

Statutes
1878

THE
GENERAL STATUTES
OF THE
STATE OF MINNESOTA,

As Amended by Subsequent Legislation.

PREPARED BY
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EDITED AND PUBLISHED UNDER THE AUTHORITY OF CHAPTER 67 OF THE LAWS
OF 1878, AND CHAPTER 67 OF THE LAWS OF 1879.

FOURTH EDITION.

WITH SUPPLEMENTS,
CONTAINING ALL THE GENERAL LAWS IN FORCE UP TO THE END OF
THE LEGISLATIVE SESSION OF 1883.

SAINT PAUL:
WEST PUBLISHING COMPANY.
1883.

*§ 17. **Sale of liquor at capitol forbidden.** That no person or persons shall be allowed to sell, barter or give away any spirituous, vinous, fermented or malt liquors, during the sessions of the legislature, within the capitol buildings, or upon the grounds of the same. (1866. c. 40, § 1.)

*§ 18. **Same—penalty for selling, etc.** Any person or persons who shall sell, barter, or in any way furnish any spirituous, vinous, fermented or malt liquors, with the intention of evading the provisions of this act, shall be deemed to have committed a misdemeanor, and, upon conviction thereof by any court having jurisdiction of the same, shall be fined for each and every such offence in a sum not exceeding fifty nor less than twenty-five dollars, and, in default of the same, shall be imprisoned in Ramsey county jail not less than thirty nor more than sixty days; all fines collected under the provisions of this act shall be expended by the proper officer in the purchase of books for the state library. (Id. § 2.)

*§ 19. **Hours for closing saloons—minors.** All persons heretofore, or that may hereafter be licensed to sell intoxicating liquors in this state, whether such license has been or may be granted by the board of county commissioners of any county, or by the officers of any city, village or town of this state, as the case may be, are hereby required to close their place of business (hotels excepted) at eleven o'clock at night, and keep the same closed until five o'clock in the morning; and it is hereby made unlawful, between the hours last named, for persons so licensed as aforesaid to sell, give away, or otherwise dispose of, any fermented or intoxicating liquors at their said places of business, or to permit the throwing of dice or playing of cards therein, by any minor at any time. (1878, c. 75. § 1.)

*§ 23. See 1881 Sup't, p. 36.

*§ 20. **Same, penalty.** That any person who shall violate any of the provisions of the foregoing section shall pay a fine of not less than ten dollars and not more than fifty dollars, besides the costs of the prosecution, for each and every such violation. (Id. § 2.)

*§ 21. **Justices of peace have jurisdiction.** That all justices of the peace of this state shall have jurisdiction to enforce the provisions of this act; and such justices shall, in addition to the foregoing penalty, revoke the license of any person so offending. (Id. § 3.)

*§ 22. **Prosecutions.** It is hereby made the duty of the county attorney of the several counties of this state to prosecute all violations of this act, upon complaint being made before any justice of the peace. (Id. § 4.)

CHAPTER XVII.

BASTARDS.

SECTION.

- 1-3. Complaint by woman—warrant—proceedings—security by defendant.
- 4-6. Recognizance required of defendant—trial and judgment in district court.
- 7. Defendant to give bond or be committed.
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- ing—discharge, when granted—action against discharged prisoner.
- 13-14. Complaint by commissioners—proceedings before justice—warrant.
- 15. Commissioners may make compromise.

§ 1. **Complaint by female before justice—warrant to issue.** On complaint being made to any justice of the peace, by any female who is delivered of a bastard child, or pregnant with a child, which, if born alive, might be a bastard, accusing any person of being the father of such child, the justice shall take such complaint

in writing, under the oath of such female, and shall thereupon issue his warrant against the person accused, directed to the sheriff or any constable of his county, commanding him forthwith to bring such accused person before the justice to answer such complaint.

§ 2. **Action, now entered—proceedings on return of warrant.** The justice shall enter an action in his docket in which the state of Minnesota is plaintiff, and the accused is defendant, and shall make such other entries as are required in criminal actions. On the return of the warrant with the accused, the justice shall proceed to examine under oath the complainant, and such other witnesses as may be produced by the parties, respecting the complaint, and such examination shall be reduced to writing by the justice.

