

REVISED LAWS OF MINNESOTA 94

SUPPLEMENT 1909

CONTAINING

THE AMENDMENTS TO THE REVISED LAWS,
AND OTHER LAWS OF A GENERAL AND
PERMANENT NATURE, ENACTED
BY THE LEGISLATURE IN
1905, 1907, AND 1909

WITH HISTORICAL AND EXPLANATORY NOTES TO PRIOR STATUTES
AND FULL AND COMPLETE NOTES OF ALL
APPLICABLE DECISIONS

COMPILED AND ANNOTATED BY
FRANCIS B. TIFFANY

ST. PAUL
WEST PUBLISHING CO.

1910

feit his office and be forever disqualified from holding any public office under the state. No person shall be excused from attending and testifying before any court or magistrate upon an investigation, proceeding or trial for a violation of any of the provisions of this act upon the ground, or for the reason, that the testimony or evidence, documentary or otherwise, required of him may tend to convict him of a crime or subject him to a penalty or forfeiture, but no person shall be prosecuted, or subjected to any penalty or forfeiture for, or on account of any transaction, matter or thing concerning which he may so testify, or produce evidence, documentary or otherwise, and no testimony so given or produced shall be received against him upon any criminal investigation or proceeding. ('07 c. 325 § 1)

Historical.—"An act relating to asking or receiving bribes by public officers or members of either house of the Legislature." Approved April 23, 1907. See sections 4800. [4800—] 1.

PERJURY AND OTHER CRIMES.

4832. Irregularities in administering oaths—Incompetency of witness no defence.

In general.—Failure to raise the hand, in taking an oath, as required by section 2681, is a mere irregularity, which, under this section, is no defense. State v. Day, 121 N. W. 611.

CHAPTER 97.

CRIMES AGAINST THE PERSON.

HOMICIDE.

4876. Murder in the first degree.

Intention and premeditation.—When it clearly appears that defendant deliberately and intentionally shot deceased, the presumption is that it was an act of murder. Premeditation means thought beforehand for any length of time, no matter how short. There need be no appreciable period of time between the conception of the intention and the act of killing. State v. Prolow, 98 Minn. 459, 108 N. W. 873.

When the undisputed evidence shows that the homicide was committed with a dangerous weapon with a design to effect death, or under circumstances from which such a design must conclusively be inferred, and after a lapse of time sufficient for passion to subside, the crime is murder, and not manslaughter. State v. Towers, 106 Minn. 105, 118 N. W. 361.

Presumptions.—Every homicide is presumed unlawful, and when the mere act of killing is proven it is presumed intentional and malicious. State v. Prolow, 98 Minn. 461, 108 N. W. 873.

4877. Murder in second degree.

Cited in State v. Prolow, 98 Minn. 459, 108 N., W. 873.
See note under section 4876.

4881. Manslaughter in the first degree.

See section [4881—] 1.

Instructions.—The court should not instruct as to the law of manslaughter, unless there is evidence to establish that crime. State v. Towers, 106 Minn. 105, 118 N. W. 361.

[4881—]1. Same.—Such homicide is manslaughter in the first degree when committed without a design to effect death, either

1. By a person engaged in committing or attempting to commit a misdemeanor, affecting the person or property, either of the person killed, or of another; or

2. In the heat of passion, but in a cruel and unusual manner, or by means of a dangerous weapon;

3. By shooting another with a gun, or other firearm, when resulting from carelessness in mistaking the person shot for a deer or other animal. (G. S. 1894, § 6445, as amended by Laws 1905, c. 125, § 1.)

Historical.—"An act amending General Statutes of 1894, § 6445, relating to manslaughter." Approved April 7, 1905. G. S. 1894, § 6445, was Pen. Code, § 160, the provisions of which were incorporated in R. L. § 4881.

As to the construction of the amended section above set forth, see note under [4799—] 1.

