

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.

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§ 2. **Same—punishment.** Whoever commits treason against this state shall be punished by imprisonment in the state prison for life.

§ 3. **Misprision of treason, how punished.** Whoever, having knowledge of the commission of treason, conceals the same, and does not, as soon as may be, disclose and make known [such treason] to the governor or one of the judges of the supreme court, shall be adjudged guilty of the offence of misprision of treason, and be punished by fine not exceeding one thousand dollars, or by imprisonment in the state prison not exceeding five years, or in the common jail not exceeding two years.

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

CHAPTER XCIV.

OFFENCES AGAINST LIFE AND PERSON.

Note to ch. 94. See 1881 Sup't, p. 122.

SECTION.

1. Killing of human being—character of offence.
2. Murder—degrees—punishment.
- 3-6. Death penalty abolished—exception—power of jury—punishment when jury do not impose death penalty—sections not retrospective.
7. Solitary confinement abolished.
8. Justifiable and excusable homicide—manslaughter.
- 9-12. Justifiable homicide by officer—by other persons—excusable homicide—acquittal in such cases.
- 13-15. Manslaughter in various degrees.
- 16-21. Abortion—penalty when death results—in other cases—evidence of woman—suffering abortion—penalty—advertising means of causing abortion—prosecutions—rule of evidence—limitation of prosecutions.
- 22-24. Manslaughter in second degree.
- 25-30. Manslaughter in third degree.
- 31-32. Manslaughter in fourth degree.
- 33-34. Punishment of different degrees of manslaughter.
- 35-40. Duelling—acting as second—disfranchisement of principals, seconds, etc—sending challenge—accepting or carrying challenge

SECTION.

- etc—posting another, etc.
- 41-47. Mayhem—assault with intent to murder or maim—with dangerous weapon—robbery by one armed with dangerous weapon—assault with intent to rob or murder—robbery by one not armed, etc—assault with intent to rob or steal by one not armed, etc.
48. Attempt to extort money by threats.
- 49-51. Rape—carnal knowledge of child under ten years old—attempt to commit rape.
- 52-53. Kidnapping and false imprisonment—where triable.
54. Administering poison, with intent to kill or injure.
55. Assault with intent to commit felony.
- 56-57. Taking ice from rivers—fences to be erected—penalty for neglect.
- 58-60. Tumbling rods of threshers to be covered—penalty for neglect—time for commencing prosecutions—disposition of fines.
- 61-62. Setting spring-guns, etc—penalties.
- 63-64. Obstructing engines, etc., on railroads—penalty—attempt to obstruct, etc—penalty
- 65-66. Doors of public halls, etc., to swing outward—penalty for violation.

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

§ 2. **Murder—degrees of murder—how punished.** Such killing, when perpetrated with a premeditated design to effect the death of the person killed, or any human being, shall be murder in the first degree, and whoever is convicted of the same shall suffer the penalty of death; but any person convicted of any capital crime shall be kept in solitary confinement for a period of not less than one month nor more than six months, in the discretion of the judge before whom the conviction is had; at the expiration of which time it shall be the duty of

the governor to issue his warrant of execution. Such killing, when perpetrated by any act eminently dangerous to one or more persons, and evincing a depraved mind, regardless of the life of such person or persons, although without any design to effect death, shall be murder in the second degree, and shall be punished by imprisonment in the state prison for life; when perpetrated without any design to effect death, by a person engaged in the commission of any felony, it shall be murder in the third degree, and be punished by imprisonment in the state prison not more than thirty years, nor less than seven years.

3 M. 313 [427]; 12 M. 538; 16 M. 282; 22 M. 514.

See next five sections.

*§ 3. **Death penalty abolished—exceptions.** The penalty of death, as a punishment for crime, is hereby abolished in this state, except in the cases provided for in section two of this act, and hereafter the penalty for the crime of murder in the first degree shall be as prescribed in sections two and three of this act. (1868, c. 88, § 1.)

*§ 4. **Death penalty—power of jury.** Whenever, upon the trial of any person upon an indictment for murder in the first degree, the jury shall have agreed upon a verdict of guilty of such offence, such jury may also determine, in the same manner, that the person so convicted shall be punished by death, and, if they so determine, shall render their verdict accordingly; and in such case the person so convicted shall be punished by death, as prescribed by section two of chapter ninety-four of the General Statutes, for the punishment of murder in the first degree. (*Id.* § 2.)

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

See § 7, *infra*.

*§ 6. **Last three sections not retrospective.** The provisions of this act shall not apply nor extend to any act done, nor offence committed prior to the passage hereof; but the provisions of law now in force, and applicable to the crime of murder in the first degree, as well in respect to the penalty affixed to the commission of such crime as in all other respects, shall be and remain in full force and effect as to any such offence heretofore committed. (*Id.* § 4.)

