

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.

recovery can be had upon any contract the consideration of which is threshing done with such a machine without its rod and knuckles being boxed, as required by statute. Gilfillan, C. J., dissenting. *Ingersoll v. Randall*, 14 Minn. 400, (Gil. 304.)

***§ 63. Obstructing railroad engines, etc.—Penalty.**

If one willfully places on a railroad track, on which engines and carriages conveying persons are likely to pass, any obstruction likely to produce disaster to such engines or carriages, and to endanger the safety of the persons conveyed thereon, he is guilty of the offense described in *§ 63, though no engine or carriage be actually stopped or impeded by such obstruction. *State v. Kilty*, 28 Minn. 421, 10 N. W. Rep. 475.

CHAPTER 95.

OFFENSES AGAINST PROPERTY.

[As to repeal, see note to c. 93, *ante*. *§§ 45a–45i, 55a, 66a, 66b, 72a, 91a, 91b, 100, *post*, are independent acts, and are not parts of the General Statutes.]

§ 22. (Sec. 12.) Entering buildings, etc., with felonious intent.

[Amended 1883, c. 65, § 1; *post*, page 1055, § 22.]

§ 23. (Sec. 13.) Larceny in dwelling, etc.

[Amended 1883, c. 65, § 2; *post*, page 1055, § 23.]

§ 24. (Sec. 14.) Larceny from the person.

[Amended 1883, c. 72, § 1; *post*, page 1055, § 24.]

***§ 45a. Counterfeiting trade-marks, brands, etc.—Penalty.**

Any person or persons who shall knowingly and willfully forge or counterfeit, procure to be forged or counterfeited, any representation, likeness, similitude, copy, or imitation of the private stamps, brands, wrapper, label, or trade-mark, usually affixed by any mechanic, manufacturer, druggist, merchant, or tradesman, to and upon the goods, wares, merchandise, or preparation of said mechanic, manufacturer, druggist, merchant, or tradesman, with intent to pass off any work, goods, manufacture, compound, or preparation, to which such forged or counterfeited representation, likeness, similitude, copy, or imitation is affixed, or intended to be affixed, as the work, goods, manufacture, compound, or preparation of such mechanic, manufacturer, druggist, merchant, or tradesman, shall, upon conviction thereof, be deemed guilty of a misdemeanor, upon conviction thereof, and shall be punished by imprisonment in the county jail for a period [of] not less than six months, nor more than twelve months, or fined not more than five thousand dollars. (1885, c. 178, § 1.*)

***§ 45b. Same—Possession of dies, plates, etc.—Penalty.**

Any person or persons who shall, with intent to defraud any person or persons, body corporate or politic, have in his or their possession any die or dies, plate or plates, brand or brands, engraving or engravings, or printed labels, stamps,

*“An act to prevent and punish fraud in use of false stamps, brands, labels, or trade-marks.” Approved March 9, 1885.

imprints, wrapper, or trade-marks, or any representation, likeness, similitude, copy, or imitation of the private stamps, imprint, brand, wrapper, label, or trade-mark, usually affixed by any mechanic, manufacturer, druggist, merchant, or tradesman, to or upon articles made, manufactured, prepared, or compounded by him or them, for the purpose of making impressions, or selling the same when made, or using the same upon any other article made, manufactured, prepared, or compounded, and passing the same off upon the community as the original goods, manufactures, preparations, or compounds, of any other person or persons, body corporate or politic, or who shall, wrongfully and fraudulently sell or use the genuine stamp, brand, imprint, wrapper, label, or trade-mark, with intent to pass off any goods, wares, merchandise, mixtures, compounds, or other articles not the manufacture of the person or persons, body corporate or politic, to whom such stamp, brand, imprint, wrappers, label, or trade-mark properly belongs, as genuine and original, shall, upon conviction thereof, be deemed guilty of a misdemeanor, and shall be punished by imprisonment in the county jail not less than six months, nor more than twelve months, or be fined not more than five thousand dollars. (*Id.* § 2.)

