

CHAPTER 615

OFFENSES AGAINST PUBLIC PEACE

615.01 DISTURBING MEETINGS; DISORDERLY CONDUCT.

HISTORY. Penal Code s. 350; G.S. 1894 s. 6644; R.L. 1905 s. 5013; G.S. 1913 s. 8792; G.S. 1923 s. 10279; M.S. 1927 s. 10279.

While picketing the home of the foreman of the company on which a strike has been declared, a banner was carried reading "a scab lives here". This had a tendency to cause and did cause a breach of the peace and was sufficient to sustain a conviction of disorderly conduct under the Minneapolis ordinance. *State v Perry*, 196 M 481, 265 NW 302.

Drinking, driving around town, and accosting women was held to be disorderly conduct. *State v Birdseye*, 198 M 231, 269 NW 459.

Defendant's conduct in carrying a large banner on which was printed "unfair to private chauffeurs and helpers union, Local 912" in front of a private home in an exclusively residential district was disorderly conduct. *State v Cooper*, 205 M 333, 285 NW 903.

615.02 RIOT.

HISTORY. Penal Code s. 351; G.S. 1894 s. 6645; R.L. 1905 s. 5014; G.S. 1913 s. 8793; G.S. 1923 s. 10280; M.S. 1927 s. 10280.

A defendant who, with companions, wrongfully invades plaintiff's premises, and in doing so assaults the plaintiff and makes no attempt to desist until the fray is ended by the plaintiff's resistance, and the intervention of others, cannot, on the ground of self-defense, justify the injury resulting from the fray. *Guyer v Smullen*, 160 M 114, 199 NW 465.

Defendant and seven others were jointly indicted of the crime of riot under sections 615.02 and 615.03. Such proceedings were had that the original pleas of guilty was withdrawn and pleas of unlawful entry of a building were substituted. All parties agreed that the crime for which they plead guilty are embodied in the crime for which they were indicted. The point was decided as defendants urged, the pleas of guilty accepted, and the defendants sentenced accordingly. *State v Hemenway*, 194 M 124, 259 NW 687.

As the crime of riot is defined in section 615.02, the public peace means that tranquility enjoyed by a community when good order reigns amongst its members. Common purposes can be inferred from the circumstances and the acts committed. A person may be convicted for riot even though not actively engaged therein when such person was present and ready to give support if necessary. *State v Winkels*, 204 M 466, 283 NW 763.

The state cannot suppress disorders, object of which is to deprive citizens of their lawful rights, by using its forces to assist in carrying out unlawful purposes of those who create the disorders, or by suppressing rights which it is the duty of the state to defend. The petitioner is entitled to an injunction against the governor, mayor, and adjutant general restraining them from interfering with plaintiff's possession and use of the property. *Strutwear v Olson*, 13 F. Supp. 384.

Labor relations act; meaning of "unlawful". 24 MLR 233.

615.03 RIOT, HOW PUNISHED.

HISTORY. Penal Code s. 352; G.S. 1894 s. 6646; R.L. 1905 s. 5015; G.S. 1913 s. 8794; G.S. 1923 s. 10281; M.S. 1927 s. 10281.

See notes under section 615.02.

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615.04 UNLAWFUL ASSEMBLY.

HISTORY. Penal Code ss. 353, 354; G.S. 1894 ss. 6647, 6648; R.L. 1905 s. 5016; G.S. 1913 s. 8795; G.S. 1923 s. 10282; M.S. 1927 s. 10282.

See notes under section 615.02.

615.05 REMAINING AFTER WARNING.

HISTORY. Penal Code ss. 354, 355; G.S. 1894 ss. 6648, 6649; R.L. 1905 s. 5017; G.S. 1913 s. 8796; G.S. 1923 s. 10283; M.S. 1927 s. 10283.

615.06 DESTRUCTION OF PROPERTY.

HISTORY. R.S. 1851 c. 104 s. 7; P.S. 1858 c. 93 s. 7; G.S. 1866 c. 98 s. 7; 1872 c. 74 s. 1; G.S. 1878 c. 98 s. 7; G.S. 1894 s. 6936; R.L. 1905 s. 5018; G.S. 1913 s. 8797; G.S. 1923 s. 10284; M.S. 1927 s. 10284.

Demurrer to the indictment must be sustained because of the amendment to the statute since the indictment. *State v McDonald*, 20 M 136 (119).

Labor relations act. 24 MLR 234.

615.07 COMBINATION TO RESIST PROCESS.

HISTORY. Penal Code s. 357; G.S. 1894 s. 6651; R.L. 1905 s. 5019; G.S. 1913 s. 8798; G.S. 1923 s. 10285; M.S. 1927 s. 10285.