*§ 7. **Solitary imprisonment abolished.** That in all cases where the time of imprisonment is during life, solitary imprisonment in the state prison is hereby abolished, excepting for prison discipline. (1876, c. 79, § 1.)

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

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

§ 10. (SEC. 5.) **Justifiable homicide by other persons.** Such homicide is also justifiable when committed by any person, in either of the following cases:

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

Second. ^{14 M. 35.} When committed in the lawful defence of such person, or of his or her husband, wife, parent, child, master, mistress or servant, when there is a reasonable ground to apprehend a design to commit a felony, or to do some great personal injury, and there is imminent danger of such design being accomplished; or,

Third. When necessarily committed in attempting, by lawful ways and means, to apprehend any person for any felony committed, or lawfully suppressing any riot, or in lawfully keeping and preserving the peace.

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

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

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

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

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

*§ 16. **Abortion—penalty when death results.** That any person who shall administer to any woman with child, or prescribe for any such woman, or suggest to, or advise or procure her to take, any medicine, drug, substance or thing whatever, or who shall use or employ, or advise or suggest the use or employment of, any instrument or other means or force whatever, with intent thereby to cause or procure the miscarriage, or abortion, or premature labor of any such woman, unless the same shall have been necessary to preserve her life, or the life of such child, shall, in case the death of such child or of such woman results in whole or in part therefrom, be deemed guilty of a felony, and, upon conviction thereof, shall be punished by imprisonment in the state prison for a term not more than ten years, nor less than three years. (1873, c. 9, § 1.)

^{22 M. 238.}
*§ 17. **Same—penalty in other cases—evidence of woman.** Any person who shall administer to any woman with child, or prescribe, or procure or provide for any such woman, or suggest to, or advise or procure any such woman to take, any medicine, drug, substance or thing whatever, or shall use or employ, or suggest or advise the use or employment of, any instrument or other means or force whatever, with intent thereby to cause or procure the miscarriage, or abortion, or premature labor of any such woman, shall, upon conviction thereof, be punished by imprisonment in the state prison for a term not more than two years, nor less than one year, or by fine not more than five thousand dollars, nor less than five hundred dollars, or by such fine and imprisonment both, at the discretion of the court; but no conviction shall be had under the provisions of

sections one or two of this act, upon the uncorroborated evidence of such woman. (1873, c. 9, § 2, as amended 1875, c. 49, § 1.)

^{22 M. 238.}

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

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

*§ 20. **Prosecutions for abortion, etc.—rule of evidence.** On any preliminary examination, and on any inquiry before a grand jury, and on the trial of any indictment for any alleged offence under this act, no person shall be protected from testifying as a witness for the reason that the testimony of such witness would tend to criminate or disgrace such witness: *provided*, however, that no testimony so given, of a character tending to criminate or disgrace such witness, shall ever be used in evidence in any action, prosecution or proceeding, civil or criminal, against such witness, or against his or personal representatives. (*Id.* § 5.)

*§ 21. **Same—statute of limitation.** All prosecutions under this act shall be commenced within two years after the commission of the offence. (*Id.* § 6.)

§ 22. (SEC. 12.) **Manslaughter in second degree.** The killing of a human being by another, in a heat of passion, upon sudden provocation, or in sudden combat, intentionally, but without premeditation, is manslaughter in the second degree.

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

^{13 M. 132.}

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

§ 25. (SEC. 15.) **Manslaughter in third degree.** The involuntary killing of a human

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

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

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

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

§ 29. (SEC. 19.) *Same.* If any conductor, engineer, brakeman, or other person having the management or control of any railroad train, locomotive engine or cars, upon any railroad, is guilty of gross negligence or carelessness or neglect, in relation to the conduct, management or control of such railroad train, engine or cars, by reason of which any human being is killed, he is guilty of manslaughter in the *third* [error in Gen. Stat. 1866.] degree.

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

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

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

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

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

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

§ 35. (SEC. 25.) *Duelling—murder in second degree.* Whoever, by previous engagement or appointment, fights a duel within the jurisdiction of this state, and in so

doing inflicts a wound upon any person whereof the person so injured dies, is guilty of murder in the second degree.

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

§ 37. (SEC. 27.) **Same—disfranchisement.** Whoever fights a duel without this state, or acts as a second or surgeon in the same, by previous arrangement within this state, shall be incapable of voting or holding any office within this state forever thereafter.

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

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

§ 40. (SEC. 30.) **Posting another, etc., how punished.** Whoever posts another, or, in writing or print, uses any reproachful or contemptuous language to or concerning another, for not fighting a duel, or for not sending or accepting a challenge, shall be punished by imprisonment in the state prison not more than one year, nor less than six months, or by fine not exceeding five hundred dollars, nor less than one hundred dollars.