***§ 45c. Same—Vending goods having false stamp, etc.—Penalty—Civil liability.**

Any person who shall vend or keep for sale any goods, wares, merchandise, mixture, or preparation, upon which any forged or counterfeit stamps, brands, imprints, wrappers, labels, or trade-marks shall be placed or affixed, and intended to represent the said goods, wares, merchandise, mixture, or preparation, as the genuine goods, wares, merchandise, mixture or preparation of any other person or persons, knowing the same to be counterfeit, shall, upon conviction thereof, be deemed guilty of a misdemeanor, and shall be punished by a fine not exceeding five hundred dollars in each case so offending, and shall also be liable in a civil action to the person or persons whose goods, wares, merchandise, mixture, or preparation is counterfeited or imitated, or whose stamps, brands, imprints, wrappers, labels, or trade-marks are forged, counterfeited, placed, or affixed, for all damages such person or persons may or shall sustain by reason of any of the acts in this section mentioned, and may be restrained or enjoined by any court of competent jurisdiction from doing or performing any of the acts above mentioned. (*Id.* § 3.)

***§ 45d. Same—Affixing to goods—Penalty.**

Any person or persons who shall, with intent to defraud any person or persons, body corporate or politic, knowingly affix or cause to be affixed to or upon any bottle, case, box, or package containing any goods, manufacture, mixture, preparation, or compound, any stamp, brand, label, wrapper, imprint, or trade-mark, which shall designate such goods, manufacture, mixture, preparation, or compound, either wholly or in part, the same to the eye, or in sound to the ear, as the word or words, or some of the words, used by any other person or persons, for designating any goods, manufacture, mixture, preparation, or compound manufactured or prepared by or for such other person or persons, or who shall knowingly sell or expose, or offer for sale, any such bottle, case, box, or package, with any such stamp, brand, label, wrapper, imprint, or mark affixed to or upon it, shall, provided such person or persons so affixing or causing to be affixed, any such stamp, brand, label, wrapper, imprint, or mark, or so selling or exposing or offering for sale any such bottle, case, box, or package, shall not have been the first to employ or use such words to designate, wholly or in part, any goods, manufacture, mixture, preparations, or compound, upon conviction thereof, be deemed guilty of a misdemeanor, and shall be punished by imprisonment in the county jail not less than six nor more than twelve months, or be fined not more than five

thousand dollars, and shall also be liable to the party aggrieved in the penal sum of one hundred dollars for each and every offense, to be recovered by him in a civil action. (1885, c. 178, § 4.)

***§ 45e. Same—Manufacture of goods falsely branded, etc.—Penalty.**

• Any person or persons who, with intent to defraud, or to enable another to defraud, any person, shall manufacture or knowingly sell, or cause to be manufactured or sold, any article or articles marked, stamped, or branded or incased or inclosed in any box, bottle, or wrapper, having thereon any engraving or engravings, or printed labels, stamps, imprints, marks, or trade-marks, which article or articles are not the manufacture, workmanship, or production of the person named, indicated, or denoted by such marking, stamping, or branding, or by or upon such engraving or engravings, printed labels, stamps, imprints, marks, or trade-marks, shall, upon conviction thereof, be deemed guilty of a misdemeanor, and for such offense shall forfeit and pay a fine of two hundred dollars, to be recovered, with costs, in a civil action to be prosecuted by the county attorney of any county in the state, in the name of the county in which said action shall be commenced, and the one-half of such recovery shall be paid to the informer, and the residue shall be applied to the support of the poor in the county where such recovery is had. (*Id.* § 5.)

***§ 45f. “Trade-mark” defined.**

A “trade-mark” is a mark used to indicate the maker, owner, or seller of any goods, wares, merchandise, mixture, preparation, or compound, and includes among other things any name of a person or corporation, or any letter, word, device, emblem, figure, seal, stamp, diagram, brand, wrapper, ticket, stopper, label, or other mark, lawfully adopted by him and usually affixed to any goods, merchandise, mixture, preparation, or compound to denote the same was imported, manufactured, produced, sold, compounded, bottled, packed, or otherwise prepared by him. (*Id.* § 6.)

***§ 45g. Same—When deemed affixed.**

A trade-mark is deemed to be affixed to any goods, wares, merchandise, mixture, preparation, or compound when it is placed in any manner in or upon either—

- (1) The article itself; or
- (2) A box, bale, barrel, bottle, case, cask, or other vessel or package, or a cover, wrapper, stopper, brand, label, or other thing, in, by, or with which the goods are packed, inclosed, or otherwise prepared for sale or disposition. (*Id.* § 7.)

***§ 45h. “Imitation” defined.**

An imitation of a trade-mark, stamp, brand, wrapper, or label is that which so far resembles the genuine trade-mark, stamp, brand, wrapper, or label as to be likely to induce the belief that it is genuine, either by the use of words or letters similar in appearance or in sound, or by any sign, device, or the names whatsoever. (*Id.* § 8.)

