

GENERAL STATUTES

OF

MINNESOTA

1913

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COMPILED AND EDITED BY
FRANCIS B. TIFFANY

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maliciously speak of or concerning any female of the age of twelve years or upwards, not a public prostitute, any false or defamatory words or language which shall injure or impair the reputation of such female for virtue or chastity, or which shall expose her to hatred, contempt, or ridicule, shall be guilty of a misdemeanor. Every slander herein mentioned shall be deemed malicious if no justification therefor be shown, and shall be justified when the language charged as slanderous, false, or defamatory is true, and was spoken with good motives and for justifiable ends. (4924)

69-30, 71+826; 92-171, 99+800.

8654. Testimony necessary to convict—No conviction shall be had under the provisions of § 8653 upon the testimony of the woman slandered, unsupported by other evidence, but must be proved by the evidence of at least two persons other than such woman, who heard and understood the language charged as slanderous, or by the admission of the defendant. (4925)

CHAPTER 98

CRIMES AGAINST MORALITY, DECENCY, ETC.

RAPE—ABDUCTION—CARNAL ABUSE, ETC.

8655. Rape—Rape is an act of sexual intercourse with a female not the wife of the perpetrator, committed against her will or without her consent. Every person who shall perpetrate such an act of sexual intercourse with a female of ten years or upwards, not his wife—

1. When through idiocy; imbecility, or any unsoundness of mind, either temporary or permanent, she is incapable of giving consent;
2. When her resistance is forcibly overcome;
3. When her resistance is prevented by fear of immediate and great bodily harm, which she has reasonable cause to believe will be inflicted upon her;
4. When her resistance is prevented by stupor or by weakness of mind produced by an intoxicating, narcotic, or anæsthetic agent administered by or with the privity of the defendant; or
5. When she is at the time unconscious of the nature of the act, and this is known to the defendant—

Shall be punished by imprisonment in the state prison for not less than seven nor more than thirty years. (4926)

1. **What constitutes**—39-277, 39+497, 796; 41-285, 43+5.
2. **Resistance**—99-123, 108+851, 9 Ann. Cas. 566.
3. **Indictment**—41-134, 43+324; 73-140, 76+33. Under former statute (6-279, 190).
4. **Evidence**—Held sufficient (103-428, 115+275). Held insufficient (105-410, 117+617, 15 Ann. Cas. 806). Corroborating testimony held insufficient (99-123, 108+851, 9 Ann. Cas. 566).
5. **Instructions**—Held sufficient (103-428, 115+275). See 109-270, 123+474.
6. **Assault with intent to commit rape**—35-182, 28+192; 41-285, 43+5.

8656. Carnal knowledge of children—Every person who shall carnally know and abuse any female child under the age of eighteen years shall be punished as follows:

1. When such child is under the age of ten years, by imprisonment in the state prison for life.
2. When such child is ten and under the age of fourteen years, by imprisonment in the state prison for not less than seven nor more than thirty years.
3. When such child is fourteen and under the age of eighteen years, by imprisonment in the state prison for not more than seven years, or by imprisonment in the county jail for not more than one year. (R. L. § 4927, amended '09 c. 92 § 1)

1. **Validity and scope of statute**—76-526, 79+518, 77 Am. St. Rep. 660; 80-216, 83+141. Cited (118-170, 136+746).
2. **What constitutes**—93-393, 101+499. See 83-78, 82, 85+911; 114-493, 131+629.
3. **Indictment**—81-134, 83+512.
4. **Assault with intent to commit**—90-526, 97+131.

8657. Physical ability, etc.—No conviction for rape shall be had against one under the age of fourteen years at the time of the alleged act, unless his physical ability to accomplish penetration is proved as an independent fact, beyond a reasonable doubt. In all cases of rape any sexual penetration, however slight, is sufficient to complete the crime. (4928)

80-216, 83+141; 93-393, 101+499.

8658. Compelling woman to marry—Every person who, by force, menace, or duress, shall compel a woman against her will to marry him, or to marry any other person, or to be defiled, shall be punished by imprisonment in the state prison for not less than three nor more than thirty years, or by a fine of not more than one thousand dollars, or by both. (4929)

8659. Abduction—Evidence—Every person who—

1. Shall take a female under the age of eighteen years, for the purpose of prostitution or sexual intercourse, or, without the consent of her father, mother, guardian or other person having legal charge of her person, for the purpose of marriage;

2. Shall inveigle or entice an unmarried female under the age of twenty-five years, of previous chaste character, into a house of ill fame or assignation, or elsewhere for the purpose of prostitution or sexual intercourse;

3. Shall take or detain a woman unlawfully against her will, with intent to compel her by force, menace, or duress to marry him or any other person, or to be defiled, or,

4. Being parent, guardian, or other person having legal charge of the person of a female under the age of eighteen years, shall consent to her taking or detention by any person for the purpose of prostitution or sexual intercourse—

Shall be guilty of abduction and punished by imprisonment in the state prison for not more than five years, or by a fine of not more than one thousand dollars, or both. But no conviction shall be had for abduction or compulsory marriage upon the unsupported testimony of the female abducted or compelled. (R. L. § 4930, amended '09 c. 92 § 2)

1. What constitutes—38-21, 35+712; 38-154, 36+102; 47-559, 50+691. Gist of offense (99-54, 108+812). See § 7089.

2. Indictment—38-21, 35+712; 47-559, 50+691; 99-54, 108+812.

3. Corroboration—47-559, 50+691.

8660. Enticement into state for prostitution, etc.—It shall be unlawful for any person to induce, entice or procure, or attempt to induce, entice or procure to come into this state, any female person for the purpose of prostitution or concubinage, or for any other immoral purpose, or to induce, entice or procure any female person in this state to enter any house of ill fame, assignation or prostitution. ('09 c. 404 § 1)

Offense is committed in this state if in consequence of enticements here female enters resort in another state. Indictment sufficient (118-64, 136+419).

8661. Penalty—Any person who violates the provisions of this act shall, upon conviction thereof, be punished by imprisonment in the state prison for a period of not more than ten (10) years. ('09 c. 404 § 2, amended '11 c. 202 § 1)

8662. Seduction under promise of marriage—Evidence—Every person who, under promise of marriage, shall seduce and have sexual intercourse with an unmarried female of previous chaste character, shall be punished by imprisonment in the state prison for not more than five years, or by a fine of not more than one thousand dollars, or by both. But no conviction shall be had for the offence specified herein upon the unsupported testimony of the female seduced. The subsequent intermarriage of the parties, or the lapse of two years after the commission of the offence before the finding of an indictment, shall be a bar to a prosecution for a violation of this section. (4931)

1. Indictment—27-52, 6+404; 41-41, 42+543; 41-196, 42+933; 100-12, 110+100; 112-108, 127+438.

2. Corroboration—4-325, 241; 34-285, 25+642; 41-196, 42+933; 50-363, 52+958, 36 Am. St. Rep. 656; 112-108, 127+438.

3. Proof of chaste character—4-325, 241; 34-285, 25+642; 41-196, 42+933; 50-363, 52+958, 36 Am. St. Rep. 656; 112-108, 127+438.

4. Proof of promise—4-325, 241; 34-285, 25+642; 112-108, 127+438. Includes any

promise absolute or conditional effect of which is to induce female to consent to intercourse (100-12, 110+100).

5. **Proof of intercourse**—4-325, 241; 41-196, 42+933.

6. **Want of chastity**—4-325, 241; 34-285, 25+642; 50-363, 52+958, 36 Am. St. Rep. 656; 112-108, 127+438.

7. **Offer of marriage**—50-363, 52+958; 36 Am. St. Rep. 656.

8663. **Indecent assault**—Every person who shall take any indecent liberties with or on the person of any female, not a public prostitute, without her consent expressly given, and which acts do not in law amount to rape, an attempt to commit a rape, or an assault with intent to commit a rape, and every person who shall take such indecent liberties with or on the person of any female under the age of fourteen years, without regard to whether she shall consent to the same or not, shall be guilty of a felony. (4932)

39-321, 40+249; 90-526, 97+131.

8664. **Soliciting boy under 18 to house of ill fame, etc.**—Any person who shall solicit any boy under the age of eighteen years to visit a house of ill fame or assignation for the purpose of prostitution or sexual intercourse, or shall direct or accompany such boy to any such house of ill fame or assignation for such purpose, or shall arrange or assist in arranging any meeting for such purpose between any boy under the age of eighteen years and any female of dissolute character or any inmate of any house of ill fame or assignation, shall be guilty of a felony, and upon conviction thereof shall be punished by imprisonment for not less than six months nor more than five years. ('07 c. 320 § 1)

Section 3 repeals inconsistent acts, etc.