4886. Negligent use of machinery.

Criminal carelessness—Indictment.—An indictment for criminal carelessness in the operation of a railway engine and train by its engineer, whereby a collision occurred and named persons were killed, is held to have been insufficient. *State v. MacDonald*, 105 Minn. 251, 117 N. W. 482.

4895. Homicide by other person, justifiable when.

Self-defense.—A charge that defendant was not bound to flee, but had no right to kill in self-defense, unless apparently necessary to repel the assailant and to prevent great personal injury to himself or forcible entry into his home, held not error. *State v. Touri*, 101 Minn. 370, 112 N. W. 422.

KIDNAPPING.

4900. Defined—How punished.—Every person who shall wilfully:

1st. Seize, confine or inveigle another, with intent to cause him, without authority of law, to be secretly confined or imprisoned within the state, or sent out of it, to be sold as a slave, or in any way held to service, or kept or detained against his will;

2nd. Lead, take, entice or detain a child under the age of sixteen years, with intent to keep or conceal him from his parents, guardian, or other person having lawful care or control of him, or to extort or obtain money or reward for his return or disposition, or with intent to steal any article upon his person; or,

3rd. Abduct, entice, or, by force or fraud, unlawfully take or carry away another, at or from a place without the state, or procure, advise, aid, or abet such abduction, enticing, taking, or carrying away, and shall afterwards send, bring, or keep such person, or cause him to be kept or secreted, within this state—

Shall be guilty of kidnapping and punished by imprisonment in the state prison not more than forty years. (R. L. § 4900, as amended by Laws 1909, c. 325, § 1.)

ROBBERY.

4908. In first degree, how punished.

See section [4908—] 1.

[4908—]1. Same.—Robbery in the first degree is punishable by imprisonment in the state prison for not less than five years, nor more than forty years; provided, that this act shall not apply to any act done or offense committed prior to the passage hereof, but the provisions of the law now in force prescribing the punishment of said offense shall continue in force as to all such offenses. (G. S. 1894, § 6485, as amended by Laws 1905, c. 114, § 1.)

Historical.—"An act to amend section six thousand four hundred eighty-five of the General Statutes of 1894, the same being section two hundred of the Penal Code, relating to the punishment of robbery in the first degree." Approved April 6, 1905.

Section 2 repeals inconsistent acts.

The provisions of said section 6485 were incorporated in R. L. § 4908. As to the construction of the amended section above set forth, see note under section [4799—] 1.

LIBEL AND SLANDER.

4916. Libel defined.—A misdemeanor.

G. S. 1894, § 6496, cited in *Craig v. Warren*, 99 Minn. 246, 109 N. W. 231.

4918. Publication defined.

Civil action.—Whether this section applies to civil actions, *quære*. *Kramer v. Perkins*, 102 Minn. 455, 113 N. W. 1062, 15 L. R. A. (N. S.) 1141.

4920. Reports of proceedings privileged.

Cited in *Nixon v. Dispatch Printing Co.*, 101 Minn. 309, 112 N. W. 258, 12 L. R. A. (N. S.) 188.

CHAPTER 98.

CRIMES AGAINST MORALITY, DECENCY, ETC.

RAPE—ABDUCTION—CARNAL ABUSE, ETC.

4926. Rape.

Resistance.—The record does not sufficiently show the specific acts of resistance upon the part of prosecutrix. *State v. Cowing*, 99 Minn. 123, 108 N. W. 851.

Evidence.—Evidence held sufficient to sustain conviction. *State v. Zempel*, 103 Minn. 428, 115 N. W. 275.

Evidence held insufficient to establish identity of assailant. *State v. Alton*, 105 Minn. 410, 117 N. W. 617.

— **Corroboration.**—Corroborating testimony held insufficient. *State v. Cowing*, 99 Minn. 123, 108 N. W. 851.

Instructions.—Instructions held sufficient. *State v. Zempel*, 103 Minn. 428, 115 N. W. 275.

4927. 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, as amended by Laws 1909, c. 92, § 1.)

4930. 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