

GENERAL STATUTES ³⁶
OF THE
STATE OF MINNESOTA

IN FORCE

JANUARY 1. 1889.

COMPLETE IN TWO VOLUMES.

VOLUME 1, the General Statutes of 1878, prepared by GEORGE B. YOUNG, edited and published under the authority of chapter 67 of the Laws of 1878, and chapter 67 of the Laws of 1879.

VOLUME 2, Supplement.—Changes effected in the General Statutes of 1878 by the General Laws of 1879, 1881, 1881 Extra, 1883, 1885, and 1887, arranged by H. J. HORN, Esq., with Annotations by STUART RAPALJE, Esq., and others, and a General Index by the Editorial Staff of the NATIONAL REPORTER SYSTEM.

VOL. 2.

SUPPLEMENT, 1879-1888,

WITH

ANNOTATIONS AND GENERAL INDEX TO BOTH VOLUMES.

ST. PAUL:
WEST PUBLISHING CO.
1888.

***§ 46. Physicians—Evasion of liquor laws—Penalty.**

Any physician or person who shall make or give any such prescription for any other than medicinal purposes, or who shall make or give any such prescription for the purpose of evading the laws of this state, or of aiding another to evade the same, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to the same fine and penalties that are imposed by any law or ordinance upon any other person for selling intoxicating liquors without a license. (1887, c. 8, § 3.)

CHAPTER 17.

BASTARDS.

§ 1. Complaint.

For the sufficiency of the complaint, see *State v. Snure*, 29 Minn. 132, 12 N. W. Rep. 347.

§ 2. Entitling proceedings.

The omission of the justice to entitle the proceedings in his docket, their nature, and the parties fully appearing therein, is only an irregularity, and should be disregarded. *State v. Snure*, 29 Minn. 132, 12 N. W. Rep. 347.

§ 6. Trial—Judgment.

The court may make a reasonable allowance for the past as well as the future maintenance of the child, including the lying-in expenses to be paid the mother for her use, when not paid or incurred by the public. *State v. Zeitler*, 35 Minn. 238, 28 N. W. Rep. 501; *State v. Eichmiller*, 35 Minn. 240, 28 N. W. Rep. 503.

A judgment not specifying the number of years during which the payments are to continue, is not on that account erroneous. *State v. Eichmiller*, 35 Minn. 240, 28 N. W. Rep. 503.

§ 7. Bond—Commitment.

This section is valid, and not in conflict with either sections 7 or 12, art. 1, of the constitution. *State v. Becht*, 23 Minn. 1.

Under what circumstances the putative father may be relieved from the bond for maintenance, see *Olson v. Johnson*, 23 Minn. 301.

§ 10. Discharge—When granted.

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: *provided*, that the court may, upon the proof offered upon such application, discharge such prisoner, or make such proper order respecting any property, real or personal, the defendant may own or possess, having reference to the condition of the defendant and his family, if a married man, as the justice of the case may require in connection with such discharge. (*As amended* 1879, c. 7, § 1.)

[The amendment is to c. 28, title 6, § 58, St. at Large, (Bissell.)]

§ 15. Compromise—Power of commissioners.

The county commissioners, before or after 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. (*As amended* 1883, c. 52, § 1.)

CHAPTER 18.

PARTITION FENCES.

§ 1. Legal fence defined.

Cited, *Evans v. St. Paul, etc., R. Co.*, 30 Minn. 489, 492, 16 N. W. Rep. 271.

*§ 2. Wire fences legal.

A partition fence of one smooth wire and two barbed wires, or of five smooth wires, constitutes a legal partition fence. *Oxborough v. Boesser*, 30 Minn. 1, 13 N. W. Rep. 906.

A wire fence, constructed in accordance with the provisions of this section, would be a compliance with Gen. St. 1878, c. 34, § 54, requiring railroad companies to fence their roads. *Halverson v. Minneapolis, etc., Ry. Co.*, 32 Minn. 88, 19 N. W. Rep. 392.

This provision imposes no duty on a railroad company to fence as respects children, but only as respects domestic animals. *Fitzgerald v. St. Paul, etc., Ry. Co.*, 29 Minn. 336, 340, 13 N. W. Rep. 168.

§ 3. (Sec. 2.) Occupants to maintain equal shares.

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: *provided*, that the provisions of this chapter shall not apply to the towns in Meeker county where a majority of the voters have determined, pursuant to law, that horses, cattle, mules, and asses shall not be permitted to run at large. (*As amended* 1887, c. 50, § 1.)

[The amendment adds the proviso; §§ 2, 3, of said c. 50 provide: "§ 2. This proviso shall not apply to partition fences on town lines in said Meeker county where such adjoining towns have not determined, pursuant to law, that horses, cattle, mules, and asses shall not be permitted to run at large. "§ 3. This proviso shall not affect any rights heretofore acquired under section eight of said chapter eighteen of the said statutes of one thousand eight hundred and seventy-eight."]

Cited, *Locke v. First Div. St. Paul, etc., R. Co.*, 15 Minn. 350, 356, (Gil. 283, 290.)

It is enough that the partition fence is located on a line which the parties agree upon as the true dividing line between their lands, and as the place where the fence should be built. *Oxborough v. Boesser*, 30 Minn. 1, 13 N. W. Rep. 906.

§ 7. (Sec. 6.) Neglect to maintain fence.

In the absence of fraud or mistake, the adjudication of the supervisors upon the sufficiency of a fence erected as a lawful fence, and of its value, is final in an action under this section. *Oxborough v. Boesser*, 30 Minn. 1, 13 N. W. Rep. 906.

The party erecting the fence cannot recover double the fees of the supervisors; sufficiency of the demand on delinquent. *Id.*

§ 16. (Sec. 15.) Uninclosed lands—Subsequent inclosure.

Duty of owner of adjacent uninclosed lands to contribute to cost of partition fence, upon inclosing his lands for pasture; effect of subsequent abandonment. *Boenig v. Hornberg*, 24 Minn. 307.

§ 23. (Sec. 22.) Fence-viewers.

In all counties not divided into towns, the county commissioners shall act as fence-viewers, and be governed by the provisions of this chapter: *provided*,