***§ 45i. Evidence.**

No testimony or evidence given by any person in any civil action to which such person may be a party, or by any other witness in such action, or on any reference or proceeding which may be had in such action, nor any evidence or testimony derived from the books or papers of such party or witness, produced by him as a witness, or otherwise, in such action, or on any reference or other proceedings which may be had therein, can or shall be used in any criminal prosecution against such party or witness, under any of the provisions of this act; nor shall any party or witness refuse to testify or furnish

evidence in any civil action by reason of any of the provisions of this act. (*Id.* § 9.)

***§ 55a. Willful trespass on pine lands—Penalty.**

Whoever commits any willful trespass upon lands now or hereafter held in trust or otherwise by the state, in manner as follows, by cutting pine timber for lumber purposes, or evidently to endanger and expose pine timber to fire or decay, or whoever countenances such trespass, or whoever willfully burns over, or causes to be burned over, any of said lands, shall be deemed guilty of a felony, and on conviction thereof shall be punished by imprisonment in the state prison not more than one year, or by fine not exceeding one thousand dollars, or both such fine and imprisonment in the discretion of the court. (1885, c. 265.*)

§ 58. (Sec. 46.) Malicious mischief—Jurisdiction of justices of the peace.

Every justice of the peace has concurrent jurisdiction, in his own county, with the district court, of all offenses mentioned in the three preceding sections of this chapter, when the value of the trees, fruit, grain; or other property injured, destroyed, taken, or carried away, or the injury occasioned by the trespass, does not exceed the sum of one hundred dollars; and in such case, the punishment shall be by fine not exceeding fifty dollars, nor less than five dollars, and costs, or by imprisonment in the county jail for any period not exceeding sixty days. (*As amended* 1883, c. 32, § 2.)

[See Penal Code, §§ 480, 481, *post.*]

***§ 66a. False certificate of registration of animals—Penalty.**

That every person who by any false pretense shall obtain from any club, association, society, or company for the improvement of the breed of cattle, horses, sheep, swine, fowls, or other domestic animals or birds, a certificate of registration of any animal in the herd register or other register of any such association, society, or company, or a transfer of any such registration, upon conviction thereof shall be punished by imprisonment in a county jail for a term not exceeding three months, or a fine not exceeding one hundred dollars, or by both such fine and imprisonment. (1887, c. 198, § 1.†)

***§ 66b. False representations as to breed—Penalty.**

Any person who shall knowingly represent any animal used for breeding purposes as being of greater degree of any particular strain of blood than such animal actually possesses, shall be guilty of a misdemeanor, and upon conviction thereof shall for each offense be punished by a fine not less than fifty dollars, nor more than three hundred dollars, or by imprisonment in the county jail for a term not exceeding six months. (*Id.* § 2.)

***§§ 67, 68, 69, 70, 71, 72. Burning prairie grass.**

[Repealed 1883, c. 128, § 2.]

***§ 72a. Negligent or willful burning of prairie, etc.—Penalty—Civil remedies.**

Whoever willfully and intentionally, or negligently and carelessly, sets on fire any woods, prairies, or other grounds, shall be guilty of a misdemeanor, and, upon conviction thereof, shall forfeit and pay a fine of not less than five

*“An act to punish trespasses on pine lands.” Approved March 5, 1885. § 2 repeals all inconsistent acts and parts of acts.

†“An act to punish the making of false pretenses in obtaining certificates of registration of cattle and other animals, and giving false information in regard to any animals in certain cases named.” Approved March 7, 1887.

dollars nor more than one hundred dollars, together with the costs of prosecution; and, in default of payment thereof, shall be committed to the county jail for not less than thirty days nor more than ninety; but this shall not extend to any person who sets on fire any prairie or other grounds on or adjoining his own improved farm, inclosure, or timber for the necessary protection thereof from any prairie or other fire which shall be approaching his farm, inclosure, or timber, and threatening immediate injury thereto: *provided*, that this act shall not be construed to take away any civil remedy which any person may be entitled to for any injury done or received in consequence of any such setting of fire. (1883, c. 128, § 1.)