615.08 FORCIBLE ENTRY AND DETAINER.

HISTORY. Penal Code ss. 365, 366; G.S. 1894 ss. 6659, 6660; R.L. 1905 s. 5023; G.S. 1913 s. 8802; G.S. 1923 s. 10289; M.S. 1927 s. 10289.

A person was dispossessed under a writ, and moved back next day using seed and grain belonging to the owner. He is not guilty of trespass, but may be charged with larceny or for unlawful entry. OAG Nov. 26, 1934 (494b-20).

615.09 AIMING OR DISCHARGING FIREARMS.

HISTORY. Penal Code s. 367; G.S. 1894 s. 6661; 1905 c. 340; R.L. 1905 s. 5024; G.S. 1913 s. 8803; G.S. 1923 s. 10290; M.S. 1927 s. 10290.

Unlawfully discharging a firearm to frighten another, although intending not to hit him, is an assault and battery if the other be hit. Instruction while improper in defining second degree assault under the indictment, was not error as the defendant was found guilty of third degree assault, in which case the instruction was proper. *State v Lehman*, 131 M 427, 155 NW 399.

See *Strutwear v Olson*, 13 F. Supp. 384.

615.10 USE OF FIREARMS BY MINORS.

HISTORY. 1889 c. 16 s. 1; G.S. 1894 s. 6946; R.L. 1905 s. 5025; G.S. 1913 s. 8804; G.S. 1923 s. 10291; M.S. 1927 s. 10291.

Defendant loaned a rifle, and sold ammunition to a boy 13 years of age. The boy adjourned to a vacant lot and fired the gun, the bullet entering the door of a dwelling house and wounding plaintiff. The defendant storekeeper's wrong was in law the proximate cause of the damage, despite the intervention of the minor. *Anderson v Settergren*, 100 M 294, 111 NW 279.

A master delivered to his servant a boy under 13 years of age, a shot gun and directed him to go to a cornfield and shoot and scare birds therein. While carrying out the order, the boy accidentally discharged the gun, injuring his foot. The moving cause of the injury was the furnishing the minor a gun, and the master is liable to the boy in damages. *Kunda v Briarcombe*, 149 M 206, 183 NW 134.

The father furnished his son a pistol. The son was between 19 and 20 years of age. Plaintiff was accidentally shot and injured by the pistol in the hands of the son. Plaintiff rightfully obtained a judgment against the son, but the trial court dismissed the case as to the father. In the absence of his participation in

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the fault, a father is not liable for the torts of the son. In the absence of evidence of a condition imputing carelessness in trusting the gun to a 19-year-old boy, the father is not liable. *Clarnie v Addison*, 182 M 510, 234 NW 295.

A boy of 14 years of age may legally have a bag limit in his possession, provided the game was taken on premises owned or leased by his parent or guardian, and occupied as a permanent home, and when accompanied as by law required. 1934 OAG 425, Sept. 19, 1934 (209g).

615.11 SILENCER FOR FIREARMS.

HISTORY. 1913 c. 64 ss. 1 to 4; G.S. 1913 ss. 8806 to 8809; G.S. 1923 ss. 10292 to 10295; M.S. 1927 ss. 10292 to 10295.

615.12 OFFENSES IN PUBLIC CONVEYANCES; PUNISHMENT.

HISTORY. 1881 c. 153 s. 1; Ex. 1881 c. 78 s. 1; G.S. 1878 Vol. 2 (1888 Supp.) c. 98 ss. 12, 16; G.S. 1894 ss. 6943, 6944; 1899 c. 97; R.L. 1905 s. 5026; G.S. 1913 s. 8810; G.S. 1923 s. 10296; M.S. 1927 s. 10296.

615.13 CONDUCTOR; AUTHORITY TO ARREST.

HISTORY. 1881 c. 153 s. 2; G.S. 1878 Vol. 2 (1888 Supp.) c. 98 s. 13; G.S. 1894 s. 6945; R.L. 1905 s. 5027; G.S. 1913 s. 8811; G.S. 1923 s. 10297; M.S. 1927 s. 10297.

615.14 WITNESS NOT EXCUSED, WHEN.

HISTORY. Penal Code s. 368; G.S. 1894 s. 6662; R.L. 1905 s. 5028; G.S. 1913 s. 8812; G.S. 1923 s. 10298; M.S. 1927 s. 10298.

615.15 LANGUAGE PROVOCATIVE OF ASSAULT.

HISTORY. 1907 c. 96 s. 1; G.S. 1913 s. 8813; G.S. 1923 s. 10299; M.S. 1927 s. 10299.

615.16 WEARING OF MASKS.

HISTORY. 1923 c. 160 ss. 1, 2; G.S. 1923 ss. 10300, 10301; M.S. 1927 ss. 10300, 10301.