§ 3. **Defendant discharged, when.** If such accused person pays or secures to be paid to the female complaining, such sum of money or other property, as she may agree to receive in full satisfaction, and as is approved by the commissioners of the county, of which agreement and approval the justice shall make a memorandum upon his docket, and shall also pay all expenses, if any, incurred by such county for the lying-in, and support and attendance upon the mother of such child during her sickness, and the costs of prosecution, and shall also give bond with sufficient sureties, to be approved by the justice, to the commissioners of the county in which such female resides, and their successors in office, conditioned to secure and indemnify such county from all charges for the maintenance of the child born or that may be born, the justice shall discharge such accused person.

§ 4. **Recognizance required of defendant.** In case any person accused as aforesaid does not comply with the provisions of the preceding section, and there is probable cause for believing that he is guilty as charged in the complaint, the justice shall require such person to enter into a recognizance, with one or more sufficient sureties, to be approved by the justice, in a sum not less than one hundred dollars, nor more than five hundred dollars, to appear at the next term of the district court for the proper county, to answer the said complaint, and abide the order of said court thereon; and on his neglect or refusal to give such recognizance, the justice shall commit him to the jail of the county, there to be held to answer such complaint at the next term of such court; and such justice shall thereupon certify the examination so taken before him, and return the same, and all process and papers in the case, to the clerk of said court.

§ 5. **Proceedings in district court.** If, at the next term of said court, the complainant has not been delivered or is not able to attend, or if at any time there is any other sufficient reason therefor, the court may order a continuance of the cause, and such continuance shall operate to renew the recognizance, and the same shall remain in full force until final judgment: *provided*, that if the sureties in the recognizance shall at any term of said court surrender the accused, and request to be discharged from such recognizance, or if the court shall, for any cause, deem it proper, such court may order a new recognizance to be taken, and commit the defendant until he give such new recognizance.

§ 6. **Trial, now conducted—judgment.** Upon the trial of the action the issue shall be whether the accused is guilty or not guilty; and if he is found guilty, or if he admits the truth of the accusation, he shall be adjudged to be the father of such child, and be charged with the maintenance thereof, in such sum or in such manner as the court may direct, together with the costs of prosecution; and the examination taken before the justice shall in all cases be read to the jury, when the reading of the same is demanded by the accused.

§ 7. **Defendant to give bond or stand committed.** The person so adjudged to be the father of such child shall give bond to the commissioners of the proper county, with sufficient sureties, to be approved by the court, for the performance of such judgment and order, and also for the payment of all expenses incurred by the

county for lying-in, support of, and attendance upon the mother of such child during her sickness, and also for the care and support of such child prior to the giving of such bond; and in case he neglects or refuses to give such bond and pay the costs of prosecution, he shall be committed to the jail of the county, there to remain until he complies with the order of the court, or is discharged therefrom as provided by law.

^{23 M. 1 ; 301.}

§ 8. **Prisoner may petition for discharge.** Any person who has been imprisoned ninety days for having failed to comply with the judgment and order of the district court, as provided in this chapter, may apply to said court or the judge thereof, by petition, setting forth his inability to comply with such judgment and order, and praying to be discharged from imprisonment, and shall attach thereto a schedule of all his property, money and effects, whether exempt from execution or otherwise, verified by his affidavit; and thereupon said court or judge shall appoint a time and place of hearing said application, of which the petitioner shall give at least fifteen days' notice to the complainant and the board of county commissioners of the county interested.

§ 9. **Proceedings on hearing of petition.** At the time and place of hearing said application, the petitioner shall be examined on oath as to the facts set forth in his petition, and his ability to comply with such judgment and order; and any other legal evidence, may be produced by the petitioner, complainant or commissioners.

