

# GENERAL STATUTES

OF THE

STATE OF MINNESOTA,

IN FORCE JANUARY, 1891.

VOL. 2.

CONTAINING ALL THE LAW OF A GENERAL NATURE NOW IN FORCE AND NOT IN  
VOL. 1, THE SAME BEING THE CODE OF CIVIL PROCEDURE AND ALL REME-  
DIAL LAW, THE PROBATE CODE, THE PENAL CODE AND THE CRIM-  
INAL PROCEDURE, THE CONSTITUTIONS AND ORGANIC ACTS.

COMPILED AND ANNOTATED

BY

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OF THE ST. PAUL BAR.

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CHAPTER 86.

THE PENAL CODE.

An act to establish a Penal Code. Passed January 6th. Approved March 9, 1885. In force January 1, 1886. Publication authorized 1885, ch: 240.

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PRELIMINARY PROVISIONS.

This supersedes G. S. ch. 91, §§ 1, 2, 3.

SEC. 5950. **Title of code.**— This act shall be known as the Penal Code of the state of Minnesota.

P. C. § 1. N. Y. Penal Code, § 1.

SEC. 5951. **When take effect.**— No act or omission begun after the beginning of the day on which this code takes effect as a law, shall be deemed criminal or punishable, except as prescribed or authorized by this code, or by some statute of this state not repealed by it. Any act or omission begun prior to that day may be inquired of, prosecuted, and punished in the same manner as if this code had not been passed.

P. C. § 2. Same as N. Y. Penal Code, § 2.

SEC. 5952. **Crime defined.**— A crime is an act or omission forbidden by law, and punishable upon conviction by

1. Death; or
2. Imprisonment; or
3. Fine; or
4. Other penal discipline.

P. C. § 3. N. Y. Penal Code, § 3.

SEC. 5953. **Division of crimes.**— A crime is either

1. A felony; or
2. A misdemeanor.

P. C. § 4. Same as N. Y. Penal Code, § 4. Same as § 1, ch. 91, G. S. 12 M. 164, 293.

SEC. 5954. **Definition of felony.**— A felony is a crime which is or may be punishable by either

1. Death; or
2. Imprisonment in the state prison.

P. C. § 5. Same as N. Y. Penal Code, § 5. Substantially first part § 2, ch. 91, G. S.

SEC. 5955. **Definition of misdemeanor.**— Any other crime is a misdemeanor.

P. C. § 6. Substantially § 3, ch. 91, G. S. Same as N. Y. Penal Code, § 6.

SEC. 5956. **Conviction before punishment.**—The punishments prescribed by this code can be inflicted only upon a legal conviction in a court having jurisdiction.

P. C. § 7. Same as N. Y. Penal Code, § 9. G. S. ch. 92, § 4, provides that no person shall be convicted but by confession in open court, or by plea or demurrer admitting the truth of the charge or by the verdict of a jury accepted and recorded by the court.

SEC. 5957. **Jury to find degree of crime.**—Whenever a crime is distinguished into degrees, the jury, if they convict the prisoner, must find the degree of the crime of which he is guilty.

P. C. § 8. Same as N. Y. Penal Code, § 10.

SEC. 5958. **Rule of construction.**—The rule that a penal statute is to be strictly construed does not apply to this code or any of the provisions thereof, but all such provisions must be construed according to the fair import of their terms, to promote justice and effect the objects of the law.

P. C. § 9. Same as N. Y. Penal Code, § 11.

SEC. 5959. **Duty of court.**—The several sections of this code which declare certain crimes to be punishable as therein mentioned, devolve a duty upon a court authorized to pass sentence, to determine and impose the punishment prescribed.

P. C. § 10. Same as N. Y. Penal Code, § 12.

SEC. 5960. **Same—Limits of punishment.**—Whenever in this code the punishment for a crime is left undetermined between certain limits, the punishment to be inflicted in a particular case must be determined by the court authorized to pass sentence, within such limits as may be prescribed by this code.

P. C. § 11. Same as N. Y. Penal Code, § 13.

SEC. 5961. **When not fixed by statute—Felony.**—A person convicted of a crime declared to be a felony, for which no other punishment is specially prescribed by this code, or by any other statutory provision in force at the time of the conviction and sentence, is punishable by imprisonment \* in the state prison or a county jail \* for not more than seven years, or by a fine of not more than one thousand dollars, or by both.

P. C. § 12. Same as N. Y. Penal Code, § 14, except between \* \*.

SEC. 5962. **Same—Misdemeanor.**—The person convicted of a crime declared to be a misdemeanor, for which no other punishment is prescribed by this or by any statutory provision in force at the time of the conviction and sentence, is punishable by imprisonment in the county jail for not more than three months, or by a fine of not more than one hundred dollars.

P. C. § 13, as amended 1889, ch. 214, approved April 24th, by reducing imprisonment from a year to three months and fine from \$500 to \$100, and striking out "or by both." Same as N. Y. Penal Code, § 15, except time and place of imprisonment.

TITLE 1.

PERSONS PUNISHABLE FOR CRIME.

SEC. 5963. **What persons punishable criminally.**—The following persons are liable to punishment within the state:

1. A person who commits within the state any crime, in whole or in part.
2. A person who commits without the state any offense which, if committed within the state, would be larceny under the laws of the state, and is afterwards found; with any of the property stolen or feloniously appropriated, within this state.
3. A person who, being without the state, causes, procures, aids, or abets another to commit crime within the state.
4. A person who, being out of the state, abducts or kidnaps by force or fraud any person contrary to the laws of the place where such act is committed, and brings, sends, or conveys such person within the limits of this state.
5. A person who, being out of this state, and with intent to cause within it a result contrary to the laws of the state, does an act which, in its natural and usual course, results in an act or effect contrary to its laws.

P. C. § 14. Same as N. Y. Penal Code, § 16.

SEC. 5964. **Presumption of responsibility.**—A person is presumed to be responsible for his acts. The burden of proving that he is irresponsible is upon the accused person, except as otherwise prescribed in this code.

P. C. § 15. Same as N. Y. Penal Code, § 17.

SEC. 5965. **Child under seven years.**—A child under the age of seven years is not capable of committing crime.

P. C. § 16. Same as N. Y. Penal Code, § 18.

SEC. 5966. **Child of seven years or more.**—A child of the age of seven years, and under the age of twelve years, is presumed to be incapable of crime, but the presumption may be removed by proof that he had sufficient capacity to understand the act or neglect charged against him, and to know its wrongfulness. Whenever in any legal proceeding it becomes necessary to determine the age of a child, the child may be produced for personal inspection, to enable the magistrate, court, or jury to determine the age thereby; and the court or magistrate may direct an examination by one or more physicians, whose opinion shall also be competent evidence upon the question of age.

P. C. § 17. Same as N. Y. Penal Code, § 19, as amended.

SEC. 5967. **Irresponsibility of idiot, lunatic, etc.**—An act done by a person who is an idiot, imbecile, lunatic, or insane, is not a crime. A person cannot be tried, sentenced to any punishment, or punished for a crime, while he is in a state of idiocy, imbecility, lunacy, or insanity, so as to be incapable of understanding the proceeding or making his defense.

P. C. § 18. Same as N. Y. Penal Code, § 20.

SEC. 5968. **Idiots, lunatics, etc., when excused from criminal liability.**—A person is not excused from criminal liability as an idiot, imbecile, lunatic, or insane person, except upon proof that, at the time of committing the alleged criminal act, he was laboring under such a defect of reason, as either

1. Not to know the nature and quality of the act he was doing; or
2. Not to know that the act was wrong.

P. C. § 19. Same as § 21, N. Y. Penal Code.

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SECS. 5969-5975.]

PENAL CODE — PARTIES TO CRIME.

SEC. 5969. **Intoxicated persons—Intent.**— No act committed by a person while in a state of voluntary intoxication shall be deemed less criminal by reason of his having been in such condition. But whenever the actual existence of any particular purpose, motive or intent is a necessary element to constitute a particular species or degree of crime, the jury may take into consideration the fact that the accused was intoxicated at the time, in determining the purpose, motive or intent with which he committed the act.

P. C. § 20. Same as § 22, N. Y. Penal Code.

SEC. 5970. **Morbid criminal propensity, no defense.**— A morbid propensity to commit prohibited acts, existing in the mind of a person who is not shown to have been incapable of knowing the wrongfulness of such acts, forms no defense to a prosecution therefor.

P. C. § 21. Same as § 23, N. Y. Penal Code.

SEC. 5971. **Defense of duress by married women.**— It is no defense for a married woman charged with crime, that the alleged criminal act was committed by her in the presence of her husband.

P. C. § 22. Same as § 24, N. Y. Penal Code. G. S. ch. 95, § 7, provided that provisions against arson extended to married women, though property burned belong wholly or partly to husband.

SEC. 5972. **Duress, how constituted.**— Where any crime except murder is committed or participated in by two or more persons, and is committed, aided, or participated in by any one of them, only because, during the time of its commission, he is compelled to do, or to aid or participate in the act, by threats of another person engaged in the act or omission, and reasonable apprehension on his part of instant death in case he refuses, the threats and apprehension constitute duress, and excuse him.

P. C. § 23. Same as § 25, N. Y. Penal Code.

SEC. 5973. **An act done in defense of self or another.**— An act, otherwise criminal, is justifiable when it is done to protect the person committing it, or another whom he is bound to protect, from \* imminent personal injury, the act appearing reasonably necessary to prevent the injury, nothing more being done than is reasonably necessary.

P. C. § 24. Below \* different from N. Y. Penal Code, § 26.

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## TITLE 2.

### OF PARTIES TO CRIME.

This supersedes G. S. ch. 91, §§ 3, 4, 5, 6, 10.

SEC. 5974. **Principal and accessory.**— A party to a crime is, either

1. A principal; or
2. An accessory.

P. C. § 25. Same as § 28, N. Y. Penal Code.

SEC. 5975. **Principal.**— A person concerned in the commission of a crime, whether he directly commits the act constituting the offense or aids and abets in its commission, and whether present or absent, and a person who directly or indirectly counsels, commands, induces or procures another to commit a crime, is a principal,\* and shall be indicted and punished as such.

P. C. § 26. Same as § 29, N. Y. Penal Code, except below \*. This supersedes § 3, ch. 91, G. S., which read, "whoever aids in the commission of any offense which is a felony, or who is accessory thereto before the fact by counseling, hiring or otherwise procuring such felony to be committed, shall be punished in the same manner as is prescribed for the punishment of the principal felon." This also supersedes § 10, ch. 91, G. S., which provided that the distinc-

tion between accessory before the fact and between principals in the first and second degree is abrogated, and all persons concerned in the commission of a felony, whether they directly commit the act or aid and abet, though not present, shall be indicted, tried and punished as principals. 17 M. 241.

**SEC. 5976. Accessory.**— A person who, after the commission of a felony, harbors, conceals, or aids the offender, with intent that he may avoid or escape from arrest, trial, conviction, or punishment, having knowledge or reasonable ground to believe that such offender is liable to arrest, has been arrested, is indicted or convicted, or has committed a felony, is an accessory to the felony.

P. C. § 27. Same as § 30, N. Y. Penal Code. This seems to supersede § 5, ch. 91, G. S., not specifically repealed, which provided that whoever (not standing in the relation of husband, wife, parent or child by consanguinity or affinity to the offender) harbors, conceals, maintains, assists or gives the offender any other aid, with intent that he shall avoid or escape detection, arrest, trial or punishment, knowing that offender has committed a felony or been accessory thereto before the fact, shall be deemed an accessory after the fact, and be punished by imprisonment in the county jail not more than one year, or by fine not exceeding \$200, or both. Excluding the exception, both are substantially the same, and the effect is to abrogate the exception.

**SEC. 5977. All principals in misdemeanors.**— A person who commits or participates in an act which would make him an accessory if the crime committed were a felony, is a principal and may be indicted and punished as such, if the crime be a misdemeanor.

P. C. § 28. Same as § 31, N. Y. Penal Code.

**SEC. 5978. Trial of accessories.**— An accessory to a felony may be indicted, tried, and convicted, either in the county where he became an accessory, or in the county where the principal felony was committed, and whether the principal felon has or has not been previously convicted, or is or is not amenable to justice, and although the principal has been pardoned or otherwise discharged after conviction.

P. C. § 29. Same as § 32, N. Y. Penal Code. This section superseded G. S. ch. 91, § 4, which made this provision for trial of accessories before the fact, and § 6 for accessories after the fact.

**SEC. 5979. Punishment of accessory.**— Except in a case where a different punishment is specially prescribed by law, a person convicted as an accessory to a felony is punishable by imprisonment in the state prison or a county jail for not more than five years; or by a fine of not more than five hundred dollars, or by both.

P. C. § 30. Same as § 33, N. Y. Penal Code. This supersedes the provision in § 5, ch. 91, G. S., imposing imprisonment in county jail for not more than one year or by fine not exceeding \$200, or both.

### TITLE 3.

#### DEGREES IN THE COMMISSION OF CRIMES AND ATTEMPTS TO COMMIT CRIMES.

**SEC. 5980. Attempt to commit crime.**— An act, done with intent to commit a crime, and tending but failing to effect its commission, is an attempt to commit that crime.

P. C. § 31. Same as § 34, N. Y. Penal Code. G. S. ch. 91, § 7, first paragraph, provided that any act done towards the commission of an offense, but failing in the perpetration, is an attempt to commit an offense, and punishable as therein provided.

**SEC. 5981. Conviction of lesser degree or attempt.**— Upon the trial of an indictment, the prisoner may be convicted of the crime charged therein, or of a lesser degree of the same crime, or of an attempt to commit the crime so charged, or of an attempt to commit a lesser degree of the same crime.

P. C. § 32. Same as § 35, N. Y. Penal Code.

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SECS. 5982-5989.]

PENAL CODE — TREASON.

SEC. 5982. **Same — Lowest degree, when.**— When it appears that a defendant has committed a public offence, and there is reasonable ground of doubt of which of two or more degrees he is guilty, he can be convicted of the lowest of these degrees only.

G. S. ch. 92, § 3. This section of G. S. is not within repealing clause of Penal Code, though preceding section may cover it.

SEC. 5983. **Acquittal or conviction — Effect of.**— When a prisoner is acquitted or convicted, upon an indictment for a crime consisting of different degrees, he cannot thereafter be indicted or tried for the same crime in any other degree, nor for an attempt to commit the crime so charged, or any degree thereof.