8665. **Same—Admitting or cohabiting**—Any keeper of any house of ill fame or assignation who shall for any unlawful purpose admit to such house any boy under the age of eighteen years, or any female inmate of any such house of ill fame or assignation who shall cohabit with any boy under the age of eighteen years, shall be guilty of a felony, and upon conviction thereof shall be punished by imprisonment for not less than eighteen months nor more than seven years. ('07 c. 320 § 2)

CRIMES AGAINST CHILDREN, ETC.

8666. **Abandonment of wife or child**—Every parent or other person having the care or custody for nurture or education of a child under the age of ten years, who shall desert such child in any place with intent wholly to abandon it, shall be punished by imprisonment in the state prison for not more than one year, and a husband who, without lawful excuse, deserts his wife and family, when such family includes children unable to support themselves, shall be guilty of a felony and punished therefor by imprisonment in the state prison not more than one year. (R. L. § 4933, amended '11 c. 144 § 1)

8667. **Failure to support wife or child**—Every man who, without lawful excuse, wilfully fails to furnish proper food, shelter, clothing, or medical attendance to his wife, or to his child under fifteen years of age, shall be guilty of a misdemeanor. But if any person convicted under this section shall give bond to the state, in such amount and with such sureties as the court shall prescribe and approve, conditioned to furnish such wife or child with proper food, shelter, clothing, and medical attendance for a period of three months, or such longer time as it shall direct, judgment may be suspended until some condition of such bond is violated. Upon complaint of such violation to the court before which the conviction was had, the accused shall be heard upon an order to show cause, and, if the charge be sustained, the court shall forthwith proceed as if judgment had not been suspended. Such wife or child, and any person furnishing necessary food, shelter, clothing, or medical attendance to either, may sue upon such bond for a breach of any condition thereof. (4934)

See following section.

91-165, 97+671.

8668. **Same—Complaint—Warrant**—On complaint being made to any justice of the peace or judge of any municipal court by the wife of any person accusing such person of wilfully omitting without lawful excuse to furnish

proper food, clothing and shelter, or suitable care in case of sickness, to his wife or minor child under fifteen years of age, or upon similar complaint by any member of the board of county commissioners of the county wherein any such wife or minor child resides, the justice or judge shall take such complaint in writing, under the oath of such wife, or of such county commissioner, and shall thereupon issue his warrant against the person accused, directed to the sheriff or constable of his county, commanding him, forthwith, to bring such accused person before the justice or judge to answer such complaint. ('03 c. 222 § 1, amended '05 c. 217 § 1)

Historical—1903 c. 222 was repealed by § 9456; its provisions being incorporated in part in the preceding section. So far as 1905 c. 217 differs from the Revised Laws, it is to be construed, by virtue of § 9398, as amendatory or supplementary.

8669. Endangering life, health, or morals of minors—Every person having the care or custody of a minor who—

1. Shall wilfully cause or permit his life to be endangered, his health to be injured, or his morals to become depraved; or who

2. Shall wilfully cause or permit such minor to be placed in a situation, or to engage in an occupation, which will be likely to endanger his life, injure his health, or impair his morals—

Shall be guilty of a gross misdemeanor. (4935)

8670. Keepers of public places to exclude minors—Whoever permits any person under the age of twenty-one years to be or remain in any dancehouse, concert saloon, place where intoxicating liquors are sold or given away, or any place of entertainment injurious to the morals, owned, kept, or managed by him in whole or in part, or shall permit any person under the age of twenty-one years to play any game of skill or chance in any such place, shall be guilty of a misdemeanor, and be punished by a fine of not less than twenty-five dollars. (4936)

Constitutional. "Dance house" defined. Complaint (111-301, 126+1068, 29 L. R. A. [N. S.] 331, 137 Am. St. Rep. 557).

See §§ 8672, 8673.

8671. Minors—Gaming by prohibited, where—How punished—All persons under the age of twenty-one years are prohibited from playing pool or billiards or cards in any saloon or room connected therewith, or in any restaurant or public place of amusement in which tobacco, confectionery, or drinks of any kind, except water, are in any manner disposed of; and every keeper or person in charge of any such place who shall permit or suffer any person under the age of twenty-one years to play pool, billiards, or cards therein shall be guilty of a misdemeanor, and be punished by a fine of not less than twenty-five dollars, or by imprisonment in the county jail not exceeding thirty days. (4937)

See §§ 8672, 8673.

8672. Minors unaccompanied, etc.—Playing pool, billiards, or bowling prohibited, where—How punished—Any person under the age of eighteen years or who is a minor pupil in any school, college or university is prohibited from playing pool, billiards or ten pins or bowling whether on a ten pin alley or a box ball alley in any public pool or billiard room or bowling alley or in any public place of business, unless accompanied by his parent or guardian, and any person under the age of eighteen years or who is a minor pupil in any school, college or university who shall engage in any game of pool or billiards or bowling in any such place, or frequent or loiter within any pool or billiard room or bowling alley, or any public place of business where pool, billiards or bowling are played, unless accompanied by his parent or guardian, shall be guilty of a misdemeanor and shall be punished by a fine of not exceeding ten dollars. ('13 c. 572 § 1)

Section 3 repeals 1909 c. 133.

8673. Same—Keepers of public places to exclude—Penalty—Every keeper or person in charge of any pool or billiard room, public bowling alley or public place of business where pool, billiards or bowling are played who shall permit or allow any person under the age of eighteen years or any minor pupil of any school, college or university to play any of said games, therein,

or to gather in, loiter or frequent any such place unless accompanied by his parent or guardian, shall be guilty of a misdemeanor and be punished by a fine of not less than twenty-five (\$25.00) dollars or by imprisonment in the county jail not exceeding thirty (30) days. ('13 c. 572 § 2)

8674. Use of tobacco by minors—Every person under the age of eighteen years, and every minor pupil in any school, college, or university, who shall smoke or use cigarettes, cigars, or tobacco in any form on any public road, street, alley, park, or other lands used for public purposes, or in any public place of business, shall be guilty of a misdemeanor, and punished for each offence by a fine of not more than ten dollars, or by imprisonment in the county jail for not more than five days; and every person who shall furnish any cigarettes, cigars, or tobacco in any form to any such minor person, or who shall permit any such minor person to frequent any premises owned, held, or managed by him, for the purpose of indulging in the use of cigarettes, cigars, or tobacco in any form, shall be guilty of a misdemeanor, and punished by a fine of not more than fifty dollars, or by imprisonment in the county jail not exceeding thirty days, for each offence. (4938)

See §§ 8675-8680.

8675. Minors—Sale of tobacco to—Any person within this state who sells, gives to, or in any way furnishes any cigarettes, cigars or tobacco in any form to any person under eighteen years of age, or to any minor pupil in any school, college or university, shall be punished by a fine not to exceed fifty dollars or imprisonment in the county jail not to exceed thirty days for each offence. ('07 c. 386 § 2)

For section 1, see 8967. Section 6 repeals inconsistent acts, etc.

8676. Same—Use of tobacco in public place—Arrest—Penalty—Evidence—Any person under eighteen years of age, any minor pupil, as described in section two [8675] of this act, who shall smoke or use cigarettes, cigars or tobacco in any form on any public highway, street, alley, park or other lands used for public purposes, or in any public place of business, shall be arrested by an officer of the law, who may be cognizant of such offence; and further, it shall be the duty of all such officers, upon complaint of one citizen, to arrest such offenders and take them before the proper court. The court shall impose a punishment at its discretion in the sum of not to exceed ten dollars, or imprisonment in the county jail not to exceed five days for each offence; provided, if said minor person shall give information which may lead to the arrest of the person or persons violating section two [8675] of this act, in giving or selling to, or in any way furnishing said minor person tobacco, and shall give evidence as a witness in such proceedings against said party or parties, the court shall have power to suspend sentence against such minor person. ('07 c. 386 § 3)

8677. Same—Harboring, etc.—Any person who harbors or grants to persons under eighteen years of age, or to minor pupils as described in section two [8675] of this act, privilege or gathering upon or frequenting any property or lands held by him, for the purpose of indulging in the use of cigarettes, cigars or tobacco in any form, shall be held in the same penalty as provided for in section two [8675] of this act; provided, that no part of this act shall be so construed as to interfere with the rights of parents or lawful guardians in the rearing and management of their minor heirs or wards, within the bounds of their own private premises. ('07 c. 386 § 4)

