GENERAL STATUTES OF MINNESOTA

SUPPLEMENT 1917

CONTAINING THE AMENDMENTS TO THE GENERAL STATUTES AND OTHER LAWS OF A GENERAL AND PERMANENT NATURE, ENACTED BY THE LEGISLATURE IN 1915, 1916, AND 1917

WITH NOTES OF ALL APPLICABLE DECISIONS

COMPILED BY

FRANCIS B. TIFFANY

ST. PAUL

WEST PUBLISHING CO.

1918

publishes, edits, issues or knowingly circulates, sells, distributes or publicly displays any book, paper, document or written matter in any form, containing or advocating, advising or teaching the doctrine that industrial or political ends should be brought about by crime, sabotage, violence or other unlawful methods of terrorism; or openly, wilfully and deliberately justifies by word of mouth or writing, the commission or the attempt to commit crime, sabotage, violence or other unlawful methods of terrorism with intent to exemplify, spread or advocate the propriety of the doctrines of criminal syndicalism, or organizes or helps to organize or becomes a member or voluntarily assembles with any society, group or assemblage of persons formed to teach or advocate the doctrine of criminal syndicalism, is guilty of a felony and punishable by imprisonment in the state prison for not more than five years or by a fine of not more than one thousand dollars or both. ('17 c. 215 § 2)

[8596—]3. Same—Assembling for purpose of advocating, etc., felony— Wherever two or more persons assemble for the purpose of advocating or teaching the doctrines of criminal syndicalism defined in this act, such an assemblage is unlawful and every person voluntarily participating therein by his presence, aid or instigation is guilty of a felony and punishable by imprisonment in the state prison for not more than 10 years or by a fine of not more than $5,000.00 or both. ('17 c. 215 § 3)

[8596—]4. Owner, etc., of building permitting assemblage guilty of gross misdemeanor—The owner, agent, superintendent, or occupant of any place, building or rooms who wilfully and knowingly permits therein any assemblage of persons prohibited by the provisions of section 3 of this act [8596—3], or who, after notification that the premises are so used, permits such use to be continued, is guilty of a gross misdemeanor and punishable by imprisonment in the county jail for not more than one year or by a fine of not more than $500.00 or both. ('17 c. 215 § 4)

CHAPTER 97

CRIMES AGAINST THE PERSON

HOMICIDE

8601. Defined and classified—

Cited (123–276, 143+782).

8602. Proof of death, and of killing by defendant—

Evidence held not to leave it to conjecture and speculation as to the cause of the death of decedent (123–487, 144+216). Homicide, ⚖236(1).

Evidence held sufficient to establish the corpus delicti, and that death resulted from the wounds inflicted (123–276, 143+782). Homicide, ⚖228(4).

8603. Murder in first degree—

Evidence held to sustain conviction of murder in the first degree (135–159, 160+677). Homicide, ⚖253(1).

Evidence held sufficient to show that decedent's death resulted from poison, but insufficient to show that it was administered by defendant (135–200, 160+491). Homicide, ⚖234(1).

8606. Murder in third degree—

Cited in dissenting opinion (131–427, 155+399).

8610. Killing of unborn child or mother—

Evidence held to support a conviction under this section (134–384, 159+829). Homicide, ⚖250.

Evidence held to support a conviction of manslaughter resulting from the commission of an abortion on a pregnant woman (131–252, 154+1083, L. R. A. 1916C, 566). Homicide, ⚖250.

Evidence held to sustain a conviction under this section (122–91, 141+1113). Homicide, ⚖255.

8612. Manslaughter in second degree—

An allegation of an intent to kill is not necessary in an indictment for manslaughter in the second degree, nor is an allegation that the act or neglect with which the defendant was charged was not done without a design to effect death. A parent, who by culpable negligence fails to provide medical assistance for a child wholly incapable of supplying its own wants, and so causes its death, is guilty of manslaughter in the second degree (126–396, 148+283). Homicide, ⚖78.

A medical man, or one assuming to act as such, is guilty of "culpable negligence," within the third subdivision of this section, where he has exhibited gross incompetency, or inattention or wanton indifference to his patient's safety (127–282, 149+297, L. R. A. 1915D, 201). Homicide, ⚖78.

An indictment against a physician for manslaughter through culpable negligence need not allege knowledge on defendant's part of probability of consequences from the acts or omissions charged, nor his duty in the premises, nor that his negligence was "culpable" or of any other degree eo nomine, nor set out defendant's acts in any other than general terms and as ultimate facts (127–282, 149+297, L. R. A. 1916C, 584). Homicide, ⚖134.

The indictment in such case, for manslaughter committed in connection with the operation of an X-ray machine, held sufficient as against a demurrer on the ground that the facts were not stated with sufficient certainty to set forth a public offense (127–282, 149+297, L. R. A. 1916C, 584). Indictment and Information, ⚖147.

8623. Homicide by other person, justifiable when—

Jury's finding that defendant committing admitted homicide was not acting in justifiable self-defense held sustained by evidence (162+358). Homicide, ⚖244(1).

KIDNAPPING

8628. Defined—How punished—

Subd. 1—Evidence held to sustain a conviction under this subdivision (127–445, 149+945). Kidnapping, ⚖5.

ASSAULT

8631. Assault in first degree defined—How punished—

Cited (132–295, 156+127).