P. C. § 33. Same as § 36, N. Y. Penal Code.

SEC. 5984. **Same — Acquittal upon the merits.**— No person shall be held to answer on a second indictment for an offence of which he has been acquitted by the jury upon the facts and merits; but such acquittal may be pleaded by him in bar of any subsequent prosecution for the same offence, notwithstanding any defect in the form or substance of the indictment on which he was acquitted.

G. S. ch. 92, § 5. This section of G. S. not within repealing clause of Penal Code.

SEC. 5985. **Same — Acquittal not upon the merits.**— Whoever is acquitted upon the ground of a variance between the indictment and the proof, or upon any exception to the form or substance of the indictment, may be arraigned again on a new indictment, and may be tried and convicted for the same offense, notwithstanding such former acquittal.

G. S. ch. 92, § 6. This section of G. S. not within repealing clause of Penal Code.

## TITLE 4.

### TREASON.

SEC. 5986. **Treason defined.**— Treason against the state consists in

1. Levying war against the state within the same; or
2. Adhering to the enemies of the state while separately engaged in war with a foreign enemy, in a case prescribed in the constitution of the United States, or giving to such enemies aid and comfort, within the state or elsewhere.

P. C. § 34. Same as first and third subdivisions, § 37, N. Y. Penal Code. Substantially § 1, ch. 93, G. S.

SEC. 5987. **Punishment.**— Whoever commits treason against this state shall be punished by imprisonment in the state prison for life.

P. C. § 35. Same as G. S. ch. 93, § 2.

SEC. 5988. **Misprision of treason.**— 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 offense 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.

P. C. § 36. Same as § 3, ch. 93, G. S.

SEC. 5989. **Two witnesses required to convict.**— 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 confess the same in open court.

P. C. § 37. Same as § 4, ch. 93, G. S.

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PENAL CODE — CRIMES AGAINST THE EXECUTIVE POWER. [SECS. 5990-5995.]

SEC. 5990. **Levying war defined.**— To constitute levying war against the state, an actual act of war must be committed. To conspire to levy war is not enough.

P. C. § 38. Same as § 39, N. Y. Penal Code.

SEC. 5991. **Resistance to a statute.**— Where persons rise in insurrection with intent to prevent in general, by force and intimidation, the execution of a statute of this state, or to force its repeal, they are guilty of levying war. But an endeavor, although by numbers and force of arms, to resist the execution of a law in a single instance, and for a private purpose, is not levying war.

P. C. § 39. Same as § 40, N. Y. Penal Code.

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## TITLE 5.

### OF CRIMES AGAINST THE ELECTIVE FRANCHISE.

SEC. 5992. **Crimes against elective franchise.**— Crimes against the elective franchise are defined, and the punishment therefor prescribed by the statutes regulating elections.

P. C. § 40. Substantially § 41, N. Y. Penal Code.

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## TITLE 6.

### OF CRIMES BY AND AGAINST THE EXECUTIVE POWER OF THE STATE.

SEC. 5993. **Exercising public office without required security.**— A person who executes any of the functions of a public office without having executed and duly filed the required security, is guilty of a misdemeanor; and in addition to the punishment prescribed therefor, he forfeits his right to the office.

P. C. § 41. Same as § 42, N. Y. Penal Code, except that latter embraced oath of office.

SEC. 5994. **Giving or offering bribes.**— A person who gives or offers a bribe to any executive or administrative officer of this state with intent to influence him in respect to any act, decision, vote, opinion, or other proceeding as such officer, is punishable by imprisonment in the state prison not exceeding ten years, or by fine not exceeding five thousand dollars, or by both.

P. C. § 42. Same as § 44, N. Y. Penal Code.

SEC. 5995. **Asking or receiving bribes.**— An executive or administrative officer, or person elected or appointed to an executive or administrative office, who asks, receives, or agrees to receive any bribe, upon an agreement or understanding that his vote, opinion, or action upon any matter then pending or which may by law be brought before him in his official capacity, shall be influenced thereby, is punishable by imprisonment in a [the] state prison not exceeding ten years, or by a fine not exceeding five thousand dollars, or by both; and in addition thereto forfeits his office and is forever disqualified from holding any public office under this state.

P. C. § 43. Same as § 45, N. Y. Penal Code.



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SECS. 5996-6004.] PENAL CODE—CRIMES AGAINST THE EXECUTIVE POWER.

**SEC. 5996. Attempting to prevent officers from performing duty.**— A person who attempts, by means of any threat or violence, to deter or prevent any executive or administrative officer from performing any duty imposed upon such officer by law, is guilty of a misdemeanor.

P. C. § 44. Same as § 46, N. Y. Penal Code. G. S. ch. 97, § 19, provided that whoever, with intent, obstructs the due execution of the law, or hinders or interrupts any officer in the legal performance of his duty, shall be punished, etc.

**SEC. 5997. Resisting officers.**— A person who knowingly resists, by the use of force or violence, any executive or administrative officer, in the performance of his duty, is guilty of a misdemeanor.

P. C. § 45. Same as § 47, N. Y. Penal Code.

**SEC. 5998. Unlawful gratuity or reward.**— An executive or administrative officer who asks or receives any emolument, gratuity, or reward, or any promise of emolument, gratuity or reward, except such as may be authorized by law, for doing any official act, is guilty of a misdemeanor.

P. C. § 46. Same as § 48, N. Y. Penal Code.

**SEC. 5999. Reward for omitting or deferring official duty.**— An executive or administrative officer who asks or receives any emolument, gratuity, or reward, or any promise of emolument, gratuity or reward for omitting or deferring the performance of any official duty, is guilty of a misdemeanor.

P. C. § 47. Same as § 49, N. Y. Penal Code. G. S. ch. 97, § 21, imposed punishment for sheriff, constable, or other officer authorized to serve legal process, who, for reward or inducement, omitted or delayed to perform any duty.

**SEC. 6000. Fees for services not rendered.**— An executive or administrative officer who asks or receives any fee or compensation for any official service which has not been actually rendered, except in cases of charges for prospective costs, or of fees demandable in advance in the cases allowed by law, is guilty of a misdemeanor.

P. C. § 48. Same as § 50, N. Y. Penal Code.

**SEC. 6001. Reward for appointment to public office.**— A person who gives, or offers to give, any gratuity or reward, in consideration that he or any other person shall be appointed to a public office, or to a clerkship, deputation, or other subordinate position, in such an office, or that he or such other person shall be permitted to exercise, perform, or discharge any prerogatives or duties, or to receive any emoluments of such an office, is guilty of a misdemeanor.

P. C. § 49. Same as § 52, N. Y. Penal Code.

**SEC. 6002. Same — Asking or receiving.**— A person who asks or receives, or agrees to receive, any gratuity or reward, or any promise thereof, for appointing another person, or procuring for another person an appointment to a public office, or to a clerkship, deputation or other subordinate position in such an office, is guilty of a misdemeanor. If the person so offending is a public officer, a conviction also forfeits his office.

P. C. § 50. Same as § 53, N. Y. Penal Code.

**SEC. 6003. Selling public office.**— A public officer who, for any reward, consideration, or gratuity, paid or agreed to be paid, directly or indirectly, grants to another the right or authority to discharge any functions of his office, or permits another to make appointments or perform any of its duties, is guilty of a misdemeanor.

P. C. § 51. Same as § 54, N. Y. Penal Code, except that latter also provided for forfeiture of office.

**SEC. 6004. Same — Conviction annuls appointment.**— A grant, appointment or deputation, made contrary to the provisions of either of the last

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PENAL CODE—CRIMES AGAINST THE LEGISLATIVE POWER. [SECS. 6005-6011.]

two sections, is avoided and annulled by a conviction for the violation of either of those sections, in respect to such grant, appointment, or deputation.

P. C. § 52. Same as § 55, N. Y. Penal Code, except that latter made official act before conviction valid.

SEC. 6005. **Intrusion into—Wilful exercise of public office.**—A person who wilfully intrudes himself into a public office, to which he has not been duly elected or appointed, or who, having been an executive or administrative officer, wilfully exercises any of the functions of his office, after his right so to do has ceased, is guilty of a misdemeanor.

P. C. § 53. Same as § 56, N. Y. Penal Code.

SEC. 6006. **Wilful neglect to perform official duty.**—Where any duty is enjoined by law upon any public officer, or upon any person holding any public trust or employment, every wilful neglect to perform such duty, and every misbehavior in office, where no special provision is made for the punishment of such delinquency or malfeasance, is a misdemeanor punishable by fine and imprisonment.

G. S. ch. 91, § 8. Not within repealing clause of Penal Code.

SEC. 6007. **Refusing to surrender to successor.**—A person who, having been an executive or administrative officer, wrongfully refuses to surrender the official seal, or any books or papers appertaining to his office, upon the demand of his lawful successor, is guilty of a misdemeanor.

P. C. § 54. Same as § 57, N. Y. Penal Code.

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## TITLE 7.

### OF CRIMES AGAINST THE LEGISLATIVE POWER.

SEC. 6008. **Disturbing legislature while in session.**—A person who wilfully disturbs the legislature of this state, or either of the houses composing it, while in session, or who commits any disorderly conduct in the immediate view and presence of either house of the legislature, tending to interrupt its proceedings or impair the respect due to its authority, is guilty of a misdemeanor.

P. C. § 55. Same as § 60, N. Y. Penal Code. Const. art. 4, § 18: Each house may punish by imprisonment, during its session, any person, not a member, who shall be guilty of any disorderly or contemptuous behavior in their presence; but no such imprisonment shall at any time exceed twenty-four hours.

SEC. 6009. **Intimidating member of legislature.**—A person who wilfully, by intimidation or otherwise, prevents any member of the legislature of this state from attending any session of the house of which he is a member, or of any committee thereof, or from giving his vote upon any question which may come before such house, or from performing any other official act, is guilty of a misdemeanor.

P. C. § 56. Same as § 62, N. Y. Penal Code.

SEC. 6010. **Altering draft of bill or resolution.**—A person who fraudulently alters the draft of any bill or resolution which has been presented to either of the houses composing the legislature, to be passed or adopted, with intent to procure it to be passed or adopted by either house, or certified by the presiding officer of either house, in language different from that intended by such house, is guilty of a misdemeanor.

P. C. § 57. Same as § 64, N. Y. Penal Code, except that latter made it felony.

SEC. 6011. **Altering engrossed copy or enrollment.**—A person who fraudulently alters the engrossed copy or enrollment of any bill which has

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SECS. 6012-6016.] PENAL CODE—CRIMES AGAINST THE LEGISLATIVE POWER.

been passed by the legislature of this state, with intent to procure it to be approved by the governor or certified by the secretary of state, or printed or published by the printer of the statutes in language different from that in which it was passed by the legislature, is guilty of felony.

P. C. § 58. Same as § 65, N. Y. Penal Code.

SEC. 6012. **Giving or offering bribes to members.**—A person who gives or offers, or causes to be given or offered, a bribe, or any money, property, or value of any kind, or any promise or agreement therefor, to a member of the legislature, or attempts, directly or indirectly, by menace, deceit, suppression of truth, or other corrupt means, to influence a member to give or withhold his vote, or to absent himself from the house of which he is a member, or from any committee thereof, is punishable by imprisonment in the state prison for not more than ten years, or by a fine of not more than five thousand dollars, or both.

P. C. § 59. Same as § 66, N. Y. Penal Code.

SEC. 6013. **Receiving bribes by members.**—A member of either of the houses composing the legislature of this state, who asks, receives, or agrees to receive any bribe upon any understanding that his official vote, opinion, judgment, or action shall be influenced thereby, or shall be given in any particular manner or upon any particular side of any question or matter upon which he may be required to act in his official capacity, or who gives or offers or promises to give any official vote in consideration that another member of the legislature shall give any such vote, either upon the same or another question, is punishable by imprisonment in the state prison not exceeding ten years, or by fine not exceeding five thousand dollars, or both.

P. C. § 60. Same as § 67, N. Y. Penal Code.

SEC. 6014. **Witnesses refusing to attend legislature or committees.** A person who, being duly summoned to attend as a witness before either house of the legislature or any committee thereof authorized to summon witnesses, refuses or neglects without lawful excuse to attend pursuant to such summons, is guilty of a misdemeanor.

P. C. § 61. Same as § 68, N. Y. Penal Code.

SEC. 6015. **Refusing to testify.**—A person who, being present before either house of the legislature or any committee thereof authorized to summon witnesses, wilfully refuses to be sworn or affirmed, or to answer any material and proper question, or to produce upon reasonable notice any material and proper books, papers, or documents in his possession or under his control, is guilty of a misdemeanor.

P. C. § 62. Same as § 69, N. Y. Penal Code.

SEC. 6016. **Members to forfeit office.**—The conviction of a member of the legislature of either of the crimes defined in this chapter, involves as a consequence, in addition to the punishment prescribed by this code, a forfeiture of his office; and disqualifies him from ever afterwards holding any office under this state.

P. C. § 63. Same as § 70, N. Y. Penal Code.

# MINNESOTA STATUTES 1891

PENAL CODE — CRIMES AGAINST PUBLIC JUSTICE. [SECS. 6017-6020.]

## TITLE 8.

### OF CRIMES AGAINST PUBLIC JUSTICE.

This title supersedes and contains substance of G. S. ch. 97.

#### BRIBERY AND CORRUPTION.

**SEC. 6017. Bribery of a judicial officer.**— A person who gives or offers, or causes to be given or offered, a bribe, or any money, property, or value of any kind, or any promise or agreement therefor, to a judicial officer, juror, referee, arbitrator, appraiser, or assessor, or other person authorized by law to hear or determine any question, matter, cause, proceeding, or controversy, with intent to influence his action, vote, opinion, or decision thereupon, is punishable by imprisonment in the state prison for not more than ten years, or by a fine of not more than five thousand dollars, or both.

P. C. § 64. Same as § 71, N. Y. Penal Code. Prior to this law, G. S. ch. 97, § 7, provided that whoever corruptly gives, offers or promises to any executive, judicial or legislative officer, any gift or gratuity with intent to influence his act, shall be imprisoned in state prison not more than three years or less than one year, or fined not exceeding \$500 nor less than \$100. And in § 9, whoever corrupts or attempts to corrupt any court commissioner, juror, arbitrator, umpire or referee by giving, offering or promising any gift or gratuity with intent to bias his opinion or influence his decision, shall be punished as in § 7.

**SEC. 6018. Officer accepting bribe.**— A judicial officer, a person who executes any of the functions of a public office not designated in titles six and seven of this code, or a person employed by or acting for the state, or for any public officer in the business of the state, who asks, receives, or agrees to receive a bribe, or any money, property, or value of any kind, or any promise or agreement therefor, upon any agreement or understanding that his vote, opinion, judgment, action, decision, or other official proceeding shall be influenced thereby, or that he will do or omit any act or proceeding, or in any way neglect or violate any official duty, is punishable by imprisonment in the state prison for not more than ten years, or by fine of not more than five thousand dollars, or both. A conviction also forfeits any office held by the offender, and forever disqualifies him from holding any public office under the state.