§ 10. **Discharge directed, when.** If upon such hearing it appears that the petitioner is unable to comply with such judgment and order, the court or judge may direct his discharge from custody, upon his taking an oath that he has not in his own name any estate real or personal, and has not any such estate conveyed or concealed, or in any manner disposed of, with design to secure the same to his use, or to avoid in any manner compliance with said judgment and order.

§ 11. **Action against discharged prisoner.** The mother of such child, and the said board of commissioners, respectively, may at any time after the discharge of such prisoner, recover by action any sum of money which ought to have been paid to them respectively by him, in pursuance of such judgment and order of the court.

§ 12. **Same—commissioners may prosecute, when.** When said mother commences any such action, and fails to prosecute the same, the commissioners of the proper county, or any person interested in the support of such bastard, may prosecute the same to final judgment.

§ 13. **Complaint by county commissioners.** If any female is delivered of a bastard child, which is a public charge, or likely to become a public charge, or is pregnant of a child likely to be born a bastard and become a public charge, the board of commissioners of the county where such female resides, or any of them, may, upon application for aid in supporting such child by the mother thereof, or, if they deem proper, without such application, apply to some justice of the peace of the same county to make inquiry into the facts and circumstances of the case.

§ 14. **Proceedings by justice on such complaint—warrant against reputed father.** The justice shall examine such female on oath respecting the father of such child, the time when and the place where said child was begotten, and such other circumstances as the justice deems necessary for the discovery of the truth; and shall thereupon issue his warrant to apprehend the reputed father; and the same proceedings shall be thereupon had as if complaint had been made by such female, as prescribed in the foregoing provisions of this chapter, and with the like effect; any warrant issued under the provisions of this chapter may be executed in any part of the state; and in all cases said commissioners and the accused may require the attendance of such female to testify, the same as witnesses in other cases.

§ 15. Commissioners may make compromise. The county commissioners, before judgment in any case under this chapter, may make such compromise and arrangement with the putative father of any bastard child in such county, relative to the support of such child, as they deem equitable and just; and thereupon may discharge such putative father from all liability for the support of such bastard.

CHAPTER XVIII.

PARTITION FENCES.

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- 5-7. Submission of disputes to supervisors—assignment of shares of fence—refusal to maintain portion assigned.
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- 11-12. Proceedings where land is bounded by river, etc.

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- 25-26. Partition fences in cities, etc.

Ch. XVII 15. See 1873 Sup't, p. 42.

§ 1. Legal fence defined. All fences four and a half feet high and in good repair, consisting of rails, timber, boards or stone walls, or any combination thereof, and all brooks, rivers, ponds, creeks, ditches and hedges, or other things which shall be equivalent thereto, in the judgment of the fence viewers within whose jurisdiction the same may be, or any such fences as the parties interested may agree upon, shall be deemed legal and sufficient fences.

*§ 2. Wire fences legal. In all cases where any law of this state requires to be erected or maintained any fence or fences for any purpose whatever, it shall be sufficient, and a compliance with such law, if there shall be erected and maintained a barbed wire fence, consisting of two barbed wires and one smooth wire, with at least forty barbs to the rod, the wire to be firmly fastened to posts not more than two rods apart, with one stay between the posts, the top wire to be not more than fifty-two inches high or less than forty-eight, and the bottom wire not less than sixteen inches from the ground; or four smooth wires with posts not more than two rods apart, and with good stays not to exceed eight feet apart, the top wire to be not more than fifty-six inches high nor less than forty-eight, and the bottom wire not less than sixteen inches nor more than twenty inches from the ground: *provided*, that five smooth wires shall be required to constitute a legal partition fence: *provided*, that any other fence authorized by law shall also be held a legal fence. (1877, c. 107, § 1.)

§ 3. (SEC. 2.) Occupants to maintain partition fences. The respective occupants of lands, inclosed with fences, shall keep up and maintain partition fences between their own and the next adjoining inclosures, in equal shares, so long as both parties continue to improve the same.

§ 4. (SEC. 3.) Proceedings for neglect to repair, etc. In case any party neglects to repair or rebuild any partition fence which of right he ought to maintain, the aggrieved party may complain to the town supervisors or a majority of them,