8632. Assault in second degree defined—How punished—

Evidence held to support a conviction of assault in the second degree (126–402, 148+280). Assault and Battery, ⚖91.

Subd. 3—The word "willfully" means designedly or intentionally, and if the act was intentionally done defendant could be convicted of assault in the second degree, though he did not intend all the consequences of the act. The assault may be made with the bare hands, and without a weapon (135–76, 160+196). Assault and Battery, ⚖49.

An indictment in the language of the statute sufficiently charges an intent to inflict the harm, as the term "willfully" imports designedly and intentionally (131–427, 155+399). Assault and Battery, ⚖75; Indictment and Information, ⚖88.

Subd. 5—To constitute an assault with intent to rape, there must be an assault and an intent to commit the felony (133–425, 158+793). Rape, ⚖34(1, 2).

There is no distinction between an attempt to commit rape and an assault with intent to commit rape, since the intent must be precisely the same in each case; and hence, where the indictment charged an attempt to commit rape and the evidence showed a violent assault against the victim's will, a verdict acquitting of attempt, but finding defendant guilty of assault in the second degree, must be reversed as inconsistent within itself (133–425, 158+793). Rape, ⚖60.

Under an indictment for resisting a police officer, a conviction of assault in the second degree held not sustained by the evidence (162+683). Assault and Battery, ⚖91.

8633. Assault in third degree—How punished—

The words "assault" and "battery" are to be given their common-law meaning. Unlawfully discharging a firearm to frighten another, though intending not to hit him, is an assault and battery, if the other be hit (131–427, 155+399). Assault and Battery, ⚖57.

That an assault was committed with the fists alone does not necessarily exclude the application of § 8632, subd. 3, defining one of the forms of assault in the second degree, since grievous bodily harm may be inflicted with the naked hands (135–76, 160+196). Assault and Battery, ⚖49.

An instruction properly defining assault under this section, but which was given as defining an assault in the second degree was without prejudice, even if erroneous as to the second degree, where defendant was convicted of the third degree (131–427, 155+399). Criminal Law, ⚖1172(8).

In a prosecution under § 8538 for resisting an officer, it was not error to fail to charge on assault in the third degree in absence of a request for such instruction (135–211, 160+666). Criminal Law, ⚖795(1).

8634. Force or violence, when lawful—

131–71, 154+662, L. R. A. 1916C, 228.

ROBBERY

8635. Defined—

Cited (161+595).

Evidence held to support a conviction of robbery (128–40, 150+168). Robbery, ⚖24(1).

8636. In first degree, how punished—

Evidence held to support a conviction of defendant as principal in the crime of robbery (122–493, 142+822). Robbery, ⚖24(1).

LIBEL AND SLANDER

8645. Libel defined—A misdemeanor—

A publication stating that a candidate for office has the backing of certain corporations in the state that are not in sympathy with the masses is not per se libelous (130–138, 153+258). Libel and Slander, ⚖10(1).

[8654—]1. **Slander**—Every person who, in the presence and hearing of another, other than the person slandered, whether he be present or not, shall speak of or concerning any person, any false or defamatory words or language which shall injure or impair the reputation of such person for virtue or chastity or which shall expose him to hatred, contempt or ridicule, shall be guilty of a misdemeanor. Every slander herein mentioned shall be deemed malicious if no justification therefor be shown and shall be justified when the language charged as slanderous, false or defamatory was true and was spoken with good motives and for justifiable ends. ('15 c. 284 § 1)

CHAPTER 98

CRIMES AGAINST MORALITY, DECENCY, ETC.

RAPE—ABDUCTION—CARNAL ABUSE, ETC.

8655. Rape—

The intent is sufficiently alleged by the use of the words "ravish and carnally know" (135–425, 158+793). Rape, ⚖21.

Where the indictment alleged an attempt to ravish a female of the age of 14 years, and the evidence showed a violent assault against the will of prosecutrix, a verdict acquitting of attempt, but convicting of assault in the second degree, could not stand, since the verdict is inconsistent within itself, as the same intent is essential to both offenses (133–425, 158+793). Rape, ⚖60.

8656. Carnal knowledge of children—

Where the indictment charges an attempt to rape a female of 14, and the evidence shows a violent assault against the will of prosecutrix, a verdict acquitting of attempt, but convicting of assault in the second degree, cannot stand, since it is inconsistent within itself, as the same intent is essential to both offenses (133–425, 158+793). Rape, ⚖60.

A conviction may rest on the uncorroborated testimony of prosecutrix, unless such testimony is discredited by facts and circumstances casting doubt upon its truth. In such case defendant will be allowed much latitude in cross-examining prosecutrix, but it is not error to exclude a question as to her testimony before the grand jury, asked for the sole purpose of testing her memory. Requisites of cautionary instruction, as to weighing the testimony of prosecutrix, stated (127–485, 149+944). Rape, ⚖52(2), 54(3).

Evidence of acts of defendant tending to destroy the child's modesty and to prepare her physically for coition held admissible, and the evidence was sufficient to sustain conviction (125–315, 146+1115). Rape, ⚖46.

Evidence held sufficient to sustain a conviction of carnally knowing a female child of the age of 14 years (162+465). Rape, ⚖52(2).

Evidence of other offenses, and election between acts (see 128–187, 150+793, Ann. Cas. 1915D, 360). Criminal Law, ⚖369(8), 678(2).

Evidence (see 133–184, 158+48).