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

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

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

2 M. 99 [123]; 11 M. 95 [154]; 22 M. 51, 311.

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

§ 45. (SEC. 35.) **Assault with intent to rob or murder.** Whoever, being armed with a dangerous weapon, assaults another with intent to rob or to murder, shall be

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

^{2 M. 99 [123].}

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

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

§ 48. (SEC. 38.) **Attempt to extort money, etc., by threats.** Whoever, either verbally or by any written or printed communication, maliciously threatens any injury to the person or property of another, with intent thereby to extort money or any pecuniary advantage whatever, or with intent to compel the person so threatened to do any act against his will, shall be punished by imprisonment in the state prison not more than one year, nor less than six months, or by fine not exceeding five hundred dollars, nor less than one hundred dollars.

^{5 M. 1 [13.]}

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

^{6 M. 190 [279].}

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

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

^{6 M. 190 [279].}

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

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

§ 54. (SEC. 44.) **Administering poison with intent to kill or injure.** Whoever mingles

any poison with any food, drink or medicine, with intent to kill or injure any other person, or wilfully poisons any spring, well or reservoir of water, with such intent, shall be punished by imprisonment in the state prison not more than ten years, nor less than one year.

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

^{6 M. 190 [273].}

*§ 56. **Taking ice from rivers—fences to be erected.** Any person or company who may be engaged in taking ice from the Mississippi, Minnesota and St. Croix Rivers, is hereby required to erect a fence or hand-railing, at least three and one-half feet high, with at least two boards, around the place from which the ice is taken, and maintain the same there until the ice is sufficiently strong to bear a person or beast; and any person or company neglecting to comply with this act shall be liable to the penalties hereafter provided. (1866, c. 31, § 1.)

*§ 57. **Same—penalty for neglect.** Any person or company who shall violate any of the provisions of this act shall be subject to a fine of not less than twenty-five dollars, or more than fifty dollars, and be liable to pay all damages that any person or persons may sustain by violation of the provisions of this act; and the parties who shall sustain any damages by a violation of this act may sue for and collect the same in any court in this state. (*Id.* § 2.)

*§ 58. **Tumbling-rods of threshing machines to be covered.** That it shall be the duty of any person or persons, company or companies, having and operating a threshing machine or machines, the horse-power and separator of which are connected by what is termed a tumbling-rod, to box or cover and enclose the knuckles and rods between the outside horse and the machine with a board box, so that no part or portion thereof shall be exposed whereby persons shall be liable to be injured when the machine is in operation. (1868, c. 60, § 1.)

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

^{14 M. 400.}

*§ 60. **Same—Time of commencing prosecutions.** All actions under this act shall be commenced within thirty days from the time the offence was committed. All fines imposed and collected under this act shall be paid into the county treasury for the use of common schools. (*Id.* § 3, as amended 1875, c. 109, § 1.)

*§ 61. **Setting spring-guns, etc., unlawful.** The setting of a so-called trap or spring-gun, pistol, rifle, or other deadly weapon, in this state, is hereby prohibited and declared to be unlawful. (1869, c. 39, § 1.)

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

*§ 63. **Obstructing engines, etc., on railroads—penalties.** Whoever shall wilfully obstruct any engine or carriage passing upon any railroad, so as to endanger the safety of persons conveyed in or upon the same, or shall assist or aid therein, shall be punished by imprisonment in the state prison not exceeding twenty years. (1868, c. 57, § 2.)

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

See *post*, c. 95, § 54, §§ 84-90.

*§ 65. **Doors of public halls, etc., to swing outward.** That the doors of all theatres, opera-houses, public halls, and places used for public entertainments, exhibitions or meetings, and which doors are used, either exclusively or in part, for the purpose of admission to and egress from the same, shall be so hung and arranged as to open outwardly; and during any exhibition, entertainment or meeting held therein, such doors shall be kept unlocked and unfastened, and in such a condition that, in case of danger or necessity, immediate escape from any such theatre, opera-house, or public hall or place, will not be prevented or interfered with by such doors thereof being locked, or otherwise fastened.

(1875, c. 92, § 1.)

*§ 66. **Same—penalty for violation.** Any person or persons owning any theatre, opera-house, public hall, building or place used for public exhibitions, entertainments or meetings, or who, as agent for the owner of the same, shall rent the same, or allow it to be used for the public purposes aforesaid, without first having the doors thereof hung and arranged as provided by section one, shall, for each and every violation thereof, be guilty of a misdemeanor, and, upon conviction thereof, be each fined in a sum not exceeding one hundred dollars, and not less than twenty-five dollars, and, in default of the payment of the said fine and costs, shall be committed to the county jail of the proper county, for a period not exceeding two months, and not less than fifteen days: *provided*, however, that the provisions of this act shall not apply to the use or renting of any theatre, opera-house, public building or hall, now used for such purposes, until on or before the first day of July, A. D. eighteen hundred and seventy-five. (*Id.* § 2.)

NOTE.—See c. 95, § 91, *infra*, for general provision as to injuries to persons or property.