P. C. § 65. Same as § 72, N. Y. Penal Code. Prior to this law, G. S. ch. 97, § 8, provided every executive, legislative or judicial officer who accepts any gift or gratuity, or any promise therefor, shall be punished by imprisonment in the state prison not more than four nor less than two years, or fined not exceeding \$600 nor less than \$200. And in § 10, that if any juror, arbitrator, umpire, referee or court commissioner takes any money or other thing, or receives any gift or gratuity, shall be punished by imprisonment for not more than three years nor less than one year, or fined not exceeding \$600 nor less than \$200.

**SEC. 6019. Promising verdict, award, decision.**— A juror, or a person drawn or summoned to attend as a juror, or a person chosen arbitrator, or appointed referee, who either

1. Makes any promise or agreement to give a verdict, judgment, report, award, or decision for or against any party; or

2. Wilfully receives any communication, book, paper, instrument, or information relating to a cause or matter pending before him, except according to the regular course of proceeding upon the trial or hearing of that cause or matter,

Is guilty of a misdemeanor.

P. C. § 66. Same as § 73, N. Y. Penal Code. Prior to this law, G. S. ch. 97, § 10, was limited to taking any money or other thing to give verdict, award or report, or receiving any gift or gratuity from the party to the action or proceeding.

**SEC. 6020. Jurors, etc., accepting bribes.**— A juror, referee, arbitrator, appraiser, or assessor, or other person authorized by law to hear or determine any question, matter, cause, controversy, or proceeding, who asks, receives, or

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SECS. 6021-6025.] PENAL CODE — CRIMES AGAINST PUBLIC JUSTICE.

agrees to receive any money, property, or value of any kind, or any promise or agreement therefor, upon any agreement or understanding that his vote, opinion, action, judgment, or decision shall be influenced thereby, is punishable by imprisonment in the state prison for not more than ten years, or by fine of not more than five thousand dollars, or both.

P. C. § 67. Same as § 74, N. Y. Penal Code.

SEC. 6021. **Embracery.**— A person who influences or attempts to influence improperly a juror in a civil or criminal action or proceeding, or one drawn or summoned to attend as such juror, or one chosen an arbitrator or appointed a referee, in respect to his verdict, judgment, report, award, or decision, in any cause or matter pending or about to be brought before him, in any case or in any manner not included in the last two sections, is guilty of a misdemeanor.

P. C. § 68. Same as § 75, N. Y. Penal Code.

SEC. 6022. **Misconduct at drawing of jurors.**— A person authorized by law to assist at the drawing or impaneling of grand or trial jurors to attend a court or a term of court, or to try any cause or issue, who either

1. Designedly puts, or consents to the putting, upon a list of jurors as having been drawn, any name which was not lawfully drawn for that purpose; or

2. Designedly omits to place on such a list any name which was lawfully drawn; or

3. Designedly signs or certifies a list of such jurors as having been drawn which was not lawfully drawn; or

4. Designedly withdraws from the box or other receptacle for the ballots containing the names of such jurors, any paper or ballot lawfully placed or belonging there and containing the name of a juror, or omits to place in such box or receptacle any name lawfully drawn or designated, or places in such box or receptacle a paper or ballot containing the name of a person not lawfully drawn and designated as a juror; or

5. In the drawing or impaneling of such jurors does any act which is unfair, partial or improper in any other respect,

Is guilty of a misdemeanor.

P. C. § 69. Same as § 76, N. Y. Penal Code.

SEC. 6023. **Misconduct of officers having charge of juries.**— An officer to whose charge any juror or jurors are committed by a court or magistrate, who negligently or wilfully permits them, or any of them, without leave of the court or magistrate,

1. To receive any communication from any person;

2. To make any communication to any person;

3. To obtain or receive any book or paper, or refreshment; or

4. To leave the jury room,

Is guilty of a misdemeanor.

P. C. § 70. Same as § 77, N. Y. Penal Code.

SEC. 6024. **Bribing public officers.**— A person who gives or offers, or causes to be given or offered, a bribe, or any money, property, or value of any kind, or any promise or agreement therefor, to a person executing any of the functions of a public office, other than one of the officers or persons designated in title six, title seven, and section sixty-four of title eight of this code, with intent to influence him in respect to any act, decision, vote, or other proceeding, in the exercise of his powers or functions, is punishable by imprisonment in the state prison for not more than ten years, or by a fine of not more than five thousand dollars, or both.

P. C. § 71. Same as § 78, N. Y. Penal Code.

SEC. 6025. **In bribery offender competent witness.**— A person offending against any provision of any foregoing sections of this code relating to bribery is a competent witness against another person so offending, and

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may be compelled to attend and testify upon any trial, hearing, proceeding, or investigation in the same manner as any other person. But the testimony so given shall not be used in any prosecution or proceeding, civil or criminal, against the person so testifying. A person so testifying to the giving of a bribe which has been accepted shall not thereafter be liable to indictment, prosecution, or punishment for that bribery, and may plead or prove the giving of testimony accordingly, in bar of such an indictment or prosecution.

P. C. § 72. Same as § 79, N. Y. Penal Code.

**SEC. 6026. Juror defined.**—The word juror, as used in this chapter, includes a talesman, and extends to jurors in all courts, whether of record or not of record; and in special proceedings, and before any officer authorized to impanel a jury in any case or proceeding.

P. C. § 73. Same as § 81, N. Y. Penal Code.

## RESCUES.

**SEC. 6027. Rescue of prisoner.**—A person who, by force or fraud, rescues a prisoner from lawful custody, or from an officer or other person having him in lawful custody, is guilty of a felony, if the prisoner was held upon a charge, commitment, arrest, conviction, or sentence of felony; and if the prisoner was held upon a charge, arrest, commitment, conviction, or sentence for misdemeanor, the rescuer is guilty of a misdemeanor.

P. C. § 74. Same as § 82, N. Y. Penal Code. G. S. ch. 97, § 11, contained substantially same provision, which also provided "whether such escape is attempted or effected or not."

**SEC. 6028. Taking property from officer's custody.**—A person who takes from the custody of an officer or other person, personal property, in charge of the latter, under any process of law, or who wilfully injures or destroys such property, is guilty of a misdemeanor.

P. C. § 75. Same as § 83, N. Y. Penal Code.

## ESCAPES, AND AIDING THEREIN.

**SEC. 6029. Escaping prisoner may be recaptured.**—A prisoner, in custody under sentence of imprisonment for any crime, who escapes from custody, may be recaptured and imprisoned for a term equal to that portion of his original term of imprisonment which remained unexpired upon the day of his escape.

P. C. § 76. Same as § 84, N. Y. Penal Code.

**SEC. 6030. Prisoner escaping.**—A prisoner who, being confined in a prison, or being in lawful custody of an officer or other person, by force or fraud escapes from such prison or custody, is guilty of felony if such custody or confinement is upon a charge, arrest, commitment, or conviction for a felony; and of a misdemeanor if such custody or confinement is upon a charge, arrest, commitment, or conviction for a misdemeanor.

P. C. § 77. Same as § 85, N. Y. Penal Code.

**SEC. 6031. Attempt to escape from state prison.**—A prisoner confined in a state prison for a term less than for life, who attempts by force or fraud, although unsuccessfully, to escape from such prison, is guilty of felony.

P. C. § 78. Same as § 86, N. Y. Penal Code.

**SEC. 6032. Aiding prisoner to escape.**—A person who, with intent to effect or facilitate the escape of a prisoner, whether the escape is effected or attempted or not, enters a prison or conveys to a prisoner any information, sends into a prison any disguise, instrument, weapon or other thing, is guilty of felony, if the prisoner is held upon a charge, arrest, commitment, or con-

viction for a felony; and of a misdemeanor if the prisoner is held upon a charge, arrest, commitment, or conviction for a misdemeanor.

P. C. § 79. Same as § 87, N. Y. Penal Code. G. S. ch. 97, § 11, contained substantially same provision.

**SEC. 6033. Aiding prisoner to escape.**— A person who aids or assists a prisoner in escaping, or attempting to escape, from the lawful custody of a sheriff, or other officer or person, is guilty of a misdemeanor, if the prisoner is held under arrest, commitment, or conviction for a misdemeanor, or upon a charge thereof; and of a felony if the prisoner is held under an arrest, commitment, or conviction for a felony, or upon a charge thereof.

P. C. § 80. Same as § 88, N. Y. Penal Code. G. S. ch. 97, § 12, contained same provision except the punishment.

**SEC. 6034. Officer suffering escape.**— A sheriff, or other officer or person, who allows a prisoner, lawfully in his custody, in any action or proceeding, civil or criminal, or in any prison, under his charge or control, to escape or go at large, except as permitted by law, or connives at or assists such escape, or omits an act or duty whereby such escape is occasioned, or contributed to, or assisted, is

1. If he corruptly and wilfully allows, connives at, or assists the escape, guilty of a felony;

2. In any other case is guilty of a misdemeanor.

P. C. § 81. Same as § 89, N. Y. Penal Code. G. S. ch. 97, § 13, contained similar provision, and § 14 provided that if any officer negligently suffers any prisoner in his custody to escape, punished by imprisonment and fine.

**SEC. 6035. Concealing escaped prisoner.**— A person who knowingly or wilfully conceals, or harbors for the purpose of concealment, a person who has escaped or is escaping from custody, is guilty of a felony if the prisoner is held upon a charge or conviction of felony, and of a misdemeanor if the person is held upon a charge or conviction of misdemeanor.

P. C. § 82. Same as § 91, N. Y. Penal Code.

**SEC. 6036. Definition of prison.**— The term "prison," as used in this chapter, means any place designated by law for the keeping of persons held in custody under process of law, or under lawful arrest.

P. C. § 83. Same as § 92, N. Y. Penal Code.

**SEC. 6037. Definition of prisoner.**— The term "prisoner," as used in this chapter, means any person held in custody under process of law, or under lawful arrest.

P. C. § 84. Same as § 93, N. Y. Penal Code.

#### FORGING, STEALING, MUTILATING AND FALSIFYING JUDICIAL AND PUBLIC RECORDS AND DOCUMENTS.

**SEC. 6038. Injury, etc., to public record.**— A person who wilfully and unlawfully removes, mutilates, destroys, conceals, or obliterates a record, map, book, paper, document, or other thing, filed or deposited in a public office or with any public officer by authority of law, is punishable by imprisonment in the state prison for not more than five years, or by a fine of not more than five hundred dollars, or by both.

P. C. § 85. Same as § 94, N. Y. Penal Code.

**SEC. 6039. Procuring or offering false or forged instruments.**— A person who knowingly procures or offers any false or forged instrument to be filed, registered, or recorded in any public office within this state, which instrument, if genuine, might be filed or registered or recorded under any law of this state or of the United States, is guilty of felony.

P. C. § 86. Same as § 95, N. Y. Penal Code.

PERJURY AND SUBORNATION OF PERJURY.

**SEC. 6040. Perjury.**— A person who swears or affirms that he will truly testify, declare, depose, or certify, or that any testimony, declaration, deposition, certificate, affidavit, or other writing by him subscribed, is true, in an action, or a special proceeding, or upon any hearing, or inquiry, or on any occasion in which an oath is required by law, or is necessary for the prosecution or defense of a private right, or for the ends of public justice, or may lawfully be administered, and who in such action or proceeding, or on such hearing, inquiry, or other occasion, wilfully and knowingly testifies, declares, deposes, or certifies falsely, in any material matter, or states in his testimony, declaration, deposition, affidavit, or certificate, any material matter to be true which he knows to be false, is guilty of perjury.

P. C. § 87. Same as § 96, N. Y. Penal Code. G. S. ch. 97, § 1, provided punishment for perjury, and in § 2 defined perjury to be whoever wilfully swears, affirms, promises or declares falsely in regard to any matter or thing in which he is required or authorized by law to take an oath or affirmation, is guilty of perjury.

**SEC. 6041. Irregularities — Oath defined.**— It is no defense to a prosecution for perjury that an oath was administered or taken in an irregular manner. The term "oath" includes an affirmation, and every other mode authorized by law of attesting the truth of that which is stated.

P. C. § 88. Same as § 97, N. Y. Penal Code.

**SEC. 6042. Incompetency of witness no defense.**— It is no defense to a prosecution for perjury that the defendant was not competent to give the testimony, deposition, or certificate of which falsehood is alleged. It is sufficient that he actually was permitted to give such testimony or make such deposition or certificate.

P. C. § 89. Same as § 98, N. Y. Penal Code.

**SEC. 6043. Knowledge of materiality not necessary.**— It is no defense to a prosecution for perjury that the defendant did not know the materiality of the false statement made by him; or that it did not in fact affect the proceeding in or for which it was made. It is sufficient that it was material, and might have affected such proceeding.

P. C. § 90. Same as § 99, N. Y. Penal Code.

**SEC. 6044. When deposition or certificate complete.**— The making of a deposition or certificate is deemed to be complete, within the provisions of this chapter, from the time when it is subscribed, sworn to, or affirmed by the defendant with intent that it be uttered or published as true.

P. C. § 91. Same as § 100, N. Y. Penal Code.

**SEC. 6045. Statement of that which one does not know to be true.** An unqualified statement of that which one does not know to be true is equivalent to a statement of that which he knows to be false.

P. C. § 92. Same as § 101, N. Y. Penal Code.

**SEC. 6046. Summary committal of witnesses who have committed perjury.**— Where it appears probable to a court of record having general jurisdiction that a person who has testified before it in an action or proceeding in that court, has committed perjury in any testimony so given, the court may immediately commit him, by an order or process for that purpose, to prison, or take a recognizance, with sureties, for his appearing and answering to an indictment for perjury.

P. C. § 93. Same as § 102, N. Y. Penal Code. G. S. ch. 97, § 5, empowered court to recognize when witness "testified in such a manner as to induce a reasonable presumption that he has been guilty of perjury."

**SEC. 6047. Same — Preservation of documents.**— In such a case, if any paper or document produced by either party is deemed by the court nec-



essary to be used in the prosecution for the perjury, the court may detain the same and direct it to be delivered to the county attorney.

P. C. § 94. Same as § 104, N. Y. Penal Code. G. S. ch. 97, § 6, empowered the court to "order a certified copy" to be used in such prosecution.