***§ 76. Draining meandered lakes—Penalty—Civil liability.**

Any person or persons who shall drain or cause to be drained, or shall attempt to drain in any manner, any lake or lakes, pond, or bodies of water which shall have been meandered by the survey of the United States government, shall be considered guilty of a misdemeanor, and shall be punished by a fine not less than twenty-five dollars, and not exceeding five thousand dollars, and shall be also liable in a civil action for all damages sustained by private individuals by reason of such draining or attempting to drain any of the lakes, ponds, or bodies of water aforesaid: *provided*, that the provisions of this act shall not prevent the reasonable use of said lakes, ponds, or bodies of water as reservoirs for the benefit of any kind of milling or manufacturing establishment, or for the purpose of driving logs, or for supplying any incorporated town or city with water: *and provided, further*, that none of the provisions of this or the foregoing section shall apply to any case when the board of county commissioners drain any such lake under the provisions of chapter one hundred and eight of the General Laws of eighteen hundred and eighty-three. (1867, c. 40, § 2, *as amended* 1885, c. 28.)

See, as to application of *§§ 75, 76, to subsequent drainage legislation, *In re Dowian*, (Minn.) 81 N. W. Rep. 517.

***§ 79. Injury to sheep, etc., by dogs—Liability of owner of dog.**

The owner or possessor of any dog that shall kill, wound, or worry any sheep or lamb or other domestic animal or animals, including poultry, shall be liable for the value of such sheep or lamb, or other domestic animal or animals, including poultry, to the owner thereof, without proving notice to the owner or possessor of such dog, or knowledge by him, that his dog was mischievous, or disposed to kill sheep. (1873, c. 21, § 1, *as amended* 1885, c. 126, § 2.)

[*§§ 79, 80, are "amended by adding after the words 'sheep or lamb,' wherever they occur in said sections, the words, 'or other domestic animal or animals, including poultry.'" 1885, c. 126, § 2.]

***§ 80. Same—Penalty for keeping dog—Disposition of fine.**

Any person keeping or harboring a dog or dogs that has bitten or worried any sheep or lambs, or other domestic animal or animals, including poultry, and having been notified of such fact, shall be liable to pay a fine of five dollars per day for every day thereafter that he shall keep, harbor, or permit such dog or dogs to remain in or about his premises. Such fine, when collected, shall be paid over to the county treasurer of the county, for the benefit of the common-school fund of the county. (*Id.* § 2, *as amended* 1874, c. 51, § 1; 1885, c. 126, § 2.)

***§ 81. Lawful to kill dogs injuring sheep.**

It shall be lawful for any person to kill or cause to be killed any dog which has been or shall be found injuring, fretting, or killing any lambs or sheep

within this state; and any sheep-owner or person in his employ may kill or cause to be killed any dog found on his premises on which sheep are kept, not under the restraint or control of the owner or other person, without incurring penalty for such act. (1867, c. 35, § 1, *as amended* 1885, c. 126, § 3.)

***§ 91a. Willful injury to buildings—Penalty.**

Whoever shall willfully damage or disfigure in any manner any part or parts of any building, or throw any stones or other missile at, or break, any window glass of any building, and whoever shall aid, counsel, hire, or procure any person so to do, shall be deemed guilty of a misdemeanor, and upon conviction thereof before any court of competent jurisdiction shall be punished by fine not less than five dollars nor more than one hundred dollars, or by imprisonment in the county jail not less than five days nor more than three months, or by both such fine and imprisonment, in the discretion of the court. (1881, *Ex. Sess.*, c. 74, § 1.)

***§ 91b. Willful or careless injury to baggage, etc.—Penalty.**

If any person employed by a railroad or other corporation of this state, or if any express agent, stage driver, drayman, hackman, or other person who handles, or whose duty it is to handle, remove, or take care of trunks, valises, boxes, packages, parcels, or other baggage, shall, while handling, loading, transporting, unloading, delivering, or storing such property, willfully, wantonly, or carelessly break, injure, or destroy the same, he shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined not less than five dollars nor more than one hundred dollars, with costs of prosecution, and, in default of payment of such fine and costs, shall be imprisoned in the county jail not more than ninety and not less than twenty days. (1883, c. 120, § 1.)

***§ 92. Canada thistles, burdocks, etc., a common nuisance.**

That the weed known as Canada thistle, burdock and wild mustard, or burdocks or wild mustard, is hereby declared to be a common nuisance for all the purposes of this act. (1872, c. 38, § 1; *as amended* 1883, c. 35.)

