*—Whoever being required by any sheriff, deputy sheriff, coroner, or constable, neglects or refuses to assist them in the execution of their office, in any criminal case, or in the preservation of the peace, or the apprehending or securing of any person for a breach of the peace, or in any case of escape or rescue of persons arrested upon civil process, he shall be punished by fine not exceeding one hundred dollars.

SEC. 189 (17). *Refusing to arrest upon order of justice, how punished.*—If any justice of the peace upon view of any breach of the peace, or any other offense proper for his cognizance, requires any person to apprehend and bring before him the offender, every person so required who refuses or neglects to obey such justice, shall be punished in the same manner as is provided in the preceding section for refusing assistance to a sheriff.

SEC. 190 (18). *Falsely assuming to be a justice of the peace, or officer, how punished.*—Whoever falsely assumes or pretends to be a justice of the peace, sheriff, deputy sheriff, coroner, or constable, and takes upon himself to act as such, to require any person to aid or assist him in any matter pertaining to the duty of a

justice of the peace, sheriff, deputy sheriff, coroner, or constable, shall be punished by imprisonment in the county jail not more than one year, or by fine not exceeding two hundred dollars.

SEC. 191 (19). *Disguising, to obstruct execution of the law, how punished.*—Whoever in any manner disguises himself with intent to obstruct the due execution of the law, or with intent to intimidate, hinder, or interrupt any officer or any other person in the legal performance of his duty, or the exercise of his rights under the laws of this state, whether such intent is effectual or not, shall be punished by imprisonment in the county jail not more than one year, or by fine not exceeding one hundred dollars.

SEC. 192 (20). *Compounding or concealing offenses, how punished.*—Whoever takes any money, or gratuity, or reward, or an engagement therefor, upon any agreement or understanding, express or implied, to compound or conceal the commission of any offense, or not to prosecute therefor, or not give evidence thereof, shall, where such offense was punishable with death, be punished by imprisonment in the state prison not more than three years; and where the offense was punishable in any other manner, shall be punished by imprisonment in the state prison not exceeding one year, or in the county jail not more than six months, or by fine not exceeding one hundred dollars.

SEC. 193 (21). *Officers taking rewards for omitting their duty, how punished.*—If any sheriff, constable, or other officer authorized to serve legal process, receives from a defendant or any other person, any money or other valuable thing, as a consideration, reward, or inducement for delaying or omitting to arrest any defendant, or to carry him before a magistrate, or for delaying to take any person to prison, or for postponing the sale of any property under an execution, or for omitting or delaying to perform any duty pertaining to his office, he shall be punished by imprisonment in the county jail not more than one year, or by fine not exceeding five hundred dollars.

ARTICLE II.

AGAINST THE PUBLIC PEACE.

(*This Article is Chapter XCVIII. of the Statutes of 1866.*)

SEC. 194 (1). *Unlawful assemblies, how dispersed.*—If any persons, to the number of twelve or more, any of whom being armed with any dangerous weapons; or if any persons, to the number of thirty or more, whether armed or not, are unlawfully, riotously, or tumultuously assembled in any city, town, or county, it shall be the duty of the mayor and each of the aldermen of such city, and of the president and each of the trustees of such town, and of every justice of the peace living in such city or town, and of the sheriff of the county and his deputies, and also of every constable and coroner living in such city or town, to go among the persons so assembled, or as near them as may be with safety, and in the name of the state of Minnesota, to command all the persons so assembled immediately and peaceably to disperse; and if the persons so assembled shall not thereupon immediately and peaceably disperse, it shall be the duty of each of the magistrates and officers to command the assistance of all persons there present, in

seizing, arresting, and securing in custody the persons so unlawfully assembled, so that they may be proceeded with according to law.

SEC. 195 (2). *Person refusing to assist, how liable.*—Whoever being present, and commanded by any of the magistrates or officers mentioned in the preceding section, to aid or assist in seizing and securing such rioters, or persons, so unlawfully assembled, or in suppressing such riot or unlawful assembly, refuses or neglects to obey such command, shall be deemed to be one of the rioters or persons unlawfully assembled, and shall be liable to be prosecuted therefor, and punished accordingly.

SEC. 196 (3). *Officers neglecting to exercise their authority, how punished.*—If any mayor, alderman, president, trustee, justice of the peace, sheriff, constable, or coroner, having notice of any such rioters or tumultuous and unlawful assembly as is mentioned in this chapter, in the city, town, or county in which he lives, neglects or refuses immediately to proceed to the place of such assembly, or as near thereto as he can with safety, or neglects or omits to exercise the authority with which he is invested by this chapter, for suppressing such riotous or unlawful assembly, and for arresting and securing the offenders, he shall be deemed guilty of a misdemeanor, and punished by a fine not exceeding three hundred dollars.