**SEC. 6048. Subornation of perjury.**— A person who wilfully procures or induces another to commit perjury is guilty of subornation of perjury.

P. C. § 95. Same as § 105, N. Y. Penal Code. G. S. ch. 97, § 3, provided, whoever is guilty of subornation of perjury by procuring another to commit the crime is punishable by imprisonment in state prison not more than three years nor less than one year; and in § 4, whoever endeavors to procure or incite another to commit perjury, though no perjury is committed, is punishable by imprisonment in state prison not more than three years nor less than one year.

**SEC. 6049. Punishment of perjury and subornation.**— Perjury and subornation of perjury are each punishable as follows:

1. When the perjury is committed upon the trial of an indictment for felony, by imprisonment in the state prison for not less than two nor more than ten years.

2. In any other case, by imprisonment in the state prison for not less than one nor more than five years.

P. C. § 96. Same as § 105, N. Y. Penal Code, except duration of punishment.

#### FALSIFYING EVIDENCE.

**SEC. 6050. Offering false evidence.**— A person, who, upon any trial, hearing, inquiry, investigation, or other proceeding authorized by law, offers or procures to be offered in evidence, as genuine, a book, paper, document, record, or other instrument in writing, knowing the same to have been forged or fraudulently altered, is guilty of felony.

P. C. § 96½. Same as § 107, N. Y. Penal Code.

**SEC. 6051. Destroying evidence.**— A person who, knowing that a book, paper, record, instrument, in writing, or other matter or thing, is or may be required in evidence upon any trial, hearing, inquiry, investigation, or other proceeding authorized by law, wilfully destroys the same, with intent thereby to prevent the same from being produced, is guilty of a misdemeanor.

P. C. § 97. Same as § 110, N. Y. Penal Code.

**SEC. 6052. Preventing or dissuading witnesses from attending.**— A person who wilfully prevents or dissuades any person who has been duly summoned or subpoenaed as a witness from attending, pursuant to the summons or subpoena, is guilty of a misdemeanor.

P. C. § 98. Same as § 111, N. Y. Penal Code.

**SEC. 6053. Inducing another to commit perjury.**— A person who, without giving, offering, or promising a bribe, incites or attempts to procure another to commit perjury, or to give false testimony as a witness, though no perjury is committed or false testimony given, or to withhold true testimony, is guilty of a misdemeanor.

P. C. § 99. Same as § 112, N. Y. Penal Code. G. S. ch. 97, § 4, provided that whoever endeavors to procure or incite another to commit perjury, though no perjury is committed, punished by imprisonment in state prison not more than three years nor less than one year.

**SEC. 6054. Giving or offering bribes to witnesses.**— A person who gives or offers or promises to give, to any witness or person about to be called as a witness, any bribe, upon any understanding or agreement that the testimony of such witness shall be thereby influenced, or who attempts by any other means fraudulently to induce any witness to give false testimony, or to withhold true testimony, is guilty of a felony.

P. C. § 100. Same as § 113, N. Y. Penal Code.

**SEC. 6055. Witness receiving bribes.**— A person who is, or is about to be, a witness upon a trial, hearing, or other proceeding, before any court or

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any officer authorized to hear evidence or take testimony, who receives or agrees, or offers to receive, a bribe, upon any agreement or understanding that his testimony shall be influenced thereby, or that he will absent himself from the trial, hearing, or other proceeding, is guilty of a felony.

P. C. § 101.

## OTHER OFFENSES AGAINST PUBLIC JUSTICE.

**SEC. 6056. Injury to records — Misappropriation by ministerial officers.**— A sheriff, coroner, clerk of court, constable, or other ministerial officer, and every deputy or subordinate of any ministerial officer, who either

1. Mutilates, destroys, conceals, erases, obliterates, or falsifies any record or paper appertaining to his office; or

2. Fraudulently appropriates to his own use or to the use of another person or secretes with intent to appropriate to such use any money, evidence of debt or other property intrusted to him in virtue of his office,

Is guilty of felony.

P. C. § 102. Same as § 114, N. Y. Penal Code.

**SEC. 6057. Escapes by bribery of officer.**— A sheriff, coroner, clerk of court, constable, or other ministerial officer, and every deputy or subordinate of any ministerial officer, who either

1. Receives any gratuity or reward, or any security or promise of one, to procure, assist, connive at, or permit any prisoner in his custody to escape, whether such escape is attempted or not; or

2. Commits any unlawful act tending to hinder justice,

Is guilty of misdemeanor.

P. C. § 103. Same as § 115, N. Y. Penal Code.

**SEC. 6058. Neglecting or refusing to receive prisoner.**— An officer who, in violation of a duty imposed upon him by law to receive a person into his official custody, or into a prison under his charge, wilfully neglects or refuses so to do, is guilty of a misdemeanor.

P. C. § 104. Same as § 116, N. Y. Penal Code. G. S. ch. 97, § 14, provided that if any officer wilfully refuses to receive into his custody any prisoner lawfully committed thereto, he shall be imprisoned in the county jail for not more than two years or be fined not exceeding \$300.

**SEC. 6059. Wilful neglect of duty.**— A public officer, or person holding a public trust or employment, upon whom any duty is enjoined by law, who wilfully neglects to perform the duty, is guilty of a misdemeanor. This and the preceding section do not apply to cases of official acts or omissions the prevention or punishment of which is otherwise specially provided by statute.

P. C. § 105. Same as § 117, N. Y. Penal Code. G. S. ch. 97, § 15, provided that the wilful and corrupt refusal to execute any lawful process requiring the apprehension or confinement of any person, and the wilful and corrupt omission or delay to execute such process, whereby such person escapes, shall be punished, etc.

**SEC. 6060. Delaying to take person arrested before magistrate.**— A public officer, or other person having arrested any person upon a criminal charge, who wilfully and wrongfully delays to take such person before a magistrate having jurisdiction to take his examination, is guilty of a misdemeanor.

P. C. § 106. Same as § 118, N. Y. Penal Code.

**SEC. 6061. Acting without regular process.**— A public officer or person pretending to be a public officer, who knowingly, under the pretense or color of any process, arrests any person, or detains him against his will, or seizes or levies upon any property, or dispossesses any one of any lands or tenements, without a regular process therefor, is guilty of a misdemeanor.

P. C. § 107. Same as § 119, N. Y. Penal Code. G. S. ch. 97, § 18, provided that whoever, falsely assuming to be an officer and acts as such, requires any person to aid or assist him in any matter pertaining to that office, shall be imprisoned, etc.

SEC. 6062. **Misconduct in executing search warrant.**— An officer who, in executing a search warrant; willfully exceeds his authority, or exercises it with unnecessary severity, is guilty of a misdemeanor.

P. C. § 108. Same as § 120, N. Y. Penal Code.

SEC. 6063. **Refusing to aid officer.**— A person who, after having been lawfully commanded to aid an officer in arresting any person or in retaking any person who has escaped from legal custody, or in executing any legal process, wilfully neglects or refuses to aid such officer, is guilty of a misdemeanor.

P. C. § 109. Same as § 121, N. Y. Penal Code. G. S. ch. 97, § 16, provided that whoever, being lawfully required, neglects or refuses to assist an officer in the execution of his office, in any criminal case, in the preservation of the peace, in apprehending or securing any person for a breach of the peace, or in any case of escape or rescue of persons arrested upon civil process, shall be punished by fine not exceeding \$100.

SEC. 6064. **Refusing to make an arrest.**— A person who, after having been lawfully commanded by any magistrate to arrest another person, wilfully neglects or refuses so to do is guilty of a misdemeanor.

P. C. § 110. Same as § 122, N. Y. Penal Code. G. S. ch. 97, § 17, provided that any person who refuses or neglects to arrest another, by command of justice of peace issued upon view of an offense within his cognizance, shall be punished by fine not exceeding \$100.

SEC. 6065. **Resisting public officer.**— A person who, in any case or under any circumstances not otherwise specially provided for, wilfully resists, delays, or obstructs a public officer in discharging, or attempting to discharge, a duty of his office, is guilty of a misdemeanor.

P. C. § 111. Same as § 124, N. Y. Penal Code.

SEC. 6066. **Compounding crimes.**— A person who takes money, or other property, gratuity or reward, or an engagement or promise therefor, upon an agreement or understanding, express or implied, to compound or conceal a crime, or a violation of a statute, or to abstain from, discontinue, or delay, a prosecution therefor, or to withhold any evidence thereof, except in a case where a compromise is allowed by law, is guilty:

1. Of a felony, punishable by imprisonment in the state prison for not more than five years, where the agreement or understanding relates to a felony punishable by death, or by imprisonment in the state prison for life.

2. Of a felony, punishable by imprisonment in the state prison for not more than three years, where the agreement or understanding relates to another felony.

3. Of a misdemeanor, punishable by imprisonment in a county jail for not more than one year, or by fine of not more than two hundred and fifty dollars, or both, where the agreement or understanding relates to a misdemeanor, or to a violation of a statute, for which a pecuniary penalty or forfeiture is prescribed.

P. C. § 112. Same as § 125, N. Y. Penal Code. G. S. ch. 97, § 20, provided that whoever takes any money, gratuity, reward, or an engagement therefor, and agrees expressly or impliedly to compound or conceal the commission of any offense, or not to prosecute or not to give evidence thereof, shall be punished, etc.

SEC. 6067. **Same — Conviction of primary offender.**— Upon the trial of an indictment for compounding a crime, it is not necessary to prove that any person has been convicted of the crime or violation of statute, in relation to which an agreement or understanding herein prohibited was made.

P. C. § 113. Same as § 126, N. Y. Penal Code.

SEC. 6068. **Intimidating public officer.**— A person who directly or indirectly addresses any threat or intimidation to a public officer, or to a juror, referee, arbitrator, appraiser, or assessor, or to any other person authorized by law to hear or determine any controversy or matter, with intent to induce him, contrary to his duty, to do or make, or to omit or delay, any act, decision or determination, is guilty of a misdemeanor.

P. C. § 114. Same as § 127, N. Y. Penal Code.

SEC. 6069. **Suppressing evidence.**— A person who maliciously practices any deceit or fraud, or uses any threat, menace, or violence, with intent to prevent any party to an action or proceeding from obtaining or producing therein any book, paper, or other thing which might be evidence, or from procuring the attendance or testimony of any witness therein, or with intent to prevent any person having in his possession any book, paper, or other thing which might be evidence in such suit or proceeding, or to prevent any person being cognizant of any fact material thereto from producing or disclosing the same, is guilty of a misdemeanor.

P. C. § 115. Same as § 128, N. Y. Penal Code.

SEC. 6070. **Common barratry.**— Common barratry is the practice of exciting groundless judicial proceedings.

P. C. § 116. Same as § 132, N. Y. Penal Code.

SEC. 6071. **Same.**— Common barratry is a misdemeanor.

P. C. § 117. Same as § 133, N. Y. Penal Code.

SEC. 6072. **Proof of common barratry.**— No person can be convicted of common barratry, except upon proof that he has excited actions or legal proceedings, in at least three instances, and with a corrupt or malicious intent to vex and annoy.

P. C. § 118. Same as § 134, N. Y. Penal Code.

SEC. 6073. **Same — Not a defense.**— Upon a prosecution for common barratry, the fact that the defendant was himself a party in interest or upon the record to any action or legal proceeding complained of, is not a defense.

P. C. § 119. Same as § 135, N. Y. Penal Code.

SEC. 6074. **Buying demands by justice or constable.**— A justice of the peace or a constable who, directly or indirectly, buys or is interested in buying anything in action, for the purpose of commencing a suit thereon before a justice, is guilty of a misdemeanor.

P. C. § 120. Same as § 137, N. Y. Penal Code.

SEC. 6075. **Promising rewards for claims delivered for collection.** A justice of the peace or constable who, directly or indirectly, gives or promises to give, any valuable consideration to any person as an inducement to bring, or in consideration of having brought, a suit thereon before a justice, is guilty of a misdemeanor.

P. C. § 121. N. Y. Penal Code, §§ 138, 74.

SEC. 6076. **Criminal contempts.**— A person who commits a contempt of court, of any one of the following kinds, is guilty of a misdemeanor:

1. Disorderly, contemptuous, or insolent behavior, committed during the sitting of the court, in its immediate view and presence, and directly tending to interrupt its proceedings or to impair the respect due to its authority;

2. Behavior of the like character, committed in the presence of a referee or referees, while actually engaged in a trial or hearing, pursuant to the order of the court or in the presence of a jury, while actually sitting for the trial of a cause, or upon an inquest or other proceeding authorized by law;

3. Breach of the peace, noise, or other disturbance, directly tending to interrupt the proceedings of a court, jury or referee;

4. Wilful disobedience to the lawful process or other mandate of a court;

5. Resistance wilfully offered to its lawful process or other mandate;

6. Contumacious and unlawful refusal to be sworn as a witness, or after being sworn, to answer any legal and proper interrogatory;

7. Publication of a false or grossly inaccurate report of its proceedings.

But no person can be punished as provided in this section, for publishing a true, full, and fair report of a trial, argument, decision or other proceeding had in court.

P. C. § 122. Same as § 143, N. Y. Penal Code.

# MINNESOTA STATUTES 1891

SECS. 6077-6084.] PENAL CODE — CRIMES AGAINST PUBLIC JUSTICE.

**SEC. 6077. Grand juror acting after challenge allowed.**— A grand juror who, with knowledge that a challenge, interposed against him by a defendant, has been allowed, is present at or takes part or attempts to take part in the consideration of the charge against the defendant who interposed the challenge, or the deliberations of the grand jury thereon, is guilty of a misdemeanor.

P. C. § 123. Same as § 144, N. Y. Penal Code.

**SEC. 6078. Misconduct by attorneys.**— An attorney or counselor who,  
1. Is guilty of any deceit or collusion, or consents to any deceit or collusion, with intent to deceive the court or any party; or

2. Wilfully delays his client's suit with a view to his own gain,  
Is guilty of a misdemeanor, and in addition to the punishment prescribed therefor by this code, he forfeits to the party injured treble damages, to be recovered in a civil action.

P. C. § 124. N. Y. Penal Code, § 148.

**SEC. 6079. Production of pretended heir.**— A person who fraudulently produces an infant, falsely pretending it to have been born of a parent whose child is or would be entitled to inherit real property, or to receive a share of personal property, with intent to intercept the inheritance of such real property or the distribution of such personal property, or to defraud any person out of the same or any interest therein; or who, with intent fraudulently to obtain any property, falsely represents himself or another to be a person entitled to an interest or share in the estate of a deceased person, either as executor, administrator, husband, wife, heir, legatee, devisee, next of kin or relative of such deceased person, is punishable by imprisonment in the state prison for not more than ten years.