[*§§ 92, 93, 94, and 95, "amended by adding the words 'burdock and wild mustard, or burdocks or wild mustard,' immediately after the words 'Canada thistle or thistles,' wherever they shall occur in said sections." 1883, c. 35.]

***§ 93. Same—Penalty for allowing them to grow.**

Any person or persons owning any lands within this state, or occupying or having control of any lands, whether within the plat of towns, villages, or cities, or otherwise, within this state, knowingly permitting or suffering any Canada thistle or thistles, burdock and wild mustard, or burdocks or wild mustard, to go to seed upon any land or lands thus owned, occupied, or under the control of such person or persons, shall be deemed guilty of maintaining and supporting a common nuisance, and, upon conviction thereof in any court having competent jurisdiction of the offense, shall be punished by fine not exceeding fifty dollars, nor less than five dollars; said fine to go into the town treasury where such thistle or thistles are permitted to grow. (1872, c. 38, § 2, *as amended* 1883, c. 35.)

[See note to *§ 92.]

***§ 94. Canada thistles, etc.—Penalty for neglect to destroy—Duties of town supervisors—Defrayment of expenses.**

In case any person or persons, railroad company or other incorporation, owning or occupying any lands within this state, or having any lands within this state under his or her or their control, as the case may be, shall refuse or neglect to destroy any Canada thistle or thistles, burdock and wild mustard,

or burdocks or wild mustard, growing or standing upon any land or lands so owned, occupied, or controlled, it shall be the duty of the town supervisors, or other person or persons having control of the public highways, streets, or alleys where any such thistle or thistles may be found growing or standing, to immediately destroy or cause the same to be destroyed, and pay therefor at the same rate that is paid for road labor; and every supervisor or other person hereinbefore authorized to destroy said thistles shall keep a correct account of all moneys paid out for that purpose, and charge the same to the person or persons or incorporation owning, occupying, or controlling the land or lands upon which such thistle or thistles was destroyed; and the person or persons or corporation owning, occupying, or having control of such lands, shall be liable in a civil action for the amount so charged against them, and costs of suit: *provided*, that if any supervisor or other person having authority under this act shall have destroyed or caused to be destroyed any such thistles under such authority, and is unable to find the owner of the land, or is unable to collect such money, the same shall be paid by the authorities of the town, village, or city where such thistles were destroyed, and the amount so paid shall, on filing with the register of deeds of the proper county a statement of the amount necessarily paid, with a description of the land wherein the said thistles were destroyed, and the name of the owner thereof, if it can be ascertained, duly verified as true and correct by the officer under whose direction the said articles were destroyed, be and constitute a lien in favor of the town or municipal corporation so paying for such labor on the said land to the amount of the sum so paid, and the costs of recording the same. Any town or municipal corporation holding a lien under the provisions of this section may proceed to obtain judgment for the amount of said lien, costs, and interest, and enforce the same in the same manner as actions for the foreclosing of mortgages upon real estate, and said lien may be released of record by a certificate, stating that the same has been satisfied in full, by the clerk of said town or corporation: *and provided further*, that in case any railroad company becomes chargeable under the provisions of this section, the supervisors of the township where the same has become chargeable may certify to the same to the county attorney of their county, whose duty it shall be to bring and prosecute a civil action against the railroad company for the amount so charged and costs of suits aforesaid. (1872, c. 38, § 3, *as amended* 1883, c. 35; 1887, c. 57.)

[See note to *§ 92. The act of 1885 amended the first proviso so as to read as above.]

***§ 95. Same—Prosecution before justice of peace—Duty of every person to destroy thistles.**

Justices of the peace shall have jurisdiction, within their respective counties, of all violations of the provisions of this act; and it shall be competent for any person to complain of and prosecute any person or persons, railroad company, or other corporation violating the same; and it is hereby made the duty of every person having knowledge of any Canada thistle or thistles, burdock and wild mustard, or burdocks or wild mustard, growing or standing upon the land of another, to immediately destroy the same, or give the person owning or occupying such lands immediate notice thereof. (*Id.* § 4, *as amended* 1883, c. 35.)

***§ 100. Dogs declared personal property.**

All dogs owned or kept by any person for domestic or personal use, or for pleasure, are hereby declared to be personal property, within the purview and meaning of the criminal laws of this state, and the laws of this state relating to larceny and malicious mischief or injury shall be construed to embrace and apply to said animals. (1885, c. 177.)