SEC. 197 (4). *Officers may use what means to disperse unlawful assemblies.*—If any persons who shall be so riotously and unlawfully assembled, and who have been commanded to disperse as before provided, refuse or neglect to disperse without unnecessary delay, any two of the magistrates or officers before mentioned may require the aid of a sufficient number of persons, in arms or otherwise, as may be necessary, and shall proceed in such manner as in their judgment is expedient, forthwith to disperse and suppress such unlawful, riotous, or tumultuous assembly, and seize and secure the persons composing the same, so that they may be proceeded with according to law.

SEC. 198 (5). *Armed force called out to suppress riot, to be under whose orders.*—Whenever an armed force is called out for the purpose of suppressing any tumult or riot, or dispersing any body of men acting together by force, with intent to commit any felony, or to offer violence to persons or property, or with intent by force or violence to resist or oppose the execution of the laws of this state, such armed force, when they arrive at the place of such unlawful, riotous, or tumultuous assembly, shall obey such orders for suppressing the riot or tumult, and for dispersing and arresting all the persons who are committing any of the said offenses, as they have received from the governor, or from any judge of the court of record, or the sheriff of the county; and also such further orders as they there shall receive from any two of the magistrates or officers mentioned in the first section.

SEC. 199 (6). *Officers, held guiltless of death of persons caused by efforts to suppress riot—all rioters answerable for death of officers.*—If by reason of any of the efforts made by any of the said magistrates or officers, or by their direction, to disperse such unlawful, riotous, or tumultuous assembly, or to seize and secure the persons composing the same who have refused to disperse, though the number remaining may be less than twelve; any such person or other persons then present as spectators, or otherwise, are killed or wounded, the said magistrates and officers, and all persons acting by their order, or under their direction, shall be held guiltless and fully justified in law; and if any of the said magistrates or officers, or any person acting by their order or under their direction, are killed or wounded, all the

persons so unlawfully, riotously, and tumultuously assembled, shall be held answerable therefor.

SEC. 200 (7, AS AMENDED BY ACT OF MARCH 1, 1872). *Penalty for unlawful destruction of property.*—If any of the persons so unlawfully assembled, demolish, pull down, or destroy any dwelling house or any other building, or any shop, steamboat, or vessel, he shall be punished by imprisonment in the state prison not more than seven years nor less than three years, or by fine not exceeding one thousand dollars in the discretion of the court.

S. L. 1872, 140.

ARTICLE III.

AGAINST PUBLIC POLICY.

(This Article is Chapter XCIX. of the Statutes of 1866.)

LOTTERIES.

SEC. 201 (1). *Setting up or promoting lotteries, how punished.*—Whoever sets up or promotes any lottery for money, or disposes of any property of value, real or personal, by way of lottery, and whoever aids either by printing or writing, or in any way is concerned in setting up, managing, or drawing any such lottery, or who in any house, shop, or building owned or occupied by him, or under his control, knowingly permits the setting up, managing, or drawing of any such lottery, or the sale of any lottery ticket, or share of a ticket, or any other writing, certificate, bill, token, or any other device purporting or intended to entitle the holder, bearer, or any other person to any prize or interest, or share of any prize to be drawn in a lottery, shall for every such offense be punished by imprisonment in the county jail not more than six months nor less than one month.

SEC. 202 (2). *Selling lottery tickets, etc., how punished.*—Whoever sells, either for himself or for any other person, or offers for sale, or has in his possession with intent to sell or to offer for sale, or to exchange or negotiate, or in any wise aids or assists in the selling, negotiating, or disposing of a ticket in any such lottery, or a share of a ticket, or any such writing, certificate, bill, token, or other device as is mentioned in the preceding section, shall be punished by fine not exceeding five hundred dollars nor less than one hundred dollars.

SEC. 203 (3). *Advertising lottery tickets, etc., how punished.*—Whoever advertises any lottery ticket, or any share in such ticket, for sale, either by himself or any other person, or who sets up or exhibits any sign, symbol, or any emblematic or other representation of a lottery, or of the drawing thereof, or any such writing, certificate, bill, token, or other device before mentioned, or where the same may be purchased or obtained, or in any way invites or entices, or attempts to invite or entice, any other person to purchase or receive the same, shall be punished by fine not exceeding one hundred dollars.

SEC. 204 (4). *Making or selling fictitious lottery ticket, how punished.*—Whoever makes, sells, or has in his possession with intent to sell, exchange, or negotiate, or who by printing, writing, or otherwise, assists in making or selling, or in attempting to sell, exchange, or negotiate any false or fictitious lottery ticket, or any share thereof, or any writing, certificate, bill, token, or other device before mentioned, or any ticket or share thereof, in any fictitious or pretended lottery,

knowing the same to be false or fictitious, or who receives any money or other thing of value, for any such ticket or share of a ticket, or for any such writing, certificate, bill, token, or other device, purporting that the owner, bearer, or holder thereof shall be entitled to receive any prize, or any share of such prize, or any other thing of value that may be drawn in any lottery, knowing the same to be false or fictitious, shall for every such offense be punished by imprisonment in the state prison not exceeding two years nor less than six months.