P. C. § 125. Same as § 151, N. Y. Penal Code.

**SEC. 6080. Substituting one child for another.**— A person to whom a child has been confided for nursing, education, or any other purpose, who, with intent to deceive a parent, guardian or relative of the child, substitutes or produces to such parent, guardian, or relative, another child or person in place of the child so confided, is punishable by imprisonment in the state prison for not more than seven years.

P. C. § 126. Same as § 152, N. Y. Penal Code.

**SEC. 6081. Omission of duty by public officers.**— Where any duty is or shall be enjoined by law upon any public officer, or upon any person holding a public trust or employment, every wilful omission to perform such duty, where no special provision shall have been made for the punishment of such delinquency, is punishable as a misdemeanor.

P. C. § 127. Same as § 154, N. Y. Penal Code.

**SEC. 6082. Punishment for commission of prohibited acts.**— Where the performance of any act is prohibited by a statute, and no penalty for the violation of such statute is imposed in any statute, the doing such act is a misdemeanor.

P. C. § 128. Same as § 155, N. Y. Penal Code.

**SEC. 6083. Disclosing fact of indictment having been found.**— A judge, grand juror, county attorney, clerk, or other officer, who, except in the due discharge of his official duty, discloses, before an accused person is in custody, the fact of an indictment having been found or ordered against him, is guilty of a misdemeanor.

P. C. § 129. Same as § 156, N. Y. Penal Code.

**SEC. 6084. Grand juror discloses transactions of grand jury.**— A grand juror who, except when lawfully required by a court officer, wilfully discloses, either

1. Any evidence adduced before the grand jury; or

# MINNESOTA STATUTES 1891

PENAL CODE—CRIMES AGAINST PUBLIC JUSTICE. [SECS. 6085-6091.]

2. Anything which he himself or any other member of the grand jury said, or in what manner he or any other grand juror voted, upon any matter before them,

Is guilty of a misdemeanor.

P. C. § 130. Same as § 157, N. Y. Penal Code.

**SEC. 6085. Instituting suit in name of another.**— A person who institutes or prosecutes an action or other proceeding in the name of another, without his consent and contrary to the statutes, is guilty of a misdemeanor punishable by imprisonment not exceeding six months.

P. C. § 131. Same as § 158, N. Y. Penal Code.

**SEC. 6086. Maliciously procuring search warrant.**— A person who maliciously and without probable cause, procures a search warrant to be issued and executed, is guilty of a misdemeanor.

P. C. § 132. Same as § 159, N. Y. Penal Code.

**SEC. 6087. Unauthorized communication with convict in state prison.**— A person who, not being authorized by law, or by a written permission from an inspector, or by the consent of the warden, has any verbal communication with a convict in the state prison, or brings into or conveys out of any state prison any letter or writing to or from a convict, is guilty of a misdemeanor.

P. C. § 133. Same as § 160, N. Y. Penal Code.

**SEC. 6088. Falsely certifying that instrument recorded.**— An officer authorized by law to record a conveyance of real property or of any other instrument which by law may be recorded, who knowingly and falsely certifies that such a conveyance or instrument has been recorded, is guilty of a felony.

P. C. § 134. Same as § 162, N. Y. Penal Code.

**SEC. 6089. False certificates.**— A public officer who, being authorized by law to make or give a certificate or other writing, knowingly makes and delivers as true such a certificate or writing, containing any statement which he knows to be false, in a case where the punishment thereof is not expressly provided by law, is guilty of a misdemeanor.

P. C. § 135. Same as § 163, N. Y. Penal Code.

**SEC. 6090. False claims.**— A public officer, or a person holding or discharging the duties of any office or place of trust under the state, or in any county, town, city, or village, a part of whose duty is to audit, allow, or pay, or take part in auditing, allowing, or paying claims or demands upon the state, or such county, town, city, or village, who knowingly audits, allows, or pays, or directly or indirectly consents to, or in any way connives at, the auditing, allowance, or payment of any claim or demand against the state, or such county, town, city, or village, which is false or fraudulent, or contains charges, items, or claims which are false or fraudulent, is guilty of felony, punishable by imprisonment in the state prison for not less than two nor more than five years, or a fine not exceeding five thousand dollars, or by both.

P. C. § 136. Same as § 165, N. Y. Penal Code.

**SEC. 6091. Same.**— A person who, being or acting as a public officer or otherwise, by wilfully auditing or paying, or consenting to, or conniving at the auditing or payment of a false or fraudulent claim or demand, or by any other means wrongfully obtains, receives, converts, disposes of or pays out, or aids or abets another in obtaining, receiving, converting, disposing of, or paying out any money or property held, owned, or in the possession of the state, or of any city, county, or village, or other public corporation, or any board, department, agency, trustee, agent, or officer thereof, is guilty of a felony, punishable by imprisonment in the state prison for not less than three nor

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SECS. 6092-6095.] PENAL CODE-- CRIMES AGAINST THE PERSON.

more than five years, or by a fine not exceeding five times the amount or value of the money or the property converted, paid out, lost, or disposed of by means of the act done or abetted by such person, or by both such imprisonment and fine. The amount of any such fine when paid or collected shall be paid to the treasury of the corporation or body injured.

P. C. § 137. Substantially § 166, N. Y. Penal Code.

## CONSPIRACY.

SEC. 6092. **Conspiracy.**— If two or more persons conspire, either

1. To commit a crime; or
2. Falsely and maliciously to indict another for a crime, or to procure another to be complained of or arrested for a crime; or
3. Falsely to institute or maintain an action or special proceeding; or
4. To cheat and defraud another out of property, by any means which are in themselves criminal, or which, if executed, would amount to a cheat, or to obtain money or any other property by false pretenses; or
5. To prevent another from exercising a lawful trade or calling, or doing any other lawful act by force, threats, intimidation, or by interfering or threatening to interfere with tools, implements, or property belonging to or used by another, or with the use or employment thereof; or
6. To commit any act injurious to the public health, to public morals, or to trade or commerce, or for the perversion or obstruction of justice, or of the due administration of the laws,

Each of them is guilty of a misdemeanor.

P. C. § 138. Same as § 168, N. Y. Penal Code.

SEC. 6093. **No other conspiracies punishable.**— No conspiracy is punishable criminally unless it is one of those enumerated in the last section, and the orderly and peaceable assembling or co-operation of persons employed in any calling, trade, or handicraft, for the purpose of obtaining an advance in the rate of wages or compensation, or of maintaining such rate, is not a conspiracy.

- P. C. § 139. N. Y. Penal Code, § 170.

SEC. 6094. **Overt act necessary.**— No agreement except to commit a felony upon the person of another, or to commit arson or burglary, amounts to a conspiracy, unless some act beside such agreement be done to effect the object thereof, by one or more of the parties to such agreement.

P. C. § 140. Same as § 171, N. Y. Penal Code.

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## TITLE 9.

### OF CRIMES AGAINST THE PERSON.

G. S. ch. 94; acts 1868, ch. 88; 1876, ch. 79; 1873, ch. 9; 1875, ch. 49; 1866, ch. 31; 1868, ch. 57; 1883, ch. 122; 1881, ch. 62, are substantially merged in this and subsequent titles. Acts 1868, ch. 60, as amended 1875, ch. 109, requiring the tumbling-rods of threshing machines to be covered, and penalty for violation; acts 1869, ch. 39, penalties for setting trap or spring gun or other deadly weapon; acts 1875, ch. 92, penalties for failure to arrange doors to public halls, etc., to open outwardly, were repealed, and the provisions not carried into Penal Code.

## SUICIDE.

SEC. 6095. **Suicide defined.**— Suicide is the intentional taking of one's own life.

P. C. § 141. Same as § 172, N. Y. Penal Code.

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PENAL CODE — CRIMES AGAINST THE PERSON. [SECS. 6096-6105.]

SEC. 6096. **No forfeiture imposed.**— Although suicide is deemed a grave public wrong, yet from the impossibility of reaching the successful perpetrator, no forfeiture is imposed.

P. C. § 142. Same as § 173, N. Y. Penal Code.

SEC. 6097. **Attempting suicide.**— A person who, with intent to take his own life, commits upon himself any act dangerous to human life, or which, if committed upon or towards another person and followed by death as a consequence, would render the perpetrator chargeable with homicide, is guilty of attempting suicide.

P. C. § 143. Same as § 174, N. Y. Penal Code.

SEC. 6098. **Aiding suicide.**— A person who wilfully, in any manner, advises, encourages, abets, or assists another person in taking the latter's life, is guilty of manslaughter in the first degree.

P. C. § 144. Same as § 175, N. Y. Penal Code. G. S. ch. 94, § 9 (14), provided that whoever deliberately assists another in the commission of self-murder is guilty of manslaughter in the first degree.

SEC. 6099. **Abetting an attempt at suicide.**— A person who wilfully, in any manner, encourages, assists, or abets another person in attempting to take the latter's life, is guilty of a felony.

P. C. § 145. Same as § 176, N. Y. Penal Code.

SEC. 6100. **Incapacity no defense.**— It is not a defense to a prosecution under either of the last two sections, that the person who took, or attempted to take, his own life, was not a person deemed capable of committing crime.

P. C. § 146. Same as § 177, N. Y. Penal Code.

SEC. 6101. **Punishment of attempting suicide.**— Every person guilty of attempting suicide is guilty of felony, punishable by imprisonment in the state prison not exceeding two years, or by a fine not exceeding one thousand dollars, or both.

P. C. § 147. Same as § 178, N. Y. Penal Code.

## HOMICIDE.

SEC. 6102. **Homicide defined.**— Homicide is the killing of a human being by the act, procurement, or omission of another.

P. C. § 148. Same as § 179, N. Y. Penal Code. G. S. ch. 94, § 1, defined homicide to be the killing of a human being, without the authority of law, by poison, shooting, stabbing, or any other means, or in any other manner. 3 M. 427; 12 M. 538; 16 M. 282; 22 M. 514.

SEC. 6103. **Different kinds of homicide.**— Homicide is either

1. Murder;
2. Manslaughter;
3. Excusable homicide; or,
4. Justifiable homicide.

P. C. § 149. Same as § 180, N. Y. Penal Code. Same division in § 1, ch. 94, G. S.

SEC. 6104. **Proof of death and fact of killing.**— No person can be convicted of murder or manslaughter unless the death of the person alleged to have been killed and the fact of killing by the defendant as alleged are each established as independent facts; the former by direct proof and the latter beyond a reasonable doubt.

P. C. § 150. Same as § 181, N. Y. Penal Code.

SEC. 6105. **Common law petit treason is homicide.**— The rules of the common law, distinguishing the killing of a master by his servant, and of a husband by his wife, as petit treason, are abolished; and those homicides are punishable, when not justifiable or excusable, as prescribed by this code.

P. C. § 151. Same as § 182, N. Y. Penal Code.



SEC. 6106. **Murder in first degree.**— The killing of a human being, unless it is excusable or justifiable, is murder in the first degree, when perpetrated with a premeditated design to effect the death of the person killed, or of another.

P. C. § 152. N. Y. Penal Code, § 183. G. S. ch. 94, § 2: "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."

SEC. 6107. **Murder in second degree.**— Such killing of a human being is murder in the second degree, when committed with a design to effect the death of the person killed, or of another, but without deliberation and premeditation.

P. C. § 153. Same as § 184, N. Y. Penal Code. G. S. ch. 94, § 2. Murder in the second degree was the killing by any act eminently dangerous to one or more persons, evincing a depraved mind, and regardless of the life of such person or persons, although without any design to effect death. Penal Code makes this the third degree.

SEC. 6108. **Same — Duel.**— A person who, by previous appointment made within the state, fights a duel without the state, or by previous engagement made within or without the state, fights a duel within the state, and in so doing inflicts a wound upon his antagonist, whereof the person injured dies; or who engages or participates in such a duel, as a second or assistant to either party, is guilty of murder in the second degree.

P. C. § 154. N. Y. Penal Code, § 185. G. S. ch. 94, § 25 (35), was limited to fighting 'duel within the state; § 26 (36), the second in such duel was accessory before fact to murder in second degree; § 27 (37), duel without the state, the second and surgeon, by previous arrangement within the state, shall be incapable of voting or holding any office within the state.

SEC. 6109. **Murder in third degree.**— Such killing of a human being, when perpetrated by an act eminently dangerous to others, and evincing a depraved mind, regardless of human life, although without a premeditated design to effect the death of any individual, or without a design to effect death, by a person engaged in the commission of, or in an attempt to, commit a felony either upon or affecting the person killed or otherwise, is murder in the third degree.

P. C. § 155. G. S. ch. 94, § 2, defined murder in third degree to be killing without any design to effect death by a person engaged in the commission of a felony.

SEC. 6110. **Punishment of murder in first degree.**— Murder in the first degree is punishable by death; *provided*, that if in any such case the court shall certify of record its opinion that by reason of exceptional circumstances the case is not one in which the penalty of death should be imposed, the punishment shall be imprisonment for life in the state prison.

P. C. § 156. This is § 1, ch. 122, acts 1883. In G. S. ch. 94, § 2, death was the penalty without any exception. Acts 1868, ch. 88, provided that the jury, as part of the verdict, also determine whether punishment be death or imprisonment at hard labor in the state prison during remainder of natural life with certain solitary confinement. Acts 1876, ch. 79, abolished solitary imprisonment except for prison discipline in all cases of imprisonment for life. Acts 1889, ch. 20, attempts to provide the mode of inflicting the punishment of death. See chapter on Judgments and Execution in Criminal Cases, *post*.

SEC. 6111. **Punishment of murder in second degree.**— Murder in the second degree is punishable by imprisonment in the state prison for the offender's natural life.

P. C. § 157. Same as § 187, N. Y. Penal Code. Same punishment in § 2, ch. 94, G. S.

SEC. 6112. **Punishment of murder in third degree.**— Murder in the third degree is punishable by imprisonment in the state prison for not less than seven years nor more than thirty years.

P. C. § 158. G. S. ch. 94, § 2, provided same punishment.

SEC. 6113. **Manslaughter.**— In a case other than one of those specified in sections one hundred and fifty-two, one hundred and fifty-three, one hun-

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PENAL CODE — CRIMES AGAINST THE PERSON. [SECS. 6114—6118.]

dred and fifty-four and one hundred and fifty-five, homicide, not being justifiable or excusable, is manslaughter.