8678. Same—Powers of grand jury—Be it further enacted that grand juries shall have inquisitorial powers over offenses committed under this act. ('07 c. 386 § 5)

8679. Liquors in school grounds or houses—Any person who shall introduce upon, or have in his possession upon, or in, any school ground, or any school house or school building any spirituous or malt liquors, except for experiments in laboratories, shall be guilty of a misdemeanor, the minimum punishment whereof shall be a fine of twenty-five dollars (\$25.00) or imprisonment for ten (10) days, in the county jail. ('13 c. 415 § 1)

8680. Sale of liquor or cigarettes, etc., within mile of certain institutions—Any person who shall sell any intoxicating liquor or cigarettes, or main-

tain a drinking place, within one mile of the university farm of the school of agriculture of the University of Minnesota, located in Ramsey county, Minnesota, on section 21, township 29, and range 23 west, or shall aid or abet another in either of such acts, shall be guilty of a gross misdemeanor and shall be punished for the first offense with a fine of not more than \$100.00 or imprisonment for not less than sixty days nor more than ninety days; for each subsequent offense, by a fine of not less than \$500.00 nor more than \$1,000.00, or by imprisonment in the county jail for not less than six months nor more than one year, or by both. ('07 c. 378 § 1)

8681. Sale of liquor or cigarettes within 1,000 feet of certain institutions—Any person who shall sell or dispose of any intoxicating liquor or cigarettes at retail, or who shall maintain or assist in maintaining any place where such articles or subjects of commerce are kept for sale or disposal, and any person who shall maintain any pool or billiard room or bowling alley, or any place of amusement where persons are permitted to assemble or loiter within one thousand (1,000) feet of any of the following named state institutions, to-wit:

The St. Peter state hospital for the insane, the Rochester state hospital for the insane, the Fergus Falls state hospital for the insane, the first state asylum for the insane at Anoka, Minnesota, the second state asylum for the insane at Hastings, Minnesota, the state training school at Red Wing, Minnesota, the Minnesota home school for girls at Sauk Centre, Minnesota, the state reformatory at St. Cloud, Minnesota, the state prison at Stillwater, Minnesota, the state public school at Owatonna, Minnesota, the state sanitarium for consumptives at Walker, Minnesota, the hospital for crippled and deformed children at St. Paul, Minnesota, and the state hospital for inebriates at Willmar, Minnesota, shall be guilty of a gross misdemeanor. Provided that the provisions of this act shall not apply to any manufacturer of intoxicating liquors or drug store whose place of manufacture or business is at the time of the passage of this act located within one thousand feet of any of the institutions herein named or the grounds thereof. Provided further, that the provisions of this act shall not apply to any person lawfully licensed to sell intoxicating liquors, nor to the premises so licensed, located at the time of the passage of this act within one thousand feet of any of the institutions herein named and the grounds and premises thereof. No license for the doing of any of the things herein prohibited shall be granted by the governing body of any town, county or municipality. ('13 c. 507 § 1)

8682. Certain employments of minors prohibited—Every person who shall employ or cause to be employed, exhibit, or have in his custody for exhibition or employment, any minor actually or apparently under the age of eighteen years; and every parent, relative, guardian, employer, or other person having the care, custody, or control of any such minor, who shall sell, let out, give away, or in any way procure or consent to the employment of such minor—

1. As a rope or wire walker, dancer, gymnast, contortionist, rider, or acrobat;

2. In begging, receiving alms, or in any mendicant occupation;

3. In any indecent or immoral exhibition or practice;

4. In any practice or exhibition dangerous or injurious to life, limb, health, or morals;

5. In labor of any kind outside the family of his residence before 7 o'clock a. m. or after 6 o'clock p. m.; or

6. As a messenger for delivering letters, telegrams, packages, or bundles to any known house of prostitution or assignation—

Shall be guilty of a misdemeanor, and be punished by a fine of not less than fifty dollars, or by imprisonment in the county jail for not less than thirty days, or by both. (4939)

8683. Cruelty towards children—Every person who shall torture, torment, or cruelly or unlawfully punish any child under the age of sixteen years, or shall compel any such child to labor more than ten hours in any day in a factory, workshop, or mercantile or manufacturing business, or who shall

commit any act of cruelty toward such child, shall be guilty of a misdemeanor. (4940)

8684. **Unlawful confinement of idiots, etc.**—Every person who shall confine an idiot, lunatic, or insane person in any other manner or in any other place than as authorized by law, or who shall be guilty of harsh, cruel, or unkind treatment of, or neglect of duty toward, any idiot, lunatic, or insane person under confinement, whether lawfully or unlawfully confined, shall be guilty of a misdemeanor. (4941)

DANCE HALLS

8685. **Public dance hall defined**—A public dance hall as the term is used in this act, shall be taken to mean any room, place or space open to public patronage in which dancing, wherein the public may participate, is carried on and to which admission may be had by the public by payment either directly or indirectly of an admission fee or price for dancing. ('13 c. 570 § 1)

Section 9 repeals inconsistent acts, etc.

8686. **Intoxicating liquor prohibited**—No person, firm, or corporation shall sell or give away, directly or indirectly, any intoxicating liquors or permit or suffer the same to be sold or given away in any public dance hall, nor shall any person, firm or corporation sell or give away or permit to be sold or given away in any such dance hall any ticket, token, check or pass or other thing which shall entitle the holder or owners thereof, either directly or indirectly, to receive any intoxicating liquors from any person, firm or corporation. ('13 c. 570 § 2)

8687. **Liquor prohibited in adjoining rooms, etc.**—No person shall in any such dance hall, or in any ante-room, or corridor, cloak room, hallway or dressing room thereof or in any room connected therewith, drink any intoxicating liquors; nor shall any keeper, proprietor, or person in charge of any dance hall knowingly suffer or permit any person to drink any intoxicating liquor in such public dance hall or in any ante-room, corridor, cloak room, hallway or dressing room or in any room connected therewith. ('13 c. 570 § 3)

8688. **Indecent and immodest dances—Rude conduct, etc.**—No person or persons shall dance, nor shall any keeper, proprietor or person in charge thereof permit or suffer any person or persons to dance in any public dance hall any indecent or immodest dance, or any dance which is characterized by immodest motion of the body. No person or persons shall in any public dance hall act or speak in rude, boisterous, obscene or indecent manner, nor shall any keeper, proprietor or person in charge of a public dance hall permit any person or persons to so act or speak therein. ('13 c. 570 § 4)

8689. **Licenses in certain cities**—In all cities of the first, second and third class, every public dance hall, except when such hall is owned by the municipality, must be licensed by the governing body of the city at a fee and under such conditions as such governing body may prescribe, not in violation of the provisions of this act. No such license shall be issued to any person of known bad character, nor to the keeper of any house of prostitution or place frequented by prostitutes, or other disorderly persons, nor to the keeper of any gambling house or place where gambling in any form is permitted, nor to any person not of good character, nor to any person who has within one year next preceding the filing of his application been convicted of violation of the provisions of this act, nor to any place which has direct communication with any room in which intoxicating liquors are sold or given away, nor to any place having so called "private apartments" or "private room" furnished apparently for other than legitimate business purposes, which adjoins such dance hall or stairs or passageway leading to said hall. Provided, that no license shall be issued for any place before the health commissioner shall have certified that said place complies with all the requirements and regulations as to ventilation, toilet conveniences and other pertinent regulations relating to the public health; provided further, that the governing body of any city may in its discretion permit any lodge or society, not organized and main-

tained for profit, to conduct public dances without being licensed as herein provided. ('13 c. 570 § 5)

8690. Hall to be lighted—Every licensed public dance hall shall be brightly illuminated while in public use and dancing therein while the lights are extinguished, dimmed or turned low so as to give imperfect illumination is hereby prohibited and made a violation of this act. ('13 c. 570 § 6)

8691. Certain persons to be excluded—No keeper, proprietor or person in charge of any licensed public dance hall shall permit to be or remain therein any unmarried person under the age of eighteen (18) years, or any intoxicated person or any prostitute or any person of known immorality. ('13 c. 570 § 7)

8692. Penalty for violation—Any firm, person or corporation violating any of the provisions of this act shall upon conviction thereof be punished by a fine not exceeding one hundred (\$100) dollars or by imprisonment for a term not exceeding ninety (90) days. ('13 c. 570 § 8)

ABORTION, ETC.