SEC. 205 (5). *Rule of evidence in trial of offenses under preceding section.*—Upon a trial of an indictment for either of the offenses mentioned in the preceding section, any ticket or share of a ticket, or any other writing or thing before mentioned, which the defendant has sold or offered for sale, or for which he has received any valuable consideration, shall be deemed to be false, spurious, or fictitious, unless such defendant proves the same to be true and genuine, and to have been duly issued by the authority of some legislature within the United States, and that such lottery was existing and undrawn, and that such ticket or share thereof, or writing or thing before mentioned, was issued by lawful authority, and binding upon the persons who issued the same.

GAMBLING.

SEC. 206 (6). *Gambling prohibited.*—Gambling with cards, dice, gaming tables, or any other gambling devices whatever, is prohibited.

SEC. 207 (7). *Gambling, how punished.*—Whoever deals cards at the game called faro, pharo, or forty-eight, whether the same is dealt with fifty-two, or any other number of cards, and whoever keeps any gambling device whatever, designed to be used in gambling, shall be punished by fine not exceeding one hundred nor less than fifty dollars.

SEC. 208 (8). *Betting at gaming table, etc., how punished.*—Whoever bets any money or other property at or upon any gaming table, game, or device, shall be punished by fine not exceeding twenty nor less than five dollars.

SEC. 209 (9). *Permitting gaming table, etc., to be set up, etc., how punished.*—Whoever suffers any gaming table, faro bank, or gambling device to be set up or used for the purpose of gambling, in any house, building, steamboat, raft, keelboat, or boom, lot, yard, or garden to him belonging, or by him occupied, or of which he has the control, shall be punished by fine not exceeding one hundred nor less than seventy-five dollars.

State v. Cumming, 17 Minn. 72.

SEC. 210 (10). *Who not excused from testifying—testimony not to be used against witness.*—No person shall be incapacitated or excused from testifying touching any offense committed by another, against any of the provisions of this chapter relating to gambling, by reason of his having bet or played at the prohibited games or gambling devices; but the testimony which may be given by such person shall in no case be used against such witness.

SEC. 211 (11). *Fines under this chapter recoverable before justice.*—All fines mentioned in this chapter may be recovered before any justice of the peace, in, and in the name of, and for the use of, the county where such offense was committed.

RECOVERY OF MONEY OR GOODS LOST BY GAMBLING.

SEC. 212 (12). *Money lost by gambling may be sued for in civil action.*—Whoever by playing at cards, dice, or other game, or by betting on the hands or sides of such as are gambling, loses to any person so playing or betting any sum of money or any goods whatever, and pays or delivers the same or any part thereof to the winner, the person so losing and paying or delivering the same, may sue for and recover such money by a civil action, before any court having competent jurisdiction.

SEC. 213 (13). *Notes, etc., given for money won by gambling are void, when.*—All notes, bills, bonds, mortgages, or other securities or conveyances whatever, in which the whole or any part of the consideration shall be for any money or goods won by gambling or playing at cards, dice, or any other game whatever, or by betting on the sides or hands of any person gambling, or for reimbursing or repaying any money knowingly lent or advanced at the time and place of such gambling or betting, or lent and advanced for any gambling or betting to any person so gambling or betting, shall be void, and of no effect, as between the parties to the same, and as to all persons except such as hold or claim under them in good faith, and without notice of the illegality of the consideration of such contract or conveyance.

ARTICLE IV.

AGAINST THE PUBLIC HEALTH.

(This Article is Chapter CI. of the Statutes of 1866.)

SEC. 214 (1). *Selling diseased provisions, how punished.*—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, shall be punished by imprisonment in the county jail not more than six months, or by fine not exceeding five hundred dollars.

SEC. 215 (2). *Fraudulent adulteration of food, how punished.*—Whoever fraudulently adulterates, for the purpose of sale, any substance intended for food, or any wine, spirits, malt liquor, or other liquor intended for drinking, with any substance injurious to health, shall be punished by imprisonment in the county jail not more than one year, or by fine not exceeding two hundred dollars.

SEC. 216 (3). *Fraudulent adulteration of drugs, etc., how punished.*—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 fine not exceeding three hundred dollars, and such adulterated drugs and medicines shall be forfeited and destroyed by order of the court.

SEC. 217 (4). *Inoculation with small pox, with intent, etc., how punished.*—Whoever inoculates himself, 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.

SEC. 218 (5). *Person intoxicated prescribing poison, etc., how punished.*—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.

SEC. 219 (6). *Selling poison without affixing label, how punished.*—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.

SEC. 220 (ACT OF FEBRUARY 27, 1871). *Punishment for the adulteration of milk and cheese.*—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 or 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.

S. L. 1871, 78. Sec. 2 of this act repeals S. L. 1867, 68.

SEC. 221 (1 OF ACT OF MARCH 2, 1866). *Penalty for throwing offal, etc., in lakes and rivers.*—Whoever willfully 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, 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.

S. L. 1866, 74.