P. C. § 159. N. Y. Penal Code, § 188. The reference is to §§ 6106, 6107, 6108, 6109. G. S. ch. 94, § 3 (8): The killing of a human being by the act, procurement or omission of another, not being murder, justifiable or excusable homicide, is manslaughter.

**SEC. 6114. Manslaughter in first degree.**— 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 or another; or

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

P. C. § 160. Same as § 189, N. Y. Penal Code. G. S. ch. 94, § 8 (13), required the homicide to ensue from "the act, procurement or culpable negligence of another," "in cases where such killing would be murder at the common law," while such other was engaged in the perpetration, or attempt to perpetrate, a crime or misdemeanor not amounting to felony. The second subdivision was manslaughter in second degree in § 14 (24), ch. 94, G. S., which provided that homicide committed without design in the heat of passion, upon sudden provocation or sudden combat, with a dangerous weapon, or in a cruel and unusual manner, is manslaughter in second degree.

**SEC. 6115. Killing unborn quick child.**— The wilful killing of an unborn quick child, by any injury committed upon the person of the mother of such child, is manslaughter in the first degree.

P. C. § 161. Same as § 190, N. Y. Penal Code. G. S. ch. 94, § 10 (15), provided that wilful killing of unborn child, by any injury to the mother, which would be murder if it resulted in the death of the mother, was manslaughter in the first degree.

**SEC. 6116. To procure miscarriage.**— A person who provides, supplies or administers to a woman, whether pregnant or not, or who prescribes for, or advises or procures a woman to take any medicine, drug or substance, or who uses or employs, or causes to be used or employed, any instrument or other means, with intent thereby to procure the miscarriage of a woman, unless the same is necessary to preserve her life, in case the death of the woman, or of any quick child of which she is pregnant, is thereby produced, is guilty of manslaughter in the first degree.

P. C. § 162. Same as § 191, N. Y. Penal Code. Substantially §§ 1 and 2, ch. 9, acts 1873, as amended 1875, ch. 49, except the punishment prescribed and the provision that no conviction upon the uncorroborated evidence of the woman. 22 M. 238.

**SEC. 6117. Punishment of manslaughter in first degree.**— Manslaughter in the first degree is punishable by imprisonment in the state prison for not less than five nor more than twenty years.

P. C. § 163. Same as § 192, N. Y. Penal Code. G. S. ch. 94, § 23 (33). Punishment was "not less than seven years."

**SEC. 6118. Manslaughter in second degree.**— Such homicide is manslaughter in the second degree, when committed without a design to effect death; either

1. By a person committing or attempting to commit a trespass, or other invasion of a private right, either of the person killed, or of another, not amounting to a crime; or

2. In the heat of passion, but not by a deadly weapon or by the use of means either cruel or unusual; or

3. By any act, procurement or culpable negligence of any person, which, according to the provisions of this chapter, does not constitute the crime of murder in the first or second degree, nor manslaughter in the first degree.

P. C. § 164. Same as § 193, N. Y. Penal Code. Under former law the first and third subdivisions were manslaughter in third degree and second was fourth degree. The provisions were that the voluntary killing in the heat of passion upon sudden provocation or sudden combat, without premeditation; and the unnecessary killing while resisting an attempt to commit a felony or after the attempt has failed, except by accident or misfortune or in defense of husband, wife, child, master, mistress or servant, was manslaughter in second degree. G. S. ch. 94, §§ 12 (22), 13 (23). The involuntary killing of a person engaged in any unlawful

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SECS. 6119-6125.] PENAL CODE — CRIMES AGAINST THE PERSON.

act or the commission of a trespass or injury to private rights or property, or the attempt to injure by the act, procurement or culpable negligence of another, when such killing would not be manslaughter in first and second degree, was manslaughter in third degree. § 15 (25). The involuntary killing in the heat of passion, with any weapon not dangerous or by any means not cruel or unusual, and every other killing not otherwise provided, was manslaughter in fourth degree. §§ 21 (31), 22 (32).

**SEC. 6119. Woman taking drugs, etc.**— A woman quick with child, who takes or uses, or submits to the use of any drug, medicine or substance, or any instrument or other means with intent to produce her own miscarriage, unless the same is necessary to preserve her own life, or that of the child whereof she is pregnant, if the death of such child is thereby produced, is guilty of manslaughter in the second degree.

P. C. § 165. Same as § 194, N. Y. Penal Code. Substantially § 3, ch. 9, acts 1873, except latter prescribed the punishment.

**SEC. 6120. Negligent use of machinery.**— A person who, by any act of negligence, or misconduct in a business or employment in which he is engaged, or in the use or management of any machinery, animals, or property of any kind, intrusted to his care, or under his control, or by any unlawful, negligent or reckless act, not specified by or coming within the foregoing provisions of this chapter, or the provisions of some other statute, occasions the death of a human being, is guilty of manslaughter in the second degree.

P. C. § 166. Same as § 195, N. Y. Penal Code.

**SEC. 6121. Owner of animals.**— If the owner of a mischievous animal, knowing its propensities, wilfully suffers it to go at large, or keeps it without ordinary care, and the animal, while so at large, or kept, kills a human being, not in fault, the owner is guilty of manslaughter in the second degree.

P. C. § 167. Same as § 196, N. Y. Penal Code. Same as § 16 (26), ch. 94, G. S., except this was third degree in latter.

**SEC. 6122. Killing by overloading passenger vessels.**— A person navigating a vessel for gain, who wilfully or negligently receives so many passengers, or such quantity of other lading, on board the vessel that by means thereof the vessel sinks or is upset or injured, and thereby a human being is drowned, or otherwise killed, is guilty of manslaughter in the second degree.

P. C. § 168. Same as § 197, N. Y. Penal Code. Same as § 17 (27), ch. 94, G. S., except the degree.

**SEC. 6123. Liability of persons in charge of steamboats.**— A person having charge of a steamboat used for the conveyance of passengers, or of a boiler or engine thereof, who, from ignorance, recklessness, or gross neglect, or for the purpose of excelling any other boat in speed, creates, or allows to be created, such an undue quantity of steam as to burst the boiler, or other apparatus in which it is generated or contained, or to break any apparatus or machinery connected therewith, whereby the death of a human being is occasioned, is guilty of manslaughter in the second degree.

P. C. § 169. Same as § 198, N. Y. Penal Code. Same as § 18 (28), ch. 94, G. S., except the degree.

**SEC. 6124. Liability of persons in charge of steam engines.**— An engineer or other person having charge of a steam boiler, steam engine, or other apparatus for generating or applying steam, employed in a boat or railway, or in a manufactory, or in any mechanical works, or otherwise, who wilfully or from ignorance or gross neglect, creates or allows to be created such an undue quantity of steam as to burst the boiler, engine, or apparatus, or to cause any other accident, whereby the death of a human being is produced, is guilty of manslaughter in the second degree.

P. C. § 170. Same as § 199, N. Y. Penal Code. G. S. ch. 94, § 19 (29), extended to gross negligence or carelessness in management or control of any railroad train, locomotive or cars.

**SEC. 6125. Liability of physicians.**— A physician or surgeon, or person practicing as such, who, being in a state of intoxication, without a design to

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effect death, administers any poison, drug or medicine, or does any other act as a physician or surgeon, to another person, which produces the death of the latter, is guilty of manslaughter in the second degree.

P. C. § 171. Same as § 200, N. Y. Penal Code. Substantially § 20 (30), ch. 94, G. S.

SEC. 6126. **Gunpowder—Explosives.**—A person who makes or keeps gunpowder, or any other explosive substance, within a city or village, in any quantity or manner prohibited by law or by ordinance of the city or village, if any explosion thereof occurs whereby the death of a human being is occasioned, is guilty of manslaughter in the second degree.

P. C. § 172. Same as § 201, N. Y. Penal Code.

SEC. 6127. **Punishment of manslaughter in second degree.**—Manslaughter in the second degree is punishable by imprisonment in the state prison for not less than one year, nor more than fifteen years, or by a fine of not more than one thousand dollars, or by both.

P. C. § 173. Same as § 202, N. Y. Penal Code. G. S. ch. 94, § 23 (33), "not more than seven nor less than four years." The Penal Code by repealing ch. 94, G. S., abrogates manslaughter in third and fourth degree and acts 1881, ch. 62.

SEC. 6128. **Homicide, when excusable.**—Homicide is excusable when committed by accident or misfortune, in doing any lawful act, by lawful means, with ordinary caution and without any unlawful intent.

P. C. § 174. N. Y. Penal Code, § 203. Substantially § 6 (11), ch. 94, G. S.

SEC. 6129. **Justifiable homicide.**—Homicide is justifiable when committed by a public officer, or a person acting by his command and in his aid and assistance, either

1. In obedience to the judgment of a competent court; or
2. Necessarily in overcoming actual resistance to the execution of the legal process, mandate or order of a court or officer, or in the discharge of a legal duty; or
3. Necessarily in retaking a prisoner who has committed, or has been arrested for, or convicted of, a felony, and who has escaped or has been rescued, or in arresting a person who has committed a felony and is fleeing from justice; \* or in attempting by lawful ways and means to apprehend a person for a felony actually committed, or in lawfully suppressing a riot, or in lawfully preserving the peace.

P. C. § 175. Same as § 204, N. Y. Penal Code. Above \* is § 4 (9), ch. 94, G. S. Below \* is third subdivision § 5 (10), ch. 94, G. S.

SEC. 6130. **Same.**—Homicide is also justifiable when committed, either

1. In the lawful defense of the slayer, or of his or her husband, wife, parent, child, brother, sister, master, or servant, when there is reasonable ground to apprehend a design on the part of the person slain to commit a felony, or to do some great personal injury to the slayer, or to any such person, and there is imminent danger of such design being accomplished; or
2. In the actual resistance of an attempt to commit a felony upon the slayer, in his presence, or upon or in a dwelling or other place of abode in which he is.

P. C. § 176. Same as § 205, N. Y. Penal Code. Same as subdivisions 1 and 2, § 5 (10), ch. 94, G. S. 14 M. 35. G. S. ch. 94, § 7 (12), provided that where the homicide was committed under circumstances or in cases where by law such homicide was justifiable or excusable, the jury shall render verdict of not guilty, which was not carried into Penal Code.

## MAIMING.

SEC. 6131. **Maiming—Punishment.**—A person who wilfully, with intent to commit a felony, or to injure, disfigure, or disable, inflicts upon the person of another an injury, which

1. Seriously disfigures his person by any mutilation thereof; or
2. Destroys or disables any member or organ of his body; or

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SECS. 6132-6137.] PENAL CODE — CRIMES AGAINST THE PERSON.

3. Seriously diminishes his physical vigor by the injury of any member or organ,

Is guilty of maiming, and is punishable by imprisonment in the state prison for not less than one, nor more than fifteen years.

The infliction of the injury is presumptive evidence of the intent.

P. C. § 177. Same as § 206, N. Y. Penal Code. G. S. ch. 94, § 31 (41), provided that 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, 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 offense, shall be punished, etc. Sec. 32 (42) provided punishment for whoever assaults another with intent to murder, maim or disfigure.

SEC. 6132. **Maiming one's self to escape the performance of a duty.**—A person who, with design to disable himself from performing a legal duty, existing or anticipated, inflicts upon himself an injury, whereby he is so disabled, is guilty of a felony.

P. C. § 178. Same as § 207, N. Y. Penal Code.

SEC. 6133. **Maiming one's self to obtain alms.**—A person who inflicts upon himself an injury, such as if inflicted upon another would constitute maiming, with intent to avail himself of such injury, in order to excite sympathy, or to obtain alms, or any charitable relief, is guilty of a felony.

P. C. § 179. Same as § 208, N. Y. Penal Code.

SEC. 6134. **What injury may constitute maiming.**—To constitute maiming, it is immaterial by what means or instrument, or in what manner, the injury was inflicted.

P. C. § 180. Same as § 209, N. Y. Penal Code.

SEC. 6135. **Subsequent recovery of injured person, when a defense.**—Where it appears, upon a trial for maiming another person, that the person injured has, before the time of trial, so far recovered from the wound, that he is no longer by it disfigured in personal appearance, or disabled in any member or organ of his body, or affected in physical vigor, no conviction for maiming can be had; but the defendant may be convicted of assault in any degree.

P. C. § 181. Same as § 210, N. Y. Penal Code.

## KIDNAPING.

SEC. 6136. **Kidnaping.**—A person who wilfully,

1. Seizes, confines, inveigles, or kidnaps another, with intent to cause him, without authority of law, to be secretly confined or imprisoned within this state, or to be sent out of the state, or to be sold as a slave, or in any way held to service or kept or detained, against his will; or

2. Leads, takes, entices away, or detains a child under the age of twelve years, with intent to keep or conceal it from its parent, guardian, or other person having the lawful care or control thereof, or to extort or obtain money or reward for the return or disposition of the child, or with intent to steal any article about or on the person of the child; or

3. Abducts, entices, or by force or fraud unlawfully takes or carries away another at or from a place without the state, or procures, advises, aids, or abets such an abduction, enticing, taking, or carrying away, and afterwards sends, brings, has, or keeps such person, or causes him to be kept or secreted within this state,

Is guilty of kidnaping, and is punishable by imprisonment in the state prison for not more than ten years.

P. C. § 182. Same as § 211, N. Y. Penal Code. The first subdivision contained in § 43 (52), ch. 94, G. S. Second and third are new.

SEC. 6137. **Indictment, where triable.**—An indictment for kidnaping may be found and tried either in the county in which the offense was com-

mitted, or in the county through or in which the person kidnaped or confined was taken or kept, while under confinement or restraint.

P. C. § 183. Same as § 212, N. Y. Penal Code. Substantially first paragraph of § 43 (53), ch. 94, G. S.

SEC. 6138. **Effect of consent of injured person.**— Upon a trial for a violation of this chapter, the consent thereto of the person kidnaped or confined shall not be a defense, unless it appear satisfactorily to the jury that such person was above the age of twelve years, and that the consent was not extorted by threats or duress.

P. C. § 184. Same as § 213, N. Y. Penal Code. Substantially last paragraph of § 43 (53), ch. 94, G. S., except provision as to age.

SEC. 6139. **Selling services.**— A person who, within this state or elsewhere, sells or in any manner transfers, for any term, the services or labor of any person who has been forcibly taken, inveigled, or kidnaped in or from this state, is punishable by imprisonment in the state prison not exceeding ten years.

P. C. § 185. Same as § 214, N. Y. Penal Code. Substantially last paragraph of § 42 (52), ch. 94, G. S., except that latter also applied to negro, mulatto or other person of color.