8693. Abortion, how punished—Every person who, with intent thereby to produce the miscarriage of a woman, unless the same is necessary to preserve her life, or that of the child with which she is pregnant, shall—

1. Prescribe, supply, or administer to a woman, whether pregnant or not, or advise or cause her to take, any medicine, drug, or substance; or,

2. Shall use, or cause to be used, any instrument or other means—

Shall be guilty of abortion, and punished by imprisonment in the state prison for not more than four years, or in a county jail for not more than one year. (4942)

22-238; 56-226, 57+652, 1065; 85-101, 88+417; 99-74, 108+833.

8694. Pregnant woman attempting abortion—A pregnant woman who takes any medicine, drug, or substance, or uses or submits to the use of any instrument or other means, with intent thereby to produce her own miscarriage, unless the same is necessary to preserve her life, or that of the child whereof she is pregnant, shall be punished by imprisonment in the state prison for not less than one nor more than four years. (4943)

8695. Selling drugs, etc.—Whoever shall manufacture, give, or sell an instrument, drug, or medicine, or any other substance, with intent that the same may be unlawfully used in producing the miscarriage of a woman, shall be guilty of a felony. (4944)

8696. Evidence—In any prosecution for abortion or attempting abortion, no person shall be excused from testifying as a witness on the ground that his testimony would tend to criminate himself. (4945)

8697. Concealing birth—Second offence—Every person who shall endeavor to conceal the birth of a child by any disposition of its dead body, whether the child died before or after its birth, shall be guilty of a misdemeanor; and every woman who, having been convicted of endeavoring to conceal the stillbirth of any issue of her body, which if born alive would be a bastard, or the death of such issue under the age of two years, shall, subsequent to such conviction, endeavor to conceal any such birth or death, shall be punished by imprisonment in the state prison for not more than five years. (4946)

BIGAMY—ADULTERY, ETC.

8698. Bigamy defined—How punished—Exceptions—Every person who, having a husband or wife living, marries another person, or continues to cohabit with such second husband or wife in this state, shall be guilty of bigamy, and be punished by imprisonment in the state prison for not more than five years, provided that this section shall not extend—

1. To a person whose former husband or wife has been absent for five years successively then last past, without being known to him or her to be living, and believed to be dead; or

2. To a person whose former marriage has been pronounced void, or annulled or dissolved, by a court of competent jurisdiction. (4947)

25-29; 43-385, 45+848.

8699. Punishment of consort—Every person who knowingly enters into a marriage with another which is prohibited to the latter by § 8698 shall be punished by imprisonment in the state prison for not more than five years, or by a fine of not more than one thousand dollars, or by both. (4948)

8700. Incest—Whenever any male and female persons, nearer of kin to each other than first cousins, computing by the rules of the civil law, whether of the half or the whole blood, shall have sexual intercourse together, each shall be guilty of incest, and be punished by imprisonment in the state prison for not more than ten years. (4949)

55-464, 57+205.

8701. Crime against nature—Every person who shall commit the crime against nature with mankind or beast, or attempt sexual intercourse with a dead body, shall be punished by imprisonment in the state prison for not more than twenty years, and any sexual penetration, however slight, shall be sufficient to complete the crime. (R. L. § 4950, amended '09 c. 270 § 1)

8702. Adultery—Whenever any married woman shall have sexual intercourse with a man, other than her husband, whether married or not, both shall be guilty of adultery, and punished by imprisonment in the state prison for not more than two years, or by a fine of not more than three hundred dollars; but no prosecution shall be commenced except on complaint of the husband or the wife, save when such husband or wife shall be insane, nor after one year from the commission of the offence. (4951)

41-50, 42+602; 57-225, 58+878. Under different statute (4-335, 251).

8703. Fornication—Whenever any man and a single woman cohabit with each other, both shall be guilty of fornication, and punished by imprisonment in the county jail for not more than ninety days, or by a fine of not more than one hundred dollars. (4952)

23-352; 27-52, 6+404; 94-319, 102+722.

Cited (103-428, 115+275).

8704. Exposure of person—Public indecency—Every person who shall wilfully and lewdly expose his person, or the private parts thereof, in any public place, or in any place where others are present, or shall procure another to so expose himself, and every person who shall be guilty of any open or gross lewdness or lascivious behavior, or any public indecency other than hereinbefore specified, shall be guilty of a misdemeanor, and punished by a fine of not less than five dollars, or by imprisonment in a county jail for not less than ten days. (4953)

8705. Obscene literature—Sale, etc.—Every person who—

1. Shall sell, lend, give away, or offer to give away, show, have in his possession with intent to sell, give away, show, advertise, or otherwise offer for loan, gift, sale, or distribution, any obscene or indecent book, magazine, pamphlet, newspaper, story paper, writing, picture, drawing, photograph, or any article or instrument of indecent or immoral character; or who shall design, copy, draw, photograph, print, utter, publish, or otherwise prepare such a book, picture, drawing, paper, or other article; or write or print, or cause to be written or printed, a circular, advertisement, or notice of any kind, or give oral information stating when, where, how, or of whom or by what means such an indecent or obscene article or thing can be purchased or obtained; or

2. Shall sell, lend, give away, show, or have in his possession with intent to sell, lend, give away, show, advertise, or otherwise offer for loan, gift, sale or distribution to any minor, any book, pamphlet, magazine, newspaper, or other printed paper devoted to the publication, or largely made up, of criminal news, police reports, accounts of criminal deeds, or pictures and stories of deeds of bloodshed, lust, or crime; or

3. Shall exhibit upon any public road, street, or other place within view of any minor any of the books, papers, or other things hereinbefore enumerated; or

4. Shall hire, use, or employ any minor to sell or give away, or in any manner distribute, or shall permit any minor in his custody or control to

sell, give away, or in any manner distribute, any of the articles hereinbefore mentioned—

Shall be guilty of a gross misdemeanor, and be punished by imprisonment in the county jail for not more than one year nor less than ninety days, or by a fine of not less than one hundred dollars nor more than five hundred dollars, or by both. (4954)

8706. Indecent articles, etc.—Every person who shall sell, lend, or give away, or in any manner exhibit, or offer to sell, lend, or give away, or have in his possession with intent to sell, lend, give away, or advertise or offer for sale, loan, or distribution, any instrument or article, or any drug or medicine, for the prevention of conception or for causing unlawful abortion; or shall write or print, or cause to be written or printed, a card, circular, pamphlet, advertisement, or notice of any kind, or shall give oral information, stating when, where, how, of whom, or by what means such article or medicine can be obtained or who manufactures it—shall be guilty of a gross misdemeanor, and punished by imprisonment in the county jail for not more than one year, or by a fine of not more than five hundred dollars, or by both. (4955)

8707. Mailing and carrying obscene matter—Every person who shall deposit or cause to be deposited in any postoffice in the state, or place in charge of any express company or other common carrier or person for transportation, any of the articles or things specified in §§ 8705, 8706, or any circular, book, pamphlet, advertisement, or notice relating thereto, with the intent of having the same conveyed by mail, express, or in any other manner; or who shall knowingly or wilfully receive the same with intent to carry or convey it, or shall knowingly carry or convey the same by express, or in any other manner except by United States mail—shall be guilty of a misdemeanor. But the provisions of this section and § 8706 shall not be construed to apply to an article or instrument used by physicians lawfully practicing, or by their direction or prescription, for the cure or prevention of disease. (4956)

8708. Search warrant—Destruction of property—Every municipal court and justice of the peace, upon complaint under oath that any person has in his possession or under his control any of the obscene books, papers, or other matter specified in §§ 8705–8707, shall issue a warrant directed to the sheriff or any constable of the county, therein directing him to search for, seize, and take possession of such obscene matter; and, upon conviction of the person in whose possession the same shall be found, shall cause such matter to be destroyed, and the fact to be entered upon the records of the court. (4957)

8709. Certain medical advertisements—Penalty—Any person who shall advertise, in his own name or the name of another person, firm or pretended firm, association, corporation or pretended corporation, in any newspaper, pamphlet, circular, or other written or printed paper, or the owner, publisher, or manager of any newspaper or periodical who shall permit to be inserted or published in any newspaper or periodical owned or controlled by him, the treatment or curing of venereal diseases, the restoration of “lost manhood” or “lost vitality,” or shall advertise in any manner that he is a specialist in diseases of the sexual organs, or diseases caused by sexual weakness, self-abuse, or excessive sexual indulgence, or in any disease of like causes, or who shall advertise in any manner any medicine, drug compound, appliance or any means whatever whereby it is claimed that sexual diseases of men and women may be cured or relieved, or miscarriage or abortion produced, shall be guilty of a gross misdemeanor and shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars, or by imprisonment in the county jail for not more than six months. ('09 c. 162 § 1)

8710. Same—Publication, etc.—Penalty—Any person publishing, distributing, or causing to be distributed or circulated, any of the advertising matter herein above prohibited shall be guilty of a misdemeanor and punished as prescribed in section 1 [8709] of this act. ('09 c. 162 § 2)

8711. Same—Evidence—The production of any advertisement or advertising matter published or distributed contrary to the provisions of this act

shall be of itself prima facie evidence of the guilt of the person or persons advertising to cure any such disease herein above mentioned, or of the publishers who publish any matter such as is herein prohibited. ('09 c. 162 § 3)

8712. Keeper of disorderly resort—Every person who shall keep a house of ill fame or assignation, or a house, tent, vehicle, resort, or place of any description for persons to visit for unlawful sexual intercourse, or for any other lewd, obscene, or indecent purpose, shall be guilty of felony. And every person who shall keep a disorderly house, or any place of public resort by which the peace, comfort, or decency of a neighborhood is habitually disturbed, or who, as agent or owner, lets a building or any portion thereof, knowing that it is intended to be used for any purpose specified in this section, or who permits a building or any portion thereof to be used for any of the aforesaid purposes, shall be guilty of a gross misdemeanor. (4958)

See §§ 8717-8726.

21-47; 29-193, 12+524; 59-281, 61+450; 89-340, 94+1078; 89-343, 94+1077.

8713. Detention in house of ill fame for debt—It shall be unlawful for any person to hold, detain or restrain in any house of ill fame or prostitution, any female person for the purpose of compelling such female directly or indirectly by her voluntary or involuntary service or labor, to pay, liquidate or cancel any debt, dues or obligations incurred or said to have been incurred in such house of ill fame or prostitution. ('09 c. 461 § 1)

8714. Same—How punished—Any person who violates or suffers the violation of any of the provisions of this act shall be guilty of a felony, and, upon conviction thereof, shall be imprisoned in the state prison for not more than two years. ('09 c. 461 § 2)

8715. Receiving earnings of prostitute—It shall be unlawful for any person to knowingly accept or receive in whole or in part his or her support or maintenance from the proceeds or earnings of any woman engaged in prostitution. ('09 c. 475 § 1)

8716. Same—How punished—Any person who violates the provisions of this act shall be guilty of a felony and upon conviction thereof shall be punished by imprisonment in the state prison for not less than one year nor more than three years. ('09 c. 475 § 2)

8717. Houses of prostitution, etc., nuisances—Whoever shall erect, establish, continue, maintain, use, own or lease any building, erection or place used for the purpose of lewdness, assignation or prostitution is guilty of a nuisance, and the building, erection or place, or the ground itself, in or upon which such lewdness, assignation or prostitution is conducted, permitted or carried on, continued or exists, and the furniture, fixtures, musical instruments, and movable property used in conducting or maintaining such public nuisance, are also declared a nuisance and shall be enjoined and abated as hereinafter provided. ('13 c. 562 § 1)

See § 8712.

8718. Same—Action to enjoin—Restraining order—Answer, etc.—Whenever a nuisance is kept, maintained or exists, as defined in this act, the county attorney or any citizen of the county may maintain an action in equity in the name of the state of Minnesota, upon the relation of such county attorney or citizen, to perpetually enjoin said nuisance, the person or persons conducting or maintaining the same from further conducting or maintaining the same and the owner or agent of the building or ground upon which said nuisance exists from further permitting such building or ground or both to be so used. The defendants shall be served therein as in other actions and in such action the court, or judge in vacation, shall upon the presentation of a verified complaint therefor alleging that the nuisance complained of exists, allow a temporary writ of injunction without bond, if the existence of such nuisance shall be made to appear to the satisfaction of the court or judge by evidence in the form of affidavits, depositions, oral testimony or otherwise as the complainant may elect, unless the court or judge by previous order, shall have directed the form and manner in which such evidence shall be presented, in which case it shall be so presented. Where a temporary injunc-

tion is prayed for, the court, on the application of plaintiff, may issue an ex parte restraining order, restraining the defendants and all other persons from removing or in any manner interfering with the furniture, fixtures, musical instruments and movable property used in conducting the alleged nuisance, until the decision of the court or judge granting or refusing such temporary injunction and until the further order of the court thereon. The restraining order may be served by handing to and leaving a copy of said order with any person in charge of said property or residing in the premises or apartment wherein the same is situated, or by posting a copy thereof in a conspicuous place at or upon one or more of the principal doors or entrances to such premises or apartment where such nuisance is alleged to be maintained, or by both such delivery and posting. The officer serving such restraining order shall forthwith make a return into court and inventory of the personal property situated in and used in conducting or maintaining such nuisance. Any violation of such restraining order shall be a contempt of court, and where such order is so posted mutilation or removal thereof, while the same remains in force, shall be a contempt of court; provided, such posted order contains thereon or therein a notice to that effect. Three days' notice in writing shall be given the defendants of the hearing of the application for temporary injunction, and if then continued at the instance of defendant, the temporary writ as prayed shall be granted as a matter of course. Each defendant so notified, shall serve upon the complainant or his attorney a verified answer on or before the date fixed in said notice for said hearing, and such answer shall be filed with the clerk of the district court of the county wherein such cause is triable, but the court may allow additional time for so answering, providing such extension of time shall not prevent the issuing of said temporary writ as prayed for. The allegations of the answer shall be deemed to be traversed without further pleading. When an injunction has been granted, it shall be binding on the defendants throughout the judicial district in which it was issued, and any violation of the provisions of the injunction herein provided shall be a contempt as hereinafter provided. ('13 c. 562 § 2)

8719. Same—Trial—Action by citizen, etc.—The action when brought shall be noticed for and triable at the first term of the court the same as other actions triable in the district court of such county, and in such action evidence of the general reputation of the place shall be admissible for the purpose of proving the existence of said nuisance and shall be prima facie evidence of such nuisance and of knowledge thereof and of acquiescence and participation therein on the part of the owners, lessors, lessees, users and all those in possession of or having charge of, as agent or otherwise, or having any interest in any form of property used in conducting or maintaining said nuisance. If the complaint is filed by a citizen, it shall not be dismissed except upon a sworn statement made by the complainant and his attorney, setting forth the reasons why the action should be dismissed, and the dismissal approved by the county attorney in writing or in open court. If the court is of the opinion that the action ought not to be dismissed, he may direct the county attorney to prosecute said action to judgment at the expense of the county, and if the action is continued more than one term of court, any citizen of the county or the county attorney may be substituted for the complaining party and prosecute said action to judgment. If the action is brought by a citizen and the court finds there was no reasonable grounds or cause for said action, the cost may be taxed to such citizen. ('13 c. 562 § 3)

8720. Same—Contempts—In case of the violation of any injunction granted under the provisions of this act, or of a restraining order or the commission of any contempt of court in proceedings under this act, the court, or in vacation, a judge thereof, may summarily try and punish the offender. The proceedings shall be commenced by filing with the clerk of the court a complaint under oath, setting out and alleging facts constituting such violation, upon which the court or judge shall cause a warrant to issue, under which the defendant shall be arrested. The trial may be had upon affidavits or either party may demand the production and oral examination of the witnesses. A party found guilty of contempt under the provisions of this act shall be punished by a fine of not less than one hundred nor more than one thousand dol-

lars or by imprisonment in the county jail not less than three nor more than six months or by both fine and imprisonment. ('13 c. 562 § 4)

8721. Same—Order of abatement—Personal property—Contempt—Fees— If the existence of the nuisance be admitted or established in an action as provided in this act, or in a criminal proceeding in the district court, an order of abatement shall be entered as a part of the judgment in the case, which order shall direct the removal from the building or place of all fixtures, furniture, musical instruments or movable property used in conducting the nuisance, and shall direct the sale of such thereof as belong to the defendants notified or appearing, in the manner provided for the sale of chattels under execution, and shall direct the effectual closing of the building or place against its use for any purpose, and so keeping it closed for a period of one year, unless sooner released. Owners of unsold personal property so seized must appear and claim same within ten days after such order of abatement is made, and prove innocence, to the satisfaction of the court, of any knowledge of said use thereof and that with reasonable care and diligence they could not have known thereof. Every defendant in the action shall be presumed to have had knowledge of the general reputation of the said place. If such innocence be so established, such unsold personal property shall be delivered to the owner, otherwise it shall be sold as hereinbefore provided. If any person shall break and enter or use a building, erection or place so directed to be closed, he shall be punished as for contempt as provided in the preceding section. For removing and selling the movable property, the officer shall be entitled to charge and receive the same fees as he would for levying upon and selling like property on execution, and for closing the premises and keeping them closed, a reasonable sum shall be allowed by the court. ('13 c. 562 § 5)