#### ASSAULTS.

SEC. 6140. **Assault in first degree.**— A person who, with an intent to kill a human being, or to commit a felony upon the person or property of the one assaulted, or of another,

1. Assaults another with a loaded firearm, or any other deadly weapon, or by any other means or force likely to produce death; or

2. Administers to, or causes to be administered to or taken by another, poison, or any other destructive or noxious thing, so as to endanger the life of such other,

Is guilty of assault in the first degree.

P. C. § 186. Same as § 217, N. Y. Penal Code. The former laws were: Assaults with intent to murder, maim or disfigure, G. S. ch. 94, § 32 (42). Assault with a dangerous weapon with intent to do great bodily harm, § 33 (43). Assault with a dangerous weapon with intent to rob or murder, § 35 (45). Assault with force and violence and intent to rob or steal, § 37 (47). Assault with intent to commit rape, § 41 (51). Assault with intent to commit burglary, robbery, rape, manslaughter, mayhem, or any felony not otherwise prescribed, § 45 (55). 2 M. 123; 11 M. 154; 22 M. 51, 311.

SEC. 6141. **Assault in second degree.**— A person who, under circumstances not amounting to the crime specified in the last section,

1. With intent to injure, unlawfully administers to, or causes to be administered to, or taken by, another, poison, or any other destructive or noxious thing, or any drug or medicine, the use of which is dangerous to life or health; or

2. With intent thereby to enable or assist himself or any other person to commit any crime, administers to or causes to be administered to, or taken by another, chloroform, ether, laudanum, or any other intoxicating narcotic, or anæsthetic agent; or

3. Wilfully and wrongfully wounds or inflicts grievous bodily harm upon another, either with or without a weapon; or

4. Wilfully and wrongfully assaults another with a weapon, or other instrument or thing likely to produce grievous bodily harm; or

5. Assaults another with intent to commit a felony, or to prevent or resist the execution of any lawful process or mandate of any court or officer, or the lawful apprehension or detention of himself or of any other person,

Is guilty of assault in the second degree.

P. C. § 187. Substantially § 218, N. Y. Penal Code.

SEC. 6142. **Assault in third degree.**— A person who commits an assault, or an assault and battery, not such as is specified in the foregoing sections of this chapter, is guilty of assault in the third degree.

P. C. § 188. Same as § 219, N. Y. Penal Code.

SEC. 6143. **Punishment of first degree.**— Assault in the first degree is punishable by imprisonment in the state prison for not less than five nor more than ten years.

P. C. § 189. Same as § 220, N. Y. Penal Code.

SEC. 6144. **Punishment of second degree.**— Assault in the second degree is punishable by imprisonment in the state prison for not less than two nor more than five years, or by a fine of not more than one thousand dollars, or both.

P. C. § 190. Same as § 221, N. Y. Penal Code.

SEC. 6145. **Punishment of third degree.**— Assault in the third degree is punishable by imprisonment in a county jail for not more than three months, or by a fine of not more than one hundred dollars.

P. C. § 191. N. Y. Penal Code, § 222.

SEC. 6146. **Use of force or violence, lawful.**— To use or attempt, or offer to use, force or violence upon or towards the person of another is not unlawful in the following cases:

1. When necessarily committed by a public officer in the performance of a legal duty; or by any other person assisting him or acting by his direction;

2. When necessarily committed by any person in arresting one who has committed a felony, and delivering him to a public officer competent to receive him in custody;

3. When committed either by the party about to be injured or by another person for whom it is lawful to come to his aid or defense, in preventing or attempting to prevent an offense against his person, or a trespass or other unlawful interference with real or personal property in his lawful possession, if the force or violence used is not more than sufficient to prevent such offense;

4. When committed by a parent or the authorized agent of any parent, or by any guardian, master, or teacher, in the exercise of a lawful authority to restrain or correct his child, ward, apprentice, or scholar, and the force or violence used is reasonable in manner and moderate in degree;

5. When committed by a carrier of passengers, or the authorized agents or servants of such carrier, or by any person assisting them, at their request, in expelling from a carriage, railway car, vessel or other vehicle, a passenger who refuses to obey a lawful and reasonable regulation prescribed for the conduct of passengers, if such vehicle has first been stopped and the force or violence used is not more than sufficient to expel the offending passenger, with a reasonable regard to his personal safety;

6. When committed by any person in preventing an idiot, lunatic, insane person, or other person of unsound mind, including persons temporarily or partially deprived of reason, from committing an act dangerous to himself or to another, or in enforcing such restraint as is necessary for the protection of his person or for his restoration to health, during such period only as shall be necessary to obtain legal authority for the restraint or custody of his person.

P. C. § 192. Same as § 223, N. Y. Penal Code.

#### ROBBERY.

SEC. 6147. **Robbery.**— Robbery is the unlawful taking of personal property, from the person or in the presence of another, against his will, by means of force or violence, or fear of injury, immediate or future, to his person or property, or the person or property of a relative or member of his family, or of any one in his company at the time of the robbery.

P. C. § 193. Same as § 224, N. Y. Penal Code. G. S. ch. 94, § 34 (44): Whoever, being armed with a dangerous weapon, . . . assaults another, and feloniously robs, steals and takes from his person any money or other property, which is the subject of larceny, shall be pun-

ished, etc. And in § 36 (46): Whoever, not armed with dangerous weapon, by force and violence or 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, shall be punished, etc.

**SEC. 6148. How force or fear employed.**— To constitute robbery, the force or fear must be employed either to obtain or retain possession of the property, or to prevent or overcome resistance to the taking. If employed merely as a means of escape, it does not constitute robbery.

P. C. § 194. Same as § 225, N. Y. Penal Code.

**SEC. 6149. Degree of force immaterial.**— When force is employed in either of the ways specified in the last section, the degree of force employed is immaterial.

P. C. § 195. Same as § 226, N. Y. Penal Code.

**SEC. 6150. Secretly taking.**— The taking of property from the person of another is robbery, when it appears that although the taking was fully completed without his knowledge, such knowledge was prevented by the use of force or fear.

P. C. § 196. Same as § 227, N. Y. Penal Code.

**SEC. 6151. Robbery in first degree.**— An unlawful taking or compulsion, if accomplished by force or fear, in a case specified in the foregoing sections of this chapter, is robbery in the first degree, when committed by a person

1. Being armed with a dangerous weapon; or
2. Being aided by an accomplice actually present; or
3. When the offender inflicts grievous bodily harm or injury upon the person from whose possession, or in whose presence, the property is taken, or upon the wife, husband, servant, child, or inmate of the family of such person, or any one in his company at the time, in order to accomplish the robbery.

P. C. § 197. Same as § 228, N. Y. Penal Code.

**SEC. 6152. Same — Second degree.**— Such unlawful taking or compulsion, when accomplished by force or fear, in a case specified in the foregoing sections of this chapter, but not under circumstances amounting to robbery in the first degree, is robbery in the second degree, when accomplished either

1. By the use of violence; or
2. By putting the person robbed in fear of immediate injury to his person, or that of some one in his company.

P. C. § 198. Same as § 229, N. Y. Penal Code.

**SEC. 6153. Same — Third degree.**— A person who robs another, under circumstances not amounting to robbery in the first or second degree, is guilty of robbery in the third degree.

P. C. § 199. Same as § 230, N. Y. Penal Code.

**SEC. 6154. Punishment of first degree.**— Robbery in the first degree is punishable by imprisonment in the state prison for not less than five years nor more than twenty years.

P. C. § 200. N. Y. Penal Code, § 231.

**SEC. 6155. Punishment of second degree.**— Robbery in the second degree is punishable by imprisonment in the state prison for not less than two years nor more than fifteen years.

P. C. § 201. N. Y. Penal Code, § 232.

**SEC. 6156. Punishment of third degree.**— Robbery in the third degree is punishable by imprisonment in the state prison for not more than ten years.

P. C. § 202. Same as § 233, N. Y. Penal Code.



DUELS AND CHALLENGES.

SEC. 6157. **Dueling defined and punished.**— A person who fights a duel or engages in any combat with another, with deadly weapons, by previous agreement, or upon a previous quarrel, although no death or wound ensues, is punishable by imprisonment in the state prison for not less than two years nor more than ten years. A person convicted under this section is thereafter incapable of holding, or of being elected or appointed to, any office or place of trust or emolument, civil or military, within the state.

P. C. § 203. Same as § 234, N. Y. Penal Code. Under G. S. ch. 94, § 25 (35), whoever fights a duel within the state and death results, murder in second degree. Whoever engages in a duel with any deadly weapon and death does not result shall be imprisoned not more than ten nor less than three years, and be incapable of voting or holding any office of trust or profit under laws of this state. § 23 (39).

SEC. 6158. **Challenger, abettor, etc.**— A person who challenges another to fight a duel, or who sends a written or verbal message, purporting or intended to be a challenge to fight a duel, or an invitation to a combat with deadly weapons, or who accepts such a challenge or message, or who knowingly carries or delivers such a challenge or message, or who is present at the time appointed for such a duel or combat, or when such a duel or combat is fought, either as second, aid, or surgeon, or who advises or abets, or gives any countenance or assistance to such a duel or combat upon previous agreement, is punishable by imprisonment in the state prison for not more than seven years.

P. C. § 204. Same as § 235, N. Y. Penal Code. G. S. ch. 94, § 28 (38): Whoever challenges another to fight a duel, or sends or delivers any written or verbal message purporting or intended to be a challenge, though no duel ensues, shall be punished, etc. Whoever accepts or knowingly carries or delivers any challenge or message, and every person present as aid, second or surgeon, or who advises, encourages or promotes such duel, shall be punished, etc. § 29 (39). The second present at the duel was accessory before the fact to murder in second degree if death resulted. § 26 (36).

SEC. 6159. **Challenge defined.**— Any word, spoken or written, or any sign, uttered or made to any person, expressing or implying, or intended to express or imply, a desire, request, invitation, or demand to fight a duel, or to meet for the purpose of fighting a duel, is deemed a challenge.

P. C. § 205. Same as § 236, N. Y. Penal Code.

SEC. 6160. **Attempts to induce a challenge.**— A person guilty of sending or using to another any word or sign whatever, with intent to provoke or induce such person to give or receive a challenge to fight a duel, is guilty of a misdemeanor.

P. C. § 206. Same as § 237, N. Y. Penal Code.

SEC. 6161. **Posting for not fighting.**— A person who posts or advertises another for not fighting a duel, or for not sending or accepting a challenge to fight a duel, or who, in writing or in print, uses reproachful or contemptuous language to or concerning anyone for not sending or accepting a challenge to fight a duel, or for not fighting a duel, is guilty of a misdemeanor.

P. C. § 207. Same as § 238, N. Y. Penal Code. Substantially § 30 (40), ch. 94, G. S., except punishment.

SEC. 6162. **Duel outside of state.**— A person who leaves this state with intent to elude any provision of this chapter, or to commit any act without this state which is prohibited by this chapter, does any act without this state which would be punishable by the provisions of this chapter if committed within this state, is guilty of the same offense and subject to the same punishment as if the act had been committed, or was to have been consummated, within this state; and for the purposes of this section the state shall be deemed a criminal district.

P. C. § 208. Same as § 239, N. Y. Penal Code. G. S. ch. 94, § 27 (37): Whoever fights a duel without the state, or acts as second or surgeon by previous arrangement within the state, shall be incapable of voting or holding any office within this state forever thereafter.

SEC. 6163. **Same — Indicted and tried.**— A person offending against any provision of this last section may be indicted and tried in any county within this state; but the person so offending may plead a former conviction or acquittal in another state or country for the same offense; and if such plea is admitted or established, it shall be a bar to further proceedings against him, for such offense.

P. C. § 209. Same as § 240, N. Y. Penal Code.

SEC. 6164. **Witnesses.**— A person offending against any provision of this chapter is a competent witness against any other person offending in the same transaction, and must not be excused from testifying or answering any question, upon an investigation or trial for an offense under this chapter, upon the ground that his testimony might tend to convict him of a crime. But evidence given by a person so testifying cannot be received against him in any criminal action or proceeding.

P. C. § 210. Same as § 241, N. Y. Penal Code.

#### LIBEL.

SEC. 6165. **Defined.**— A malicious publication, by writing, printing, picture, effigy, sign, or otherwise than by mere speech, which exposes any living person, or the memory of any person deceased, to hatred, contempt, ridicule, or obloquy, or which causes, or tends to cause, any person to be shunned, or avoided, or which has a tendency to injure any person, corporation or association of persons, in his or their business or occupation, is a libel.

P. C. § 211. Same as § 242, N. Y. Penal Code.

SEC. 6166. **Libel a misdemeanor.**— A person who publishes a libel is guilty of a misdemeanor.

P. C. § 212. Same as § 243, N. Y. Penal Code.

SEC. 6167. **Malice presumed — How justified or excused.**— A publication having the tendency or effect mentioned in section two hundred and eleven is to be deemed malicious, if no justification or excuse therefor is shown. The publication is justified when the matter charged as libelous is true, and was published for good motives and for justifiable ends. The publication is excused when it is honestly made, in the belief of its truth and upon reasonable grounds for this belief, and consists of fair comments upon the conduct of a person in respect of public affairs.

P. C. § 213. N. Y. Penal Code, § 244. Const. art. 1, § 3: Liberty of press inviolate, and all persons may freely speak, write and publish their sentiments on all subjects, being responsible for the abuse of such right. Acts 1887, ch. 191 (*ante*, § 4795), regulates actions for libel.

SEC. 6168. **Publication defined.**— To sustain a charge of publishing a libel, it is not necessary that the matter complained of should have been seen by another. It is enough that the defendant knowingly displayed it, or parted with its immediate custody, under circumstances which exposed it to be seen or understood by another person than himself.

P. C. § 214. Same as § 245, N. Y. Penal Code.

SEC. 6169. **Liability of editors and others.**— Every editor or proprietor of a book, newspaper or serial, and every manager of a partnership or incorporated association, by which a book, newspaper or serial is issued, is chargeable with the publication of any matter contained in such book, newspaper or serial. But in every prosecution for libel the defendant may show in his defense that the matter complained of was published without his knowledge or fault and against his wishes, by another who had no authority from him to make the publication and whose act was disavowed by him so soon as known.

P. C. § 215. Same as § 246, N. Y. Penal Code.

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SECS. 6170-6177.] PENAL CODE.—CRIMES AGAINST THE PERSON.

**SEC. 6170. Publishing true report of public official proceedings.**— A prosecution for libel cannot be maintained against a reporter, editor, publisher or proprietor of a newspaper for the publication therein of a fair and true report of any judicial, legislative or other public and official proceeding, or of any statement, speech, argument or debate in the course of the same, without proving actual malice in making the report.