8722. Same—Duty of county attorney, etc.—In case the existence of such nuisance is established in a criminal proceeding in a court now having equitable jurisdiction, it shall be the duty of the county attorney to proceed promptly under this act to enforce the provisions and penalties thereof, and the finding of the defendant guilty in such criminal proceeding, unless reversed or set aside, shall be conclusive as against such defendant as to the existence of the nuisance. All moneys collected under this act shall be paid to the county treasurer. The proceeds of the sale of the personal property, as provided in the preceding section, shall be applied in payment of the costs of the action and abatement or so much of such proceeds as may be necessary, except as hereinafter provided. ('13 c. 562 § 6)

8723. Same—Intervention by owner—If the owner of the premises in which said nuisance has been maintained appears and pays all costs of the proceeding, and files a bond with sureties to be approved by the court in the full value of the property, to be ascertained by the court, or in vacation, by the judge thereof, conditioned that he will immediately abate said nuisance and prevent the same from being established or kept therein within a period of one year thereafter, the court, or in vacation the judge, if satisfied of his good faith, may order the premises closed or sought to be closed under the order of abatement, to be delivered to said owner, and said order of abatement cancelled so far as the same may relate to said real property. The release of the property under the provisions of this section shall not release it from any judgment, lien, penalty or liability to which it may be subject by law. ('13 c. 562 § 7)

8724. Same—Permanent injunction—Penalty and lien—Whenever a permanent injunction issues against any person for maintaining a nuisance as herein defined, or against any owner or agent of the building kept or used for the purpose prohibited by this act, there shall be imposed upon said building and the ground upon which the same is located and against the person or persons maintaining said nuisance, and the owner or agent of said premises, a penalty of three hundred dollars. The imposing of said penalty shall be made by the court as a part of the proceeding, and the clerk of said court shall make and certify a return of the imposition of said penalty forthwith to the county auditor, who shall enter the same as a tax upon the property and against the persons upon which or whom the lien was imposed as and when

other taxes are entered, and the same shall be and remain a lien on the land upon which lien was imposed until fully paid; provided that any such lien imposed while the tax books are in the hands of the auditor shall be immediately entered therein. The payment of said penalty shall not relieve the persons or property from any other penalties provided by law. The provisions of the law relating to the collection of taxes in this state, the delinquency thereof and sale of property for taxes shall govern in the collection of the penalty herein prescribed in so far as the same are applicable, and the said penalty collected shall be applied in payment of any deficiency in the costs of the action and abatement on behalf of the state to the extent of such deficiency after the application thereto of the proceeds of the sale of personal property as hereinbefore provided, and the remainder of said penalty together with the unexpended portion of the proceeds of the sale of personal property shall be distributed in the same manner as fines collected for the keeping of houses of ill fame, excepting that ten per cent of the amount of the whole penalty collected and of the whole proceeds of the sale of said personal property as provided in this act shall be paid by the treasurer to the attorney representing the state in the injunction action, at the time of final judgment. ('13 c. 562 § 8)

8725. Same—Owners and agents—Parties to action—When such nuisance has been found to exist under any proceeding in the district court or as in this act provided, and the owner or agent of such building or ground whereon the same has been found to exist, was not a party to such proceeding, nor appeared therein, the said penalty of three hundred dollars shall, nevertheless, be imposed against the persons served or appearing and against the property as in this act set forth. But before such penalty shall be enforced against such property, the owner or agent thereof shall have appeared therein or shall be served with summons therein, and the provisions of sections 4111 and 4112 of Revised Laws of Minnesota, 1905 [7737, 7738], shall apply to service in proceedings under this act. The person in whose name the real estate affected by the action stands on the books of the county auditor for purposes of taxation shall be presumed to be the owner thereof, and in case of unknown persons having or claiming any ownership, right, title, or interest in property affected by the action, such may be made parties to the action by designating them in the summons and complaint as "all other persons unknown claiming any ownership, right, title or interest in the property affected by the action" and service thereon may be had by publishing such summons in the manner prescribed in said § 4111 [7737]. Any person having or claiming such ownership, right, title or interest, and any owner or agent in behalf of himself and such owner may make, serve and file his answer therein within twenty days after such service and have trial of his rights in the premises by the court; and if said cause has already proceeded to trial or to findings and judgment, the court shall by order fix the time and place of such further trial and shall modify, add to or confirm such findings and judgment as the case may require. Other parties to said action shall not be affected thereby. ('13 c. 562 § 9)

8726. Same—Unconstitutional provisions—Should any provision or item of this act be held to be unconstitutional, such fact shall not be held to invalidate the other provisions and items thereof. ('13 c. 562 § 10)

LOTTERIES

8727. Defined—A nuisance—Drawing—How punished—A lottery is a scheme for the distribution of property by chance, among persons who have paid or agreed to pay a valuable consideration for the chance, whether it shall be called a lottery, raffle, gift enterprise, or by any other name, and is hereby declared unlawful and a public nuisance.

Every person who shall contrive, propose, or draw a lottery, or shall assist in contriving, proposing, or drawing a lottery, shall be punished by imprisonment in the state prison for not more than two years, or by a fine of not more than one thousand dollars, or by both. (4959)

8728. Selling tickets, advertising—Every person who shall sell, give, or in any way whatever furnish or transfer to or for another a ticket, chance, share, or interest, or any paper, certificate, or instrument purporting to be or to represent a ticket, chance, share, or interest, in or dependent upon the event of a lottery, to be drawn within or without the state; or who, by writing, printing, circular, or letter, or in any other way, shall advertise or publish an account of a lottery, in or out of the state, stating how, when, or where the same is to be or has been drawn, or what are the prizes therein, or any of them, or the price of a ticket, or any share or interest therein, or where or how it may be obtained—shall be guilty of a misdemeanor. (4960)

8729. Disposal of property by lottery—Keeping office—Letting building—Every person who shall offer for sale or distribution in any way real or personal property, or any interest therein, to be determined by lot or chance dependent upon the drawing of a lottery in or out of the state; or who shall sell, furnish, or procure, or cause to be sold, furnished, or procured, in any manner, a chance or share or any interest in property offered for sale or distribution in violation of this subdivision, or a ticket or other evidence of such chance, share, or interest; or who shall open, set up, or keep, by himself or another, an office or place for registering the numbers of tickets in a lottery in or out of the state, or for making, receiving, or registering any bets or stakes, for the drawing or result of such lottery; or who shall advertise or in any way publish any account of an opening, setting up, or keeping of such an office or place; or who shall let or permit to be used any building or portion thereof, knowing that it is intended to be used for any of the purposes specified in this subdivision—shall be guilty of a misdemeanor. (4961)

8730. Insuring lottery tickets—Advertising offers to insure—Every person who shall insure, or receive any consideration for insuring, for or against the drawing of a ticket, share, or interest in a lottery, or of a number of such ticket, share, or interest, or who shall receive any valuable consideration upon an agreement to pay money, or deliver property, in the event that a ticket, share, or interest, or a number of such a ticket, share, or interest, in a lottery shall prove fortunate or unfortunate, or shall be drawn or not drawn in a particular way or in a particular order; or who shall promise or agree or offer to pay money or deliver property, or do or forbear to do any act, for the benefit of any person, with or without consideration, upon any accident or contingency dependent on the drawing thereof, or of any number or ticket therein; or who, by writing, printing, circular, or letter, or in any other way, advertises or publishes an offer, notice, or proposition in violation of the provisions of this section—shall be guilty of a misdemeanor. (4962)

8731. Lotteries out of state—Advertisements by non-residents—The provisions of this subdivision are applicable to lotteries drawn or to be drawn out of the state, whether authorized or not by the laws of the state where they are drawn or to be drawn, in the same manner as to those in the state, and every provision of law relating to advertising lotteries or offers to insure lottery tickets shall be applicable whenever the advertisement was published, or the letter or circular sent or delivered, through or in the state, though the person causing or procuring the same to be published, sent, or delivered was out of the state at the time of so doing. (4963)

GAMING

8732. Gambling—Gambling with cards, dice, gaming tables, or any other gambling device whatever is hereby prohibited. Every person who 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 every person who shall keep any gambling device whatsoever designed to be used in gambling, shall be punished by imprisonment in the county jail for not more than six months, or by a fine of not more than two hundred dollars, or by both; and every person who shall bet any money or other property at or upon a gaming

table, game, or device shall be punished by a fine of not less than five dollars nor more than twenty dollars. (4964)

1. **What is gambling device**—39-153, 39+305; 49-443, 52+42; 74-257, 77+4; 84-357, 87+935. Cited (115-235, 132+266).

2. **What constitutes gambling**—39-153, 39+305; 74-257, 77+4.

3. **Indictment**—84-357, 87+935.

8733. **Gambling devices on premises**—Every person who shall suffer 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, owned, occupied, or controlled by him, shall be punished by imprisonment in the county jail for not more than six months, or by a fine of not more than two hundred dollars, or by both. (4965)

79-388, 82+650; 84-357, 87+935. At common law (17-72, 50; 39-153, 39+305). Under city ordinance (74-257, 77+4. See § 8732). Cited (115-235, 132+266).

8734. **Evidence—Testimony of player**—No person shall be excused from testifying touching an offence committed by another against any provision of this subdivision relating to gambling, by reason of his having bet or played at the prohibited game or gambling device. (4966)

8735. **Recovery of money, etc., lost**—Every person who, by playing at cards, dice, or other game, or by betting on the hands or sides of such as are gambling, shall lose to any person so playing or betting any sum of money or any goods, and pays or delivers the same, or any part thereof, to the winner, may sue for and recover such money by a civil action before any court of competent jurisdiction. (4967)

34-247, 25+400; 94-416, 103+163. Recovery of money lost at gambling from keeper or lessee (115-235, 132+266).

8736. **Notes, etc., for gambling debt void**—Every note, bill, bond, mortgage, or other security or conveyance 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, without notice of the illegality of the consideration of such contract or conveyance. (4968)

75-68, 77+558.

8737. **Swindling by cards, etc.**—Every person who, by means of three-card monte, so called, or of any other form or device, sleight of hand, or other means, by use of cards or instruments of like character, or by any other instrument, trick, or device, obtains from another person any money or other property of any description, shall be deemed guilty of the crime of swindling, and be punished by imprisonment in the state prison for not less than two nor more than five years, or by a fine of not less than two hundred dollars nor more than two thousand dollars; and every person aiding, encouraging, advising, or confederating with or knowingly harboring or concealing, any such person, or in any manner being accessory to the commission of the above-described offence, and all persons who shall confederate together for the purpose of playing such games, shall be deemed principals therein and punished as such. (4969)

1. **What constitutes**—29-142, 12+455; 72-522, 75+715; 82-342, 85+12.

2. **Indictment**—29-142, 12+455; 88-262, 92+976.

3. **Evidence admissible**—72-522, 75+715; 88-262, 92+976.

4. **Sufficiency of the evidence**—29-142, 12+455; 82-342, 85+12; 88-262, 92+976; 95-467, 104+295.

8738. **Arrests**—Every person may, and every conductor or other employee on any railway car or train, captain, clerk, or other employee on any boat, station agent at any depot, officer of any fair or fair ground, proprietor or employee of any place of public resort, with or without warrant, shall arrest any person found in the act of committing any of the offences mentioned in § 8737, or any person whom he has good reason to believe has been guilty

of any such offence, and take him before a magistrate or court having jurisdiction, and make written complaint under oath against him. Every person so making such arrest shall have the same power and authority in all respects as an officer with a warrant, including the power to summon assistance, and shall also arrest the person injured by reason of such offence, and take him before such magistrate or court, who shall require him to give security for his appearance as a witness on trial of the case; and he shall receive for such services the same compensation as is provided for sheriffs. (4970)

8739. Swindlers ejected, when—Law to be posted—Every conductor, captain, hotel or saloon keeper, proprietor or manager of any public conveyance or place of public resort, and the officer of any fair or fair grounds, shall eject from his car, train, boat, hotel, saloon, public conveyance, fair grounds, or place of public resort any person known to him, or whom he has good reason to believe, to be a three-card monte man, or who offers to wager or bet money or other valuable thing upon what is commonly known as "three-card monte," or on any trick or game with cards or other gaming device, and for such ejection no action for damages shall be maintained; and every person operating any public conveyance by which passengers are carried shall keep posted in such conveyance a copy of this subdivision. (4971)

8740. Neglect of conductor, etc., to arrest—Every conductor of a railway train, every station agent, captain of any steamboat, proprietor of any public conveyance, officer of any fair or fair grounds or place of public resort, every hotel or saloon keeper, or any agent or employee thereof, who shall fail, neglect, or refuse to perform such duty, or who shall knowingly suffer or permit any violation of any provision of this subdivision, shall be guilty of a misdemeanor. (4972)

8741. Evidence of accomplice—Any person may be convicted for violation of this subdivision on his own confession out of court, or upon the testimony of an accomplice. (4973)

PAWNBROKERS

8742. License—Refusal to exhibit stolen goods—Selling before time of redemption—Every person who shall carry on the business of a pawnbroker by receiving goods in pledge for loans at a rate of interest above that allowed by law, except by virtue of a license from a municipal corporation or other authority empowered to grant such license; every person carrying on the business of a pawnbroker or junk dealer who, having received any goods which have been embezzled or stolen, refuses or omits to exhibit them, upon demand, during the usual business hours, to the owner thereof, or his agent authorized to demand an inspection thereof, or to any public officer; and every pawnbroker who shall sell any article, received by him in pledge, before the time to redeem the same has expired, or who wilfully refuses to disclose the name of the purchaser, or the price received by him for any article so received by him in pledge and subsequently sold—shall be guilty of a misdemeanor. (4974)

8743. Junk dealers, pawnbrokers, etc.—Purchase or pledge from minor prohibited—It shall be unlawful for any junk dealer, pawnbroker or second hand dealer to purchase or to receive on deposit or pledge any thing of value as security for a loan of money from any person, male or female, under lawful age. ('07 c. 228 § 1)

8744. Same—Gross misdemeanor—Any person violating this act shall be guilty of a gross misdemeanor. ('07 c. 228 § 2)

RIGHTS OF SEPULTURE

8745. Dissection—When permitted—The right to dissect the dead body of a human being shall be limited to cases specially provided by statute, or by the direction or will of the deceased; cases where a coroner is authorized to hold an inquest upon the body, and then only so far as he may authorize dissection; and cases where the husband, wife, or next of kin, charged by law with the duty of burial, shall authorize dissection for the purpose of ascertaining the cause of death, and then only to the extent so authorized. Every

person who shall make, cause, or procure to be made any dissection of the body of a human being, except as hereinbefore provided, shall be guilty of a gross misdemeanor. (4975)

8746. Burial or cremation—Except in cases of dissection provided for in § 4975, and where a dead body shall rightfully be carried through or removed from the state for the purpose of burial elsewhere, every dead body of a human being lying within this state, and the remains of any dissected body after dissection, shall be decently buried, or cremated, within a reasonable time after death. (4976)

8747. Opening grave—Stealing body—Receiving same—Every person who shall remove the dead body of a human being, or any part thereof, from a grave, vault, or other place where the same has been buried, or deposited awaiting burial or cremation, without authority of law, with intent to sell the same, or for the purpose of procuring a reward for its return, or for dissection, or from malice or wantonness, shall be punished by imprisonment in the state prison for not more than five years, or by a fine of not more than one thousand dollars, or by both. Every person who shall purchase or receive, except for burial or cremation, any such dead body, or any part thereof, knowing that the same has been removed contrary to the foregoing provisions, shall be punished by imprisonment in the state prison for not more than three years. Every person who shall open a grave or other place of interment, temporary or otherwise, or a building where such dead body is deposited while awaiting burial or cremation, with intent to remove such body, or any part thereof, for the purpose of selling or demanding money for the same, for dissection, from malice or wantonness, or with intent to steal or remove the coffin or any part thereof, or anything attached thereto, or any vestment or other article interred or intended to be interred with the body, shall be punished by imprisonment in the state prison for not more than two years, or by a fine of not more than two hundred and fifty dollars, or by both. (4977)

8748. Interfering with dead body or funeral—Every person who shall arrest or attach the dead body of a human being upon a debt or demand, or shall detain or claim to detain it for any debt or demand, or upon any pretended lien or charge, or who, without authority of law, shall obstruct or detain a person engaged in carrying or accompanying the dead body of a human being to a place of burial or cremation, shall be guilty of a misdemeanor. (4978)

8749. Opening road through cemetery—Every person who shall make or open any road, or construct any railway, turnpike, canal, or other public easement, over, through, in, or upon such part of any inclosure as may be used for the burial of the dead, without authority of law or the consent of the owner thereof, shall be punished by fine not exceeding three hundred dollars. (4979)

8750. Cemetery near university or soldiers' home—It shall be unlawful for any person, firm, association or corporation, to locate or maintain a cemetery or burial ground for the purpose of burying any human body, or the burying of any human body within three-quarters of a mile of the university of the state of Minnesota, or the Minnesota soldiers' home. ('11 c. 4 § 1)

8751. Same—Penalty—Any person, firm, association or corporation, violating section 1 [8750] of this act shall be guilty of a gross misdemeanor for each and every offense. ('11 c. 4 § 2)

SABBATH BREAKING, ETC.

8752. Definitions—The law prohibits the doing on the first day of the week of the certain acts in § 8753 specified, which are serious interruptions of the repose and religious liberty of the community, and the doing of any of said acts on that day shall constitute Sabbath breaking. Under the term "day" as used in this section and § 8753 is included all the time from midnight to midnight. (4980)

Cited (97-125, 105+1127, 7 Ann. Cas. 932; 112-52, 127+444, 30 L. R. A. [N. S.] 335, 21 Ann. Cas. 679).

8753. Things prohibited—Exceptions—All hunting, shooting, fishing, playing, horse racing, gaming and other public sports, exercises, and shows; all noises disturbing the peace of the day; all trades, manufactures, and mechanical employments, except works of necessity performed in an orderly manner so as not to interfere with the repose and religious liberty of the community; all public selling or offering for sale of property, and all other labor except works of necessity and charity are prohibited on the Sabbath day: Provided, that meals to be served upon the premises or elsewhere by caterers, prepared tobacco in places other than where intoxicating liquors are kept for sale, fruits, confectionery, newspapers, drugs, medicines, and surgical appliances may be sold in a quiet and orderly manner. In works of necessity or charity is included whatever is needful during the day for good order, health or comfort of the community; but keeping open a barber shop or shaving and hair cutting shall not be deemed works of necessity or charity, and nothing in this section shall be construed to permit the selling of uncooked meats, groceries, clothing, boots, or shoes. Provided, however, that the game of base ball when conducted in a quiet and orderly manner so as not to interfere with the peace, repose and comfort of the community, may be played between the hours of one p. m. and six p. m. on the Sabbath day. (R. L. § 4981, amended '09 c. 267 § 1)

The casual execution of contracts on Sunday is not illegal (86-297, 90+531). The statute forbids public but not private sales (75-269, 77+965). G. S. 1866 c. 100 § 19 prohibiting work on Sunday held constitutional (21-202). The provisions as to barber shops and the sale of uncooked meats are constitutional (74-376, 77+225; 91-447, 98+325, 70 L. R. A. 503, 103 Am. St. Rep. 521, 1 Ann. Cas. 91; 177 U. S. 164, 20 Sup. Ct. 666, 44 L. Ed. 716). 1903 c. 362, prohibiting traffic in certain articles on Sunday, constitutional (97-125, 105+1127, 7 Ann. Cas. 932). Prior to the Penal Code the statutes were more strict in prohibiting business on Sunday (8-13, 1, 82 Am. Dec. 118; 8-41, 23; 9-194, 179, 86 Am. Dec. 93; 14-174, 134, 100 Am. Dec. 211; 20-419, 374; 23-551; 26-362, 4+610; 38-395, 33+101; 41-188, 42+872, 4 L. R. A. 466, 16 Am. St. Rep. 695; 43-149, 45+617; 65-135, 67-799). "Shows" refers to out of door amusements. Moving picture exhibition held not included (112-52, 127+444, 30 L. R. A. [N. S.] 335, 21 Ann. Cas. 679).

8754. Punishment—Every person who breaks the Sabbath shall be guilty of a misdemeanor, and punished by a fine of not less than one dollar nor more than ten dollars, or by imprisonment in the county jail for not more than five days; but it shall be a sufficient defence to a prosecution for Sabbath breaking that the defendant uniformly keeps another day of the week as holy time, and that the act complained of was done in such manner as not to disturb others in the observance of the Sabbath. (4982)

G. S. 1894 § 6514 which provided that "it is a sufficient defense to a prosecution for servile labor on the first day of the week that the defendant uniformly keeps another day of the week as holy time and does not labor upon that day," had no application to proprietor publicly selling groceries on Sunday (97-125, 105+1127, 7 Ann. Cas. 932).

8755. Service of process on the Sabbath prohibited—Every service of legal process upon the Sabbath day, except in case of a breach or apprehended breach of the peace, or when sued out for the apprehension of a person charged with crime, or where such service is expressly authorized by statute, is hereby prohibited. (4983)

8756. Preventing religious act—Every person who, by threats or violence, shall wilfully prevent another person performing any lawful act enjoined upon or recommended to him by the religion which he professes, shall be guilty of a misdemeanor. (4984)

8757. Disturbing religious meeting—Every person who shall wilfully disturb, interrupt, or disquiet any assemblage of people met for religious worship—

1. By noisy, rude, or indecent behavior, profane discourse, either within the place where such meeting is held or so near it as to disturb the order and solemnity of the meeting;
2. By exhibiting shows or plays, or promoting, within one mile of the place where such meeting is held, any racing of animals, or gaming of any description;
3. By obstructing in any manner, without authority of law, within the like distance, free passage along a highway to the place of such meeting; or
4. By maliciously cutting or otherwise injuring or destroying any harness,

conveyance, tent, or other property belonging to any person in attendance upon any such meeting—

Shall be guilty of a misdemeanor; but no prosecution therefor shall be sustained unless commenced within sixty days after the commission of the offence. (4985)

90-72, 95+580.

8758. Trading near camp meeting—Prohibition—Exception—No person shall keep any shop, tent, booth, or carriage of any kind for the sale of, or sell, furnish, or expose for sale, any intoxicating liquors, or other goods or merchandise, within two miles of any public assembly, camp or grove meeting, convened for the purpose of religious worship. But this shall not be so construed as to prevent any person from continuing business where previously located, or from selling such liquors where he had been licensed to sell before the appointment of such meeting. Every person who shall violate any provision of this section shall be punished by a fine not exceeding thirty dollars, or by imprisonment in a county jail for not more than thirty days, or by both. (4986)

CHAPTER 99

CRIMES AGAINST PUBLIC HEALTH AND SAFETY

8759. Public nuisance defined—A public nuisance is a crime against the order and economy of the state, and consists in unlawfully doing an act or omitting to perform a duty, which act or omission—

1. Shall annoy, injure, or endanger the safety, health, comfort, or repose of any considerable number of persons;

2. Shall offend public decency;

3. Shall unlawfully interfere with, obstruct, or tend to obstruct or render dangerous for passage, a lake, navigable river, bay, stream, canal, or basin, or a public park, square, street, alley, or highway; or

4. Shall in any way render a considerable number of persons insecure in life or the use of property. (4987)

Cited (101-197, 112+395, 11 L. R. A. [N. S.] 105).

8760. Maintaining or permitting building as a nuisance—Every person who shall commit or maintain a public nuisance, for which no special punishment is prescribed; or who shall wilfully omit or refuse to perform any legal duty relating to the removal of such nuisance; and every person who shall let, or permit to be used, any building or portion thereof, knowing that it is intended to be used for committing or maintaining any such nuisance—shall be guilty of a misdemeanor. (4988)

8761. Keeping gunpowder unlawfully—Every person who shall make or keep gunpowder, nitroglycerin, or other explosive or combustible material in a city or village, or carry it through the streets thereof in a quantity or manner prohibited by law or by ordinance of such municipality, shall be guilty of a misdemeanor. And every person who by the careless, negligent, or unauthorized use or management of gunpowder or other explosive substance shall injure, or cause injury to, the person or property of another, shall be punished by imprisonment in the county jail for not more than one year. (4989)

8762. Obstructing health officer—Every person who shall wilfully oppose or obstruct a health officer or physician charged with the enforcement of the health laws, in performing any legal duty, shall be guilty of a misdemeanor. (4990)

8763. Wilful violation of health laws—Every person who shall wilfully violate any provision of the health laws, the punishment for which is not specially provided for therein, shall be punished by imprisonment in the county jail for not more than one year, or by a fine of not more than two thousand dollars, or by both. (4991)

8764. Gasoline, benzine, and kerosene cans—Every manufacturer or vendor who shall sell or cause to be sold, place or cause to be placed, any gasoline or benzine, in quantities of more than one pint and less than six gallons, in any