P. C. § 216. Same as § 247, N. Y. Penal Code.

**SEC. 6171. Qualification of last section.**— The last section does not apply to a libel contained in the heading of the report, or in any other matter added by any other person concerned in the publication, or in the report of anything said or done at the time and place of the public and official proceeding, which was not a part thereof.

P. C. § 217. Same as § 248, N. Y. Penal Code.

**SEC. 6172. Indictment for libel in newspaper.**— An indictment for a libel contained in a newspaper published within this state may be found in any county where the paper was published or circulated.

P. C. § 218. N. Y. Penal Code, § 249.

**SEC. 6173. Punishment restricted.**— A person cannot be indicted or tried for the publication of the same libel, against the same person, in more than one county.

P. C. § 219. Same as § 251, N. Y. Penal Code.

**SEC. 6174. Privileged communications.**— A communication made to a person entitled to, or interested in, the communication, by one who was also interested in or entitled to make it, or who stood in such a relation to the former as to afford a reasonable ground for supposing his motive innocent, is presumed not to be malicious, and is called a privileged communication.

P. C. § 220. Same as § 253, N. Y. Penal Code.

**SEC. 6175. Threatening to publish libel.**— A person who threatens another with the publication of a libel concerning the latter, or concerning any parent, husband, wife, child, or other member of the family of the latter, and a person who offers to prevent the publication of a libel upon another person, upon condition of the payment of, or with intent to extort, money, or other valuable consideration from any person, is guilty of a misdemeanor.

P. C. § 221. Same as § 254, N. Y. Penal Code.

**SEC. 6176. Civil rights.**— That all persons within the jurisdiction of the state of Minnesota shall be entitled to the full and equal enjoyment of the accommodations, advantages, facilities and privileges of inns, public conveyances on land or water, theatres and places of public amusements, restaurants and barber shops, subject only to the conditions and limitations established by law and applicable alike to all citizens of every race and color, regardless of any previous condition of servitude.

1885, ch. 224: "An act to protect all citizens in their civil and legal rights." Approved March 7th.

**SEC. 6177. Penalties.**— That any person who shall violate the foregoing section by denying to any citizen, except for reasons by law applicable to citizens of every race and color, and regardless of any previous condition of servitude, the full enjoyment of any of the accommodations, advantages, facilities or privileges in said section enumerated, or by aiding or inciting such denial, shall for every such offense be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than one hundred nor more than five hundred dollars, or shall be imprisoned not less than thirty days nor more than one year.

1885, ch. 224, § 2.

## TITLE 10.

## OF CRIMES AGAINST THE PERSON AND AGAINST PUBLIC DECENCY AND GOOD MORALS.

This contains the substance of the matter in ch. 100, G. S., and acts 1877, ch. 127; 1874, ch. 47.

## OF CRIMES AGAINST RELIGIOUS LIBERTY AND CONSCIENCE.

**SEC. 6178. The Sabbath.**—The first day of the week being by general consent set apart for rest and religious uses, the law prohibits the doing on that day of certain acts hereinafter specified, which are serious interruptions of the repose and religious liberty of the community.

P. C. § 222. Same as § 259, N. Y. Penal Code.

**SEC. 6179. Sabbath breaking.**—A violation of the foregoing prohibition is Sabbath breaking.

P. C. § 223. Same as § 260, N. Y. Penal Code.

**SEC. 6180. Sunday defined.**—Under the term "day," as employed in the phrase "first day of the week," when used in this chapter, is included all the time from midnight to midnight.

P. C. § 224. Same as § 261, N. Y. Penal Code. Substantially § 20 (21), ch. 100, G. S.

**SEC. 6181. Labor on Sunday.**—All labor on Sunday is prohibited excepting the works of necessity or charity. In works of necessity or charity is included whatever is needful during the day for good order, health or comfort of the community. *Provided*, however, that keeping open a barber shop on Sunday for the purpose of cutting hair and shaving beards shall not be deemed a work of necessity or charity.

P. C. § 225, as amended 1887, ch. 54. Approved March 7th. Amendment added the proviso. G. S. ch. 100, § 19 (20): No person shall do any manner of labor, business or work on Sunday, except works of necessity and charity. Acts 1874, ch. 47, enacted that this prohibition should not apply to any person who religiously observes the seventh day of the week, commonly called Saturday, as the Sabbath. 8 M. 13; 9 M. 194; 14 M. 174; 20 M. 419; 23 M. 551.

**SEC. 6182. Persons observing another day as a Sabbath.**—It is a sufficient defense to a prosecution for servile labor on the first day of the week that the defendant uniformly keeps another day of the week as holy time, and does not labor upon that day, and that the labor complained of was done in such manner as not to interrupt or disturb other persons in observing the first day of the week as holy time.

P. C. § 226. Same as § 264, N. Y. Penal Code. Acts 1874, ch. 47, enacted that the law prohibiting labor on Sunday should not apply to any person who religiously observes as a Sabbath the seventh day of the week, commonly called Saturday.

**SEC. 6183. Public sports.**—All shooting, hunting, fishing, playing, horse-racing, gaming, or other public sports, exercises or shows, upon the first day of the week, and all noise disturbing the peace of the day, are prohibited.

P. C. § 227. Same as § 265, N. Y. Penal Code. G. S. ch. 100, § 19 (20): No person shall be present at any dancing or any public diversion, show or entertainment, or take part in any sport, game or play on the Lord's day, commonly called Sunday.

**SEC. 6184. Trades, manufactures, and mechanical employments.**—All trades, manufactures, and mechanical employments upon the first day of the week are prohibited, except that when the same are works of necessity they may be performed on that day in their usual and orderly manner, so as not to interfere with the repose and religious liberty of the community.

P. C. § 228. Without the exception, same as § 266, N. Y. Penal Code. G. S. ch. 100, § 19 (20): No person shall keep open his shop, warehouse or workhouse, or do any manner of labor, business or work, except works of necessity and charity, which, by acts 1874, ch. 47, was not to apply to persons who observed Saturday.

# MINNESOTA STATUTES 1891

SECS. 6185-6191.] PENAL CODE — CRIMES AGAINST PUBLIC DECENCY.

**SEC. 6185. Public traffic.**— All manner of public selling or offering for sale of any property upon Sunday is prohibited, except that articles of food may be sold and supplied at any time before ten o'clock in the morning, and except also that meals may be sold to be eaten on the premises where sold or served elsewhere by caterers; and prepared tobacco in places other than where spirituous or malt liquors or wines are kept or offered for sale, and fruit, confectionery, newspapers, drugs, medicines, and surgical appliances may be sold in a quiet and orderly manner at any time of the day.

P. C. § 229. N. Y. Penal Code, § 267.

**SEC. 6186. Serving process on Sunday prohibited.**— All service of legal process of any kind whatever, upon the first day of the week, is prohibited, except in cases of breach of the peace, or apprehended breach of the peace, or when sued out for the apprehension of a person charged with crime, or except where such service is specially authorized by statute.

P. C. § 230. Same as § 268, N. Y. Penal Code. G. S. ch. 100, § 21 (22): No person shall serve or execute any *civil* process on the Lord's day, and if done the service was void and the person serving liable in damages.

**SEC. 6187. Punishment of Sabbath breaking.**— Sabbath breaking is a misdemeanor, punishable by a fine not less than one dollar and not more than ten dollars, or by imprisonment in a county jail not exceeding five days, or by both.

P. C. § 231. Same as § 269, N. Y. Penal Code. G. S. ch. 100, § 19 (20), prescribed fine not exceeding \$2 for each offense.

**SEC. 6188. Preventing performance of religious act.**— A person who wilfully prevents by threats or violence another person from performing any lawful act enjoined upon or recommended to such person by the religion which he professes, is guilty of a misdemeanor.

P. C. § 232. Same as § 273, N. Y. Penal Code.

**SEC. 6189. Disturbing religious meetings.**— A person who wilfully disturbs, interrupts, or disquiets any assemblage of people met for religious worship, by any of the acts enumerated in the next section, is guilty of a misdemeanor.

P. C. § 233. Same as § 274, N. Y. Penal Code. G. S. ch. 100, § 14 (15): Whoever wilfully interrupts or disturbs any assembly of the people met for worship shall be punished, etc.

**SEC. 6190. What constitutes disturbance.**— The following acts, or any of them, constitute disturbance of a religious meeting:

1. Uttering any profane discourse, committing any rude or indecent act, or making any unnecessary noise, either within the place where such meeting is held, or so near it as to disturb the order and solemnity of the meeting;
2. Engaging in, or promoting, within one mile of the place where a religious meeting is held, any racing of animals or gaming of any description;
3. Obstructing in any manner, without authority of law, within the like distance, free passage along a highway to the place of such meeting.

P. C. § 234. Same as § 275, N. Y. Penal Code. G. S. ch. 100, § 25 (26), extended to shows and plays and injury or destruction of any harness, tent or property of any tent-holder. Sec. 23 (24) providing that no person shall keep any shop, tent, booth, wagon or carriage for the sale of, or shall sell, give or expose to sale, any spirituous or intoxicating liquors, goods or merchandise of any kind, within two miles of any public assembly, camp or grove meeting convened for the purpose of religious worship, was not carried into Penal Code.

## RAPE, ABDUCTION, CARNAL ABUSE OF CHILDREN, AND SEDUCTION.

**SEC. 6191. Rape.**— Rape is an act of sexual intercourse with a female not the wife of the perpetrator, committed against her will or without her consent. A person perpetrating such an act of sexual intercourse with a female of the age of ten years or upwards not his wife,

1. When through idiocy, imbecility, or any unsoundness of mind, either temporary or permanent, she is incapable of giving consent; or

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2. When her resistance is forcibly overcome; or
3. When her resistance is prevented by fear of immediate and great bodily harm, which she has reasonable cause to believe will be inflicted upon her; or
4. When her resistance is prevented by stupor or by weakness of mind, produced by an intoxicating narcotic or anæsthetic agent, administered by or with the privity of the defendant; or
5. When she is, at the time, unconscious of the nature of the act, and this is known to the defendant,

Is punishable by imprisonment in the state prison for not less than five nor more than thirty years.

P. C. § 235. N. Y. Penal Code, § 278. G. S. ch. 94, § 39 (49), only provided that whoever ravishes and carnally knows any female of the age of ten years or more, by force and against her will, shall be imprisoned not more than thirty or less than ten years. And in § 40 (50), whoever unlawfully and carnally knows and abuses any female under the age of ten years shall be punished in state prison for life. 5 M. 13; 6 M. 279.

**SEC. 6192. Carnal knowledge of children.**—Whoever carnally knows and abuses any female child under the age of ten years shall be imprisoned in the state prison for life.

P. C. § 236. This is § 40 (50), ch. 94, G. S.

**SEC. 6193. When physical ability must be proved.**—No conviction for rape can be had against one who was, under the age of fourteen years at the time of the act alleged, unless his physical ability to accomplish penetration is proved as an independent fact, beyond a reasonable doubt.

P. C. § 237. Same as § 279, N. Y. Penal Code.

**SEC. 6194. Penetration sufficient.**—Any sexual penetration, however slight, is sufficient to complete the crime.

P. C. § 238. Same as § 280, N. Y. Penal Code.

**SEC. 6195. Compelling woman to marry or be defiled.**—A person who by force, menace, or duress, compels a woman, against her will, to marry him, or to marry any other person, or to be defiled, is punishable by imprisonment in the state prison for not less than three nor more than thirty years, or by a fine of not more than one thousand dollars, or by both.

P. C. § 239. N. Y. Penal Code, § 281.

**SEC. 6196. Abduction.**—A person who,

1. Takes a female under the age of sixteen 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; or

2. Inveigles or entices an unmarried female under the age of twenty-five years, of previous chaste character, into a house of ill-fame or of assignation, or elsewhere, for the purpose of prostitution or sexual intercourse; or

3. Takes or detains a woman unlawfully against her will, with intent to compel her, by force, menace, or duress, to marry him, or to marry 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 sixteen years, consents to her taking or detaining by any person for the purpose of prostitution or sexual intercourse,

Is guilty of abduction, 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 by both.

P. C. § 240. N. Y. Penal Code, § 282. No law against abduction until acts 1877, ch. 127, providing that any person who shall inveigle, entice or take away any unmarried female of previous chaste character, under twenty-five years of age, from her father's home, or wherever else she may be, for the purpose of prostitution at a house of ill-fame, assignation or elsewhere, and every person who shall aid or assist in such abduction for such purpose, shall be guilty of felony.

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SEC. 6197. **When no conviction.**— No conviction can be had for abduction or compulsory marriage upon the testimony of the female abducted or compelled, unsupported by other evidence.

P. C. § 241, as amended 1887, ch. 64. Approved March 1st. Amendment struck out "or defilement," after marriage, and "or defiled," after compelled. N. Y. Penal Code, § 283. This is the proviso in acts 1877, ch. 127, which also required indictment within two years.

SEC. 6198. **Seduction under promise of marriage.**— A person who, under promise of marriage, seduces and has sexual intercourse with an unmarried female of previous chaste character, is 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 by both.

P. C. § 242. Same as § 284, N. Y. Penal Code. G. S. ch. 100, § 6, provided that any unmarried man who under the promise of marriage, or any married man, who seduces and has illicit connection with any unmarried female of previous chaste character, is guilty of felony. 4 M. 325, 335.

SEC. 6199. **Subsequent marriage.**— The subsequent intermarriage of the parties, or the lapse of two years after the commission of the offense before the finding of an indictment, is a bar to a prosecution for a violation of the last section.

P. C. § 243. Same as § 285, N. Y. Penal Code. Same provision in § 6, ch. 100, G. S. 4 M. 325, 335.

SEC. 6200. **Complainant must be corroborated.**— No conviction can be had for the offense specified in section two hundred and forty-two, upon the testimony of the female seduced, unsupported by other evidence.

P. C. § 244. Same as § 286, N. Y. Penal Code. Same provision in § 6, ch. 100, G. S.

SEC. 6201. **Indecent assault.**— A person who takes any indecent liberties with or on the person of any female, not a public prostitute, without her consent expressly given, and which acts do not in law amount to a rape, an attempt to commit a rape, or an assault with intent to commit a rape, or any person who takes such indecent liberties with or on the person of any female child under the age of ten years, without regard to whether she consents to the same or not, is guilty of a felony.

P. C. § 245.

## ABANDONMENT AND OTHER ACTS OF CRUELTY TO CHILDREN.

SEC. 6202. **Abandonment of wife or of child under ten years.**— A parent or other person having the care or custody for nurture or education of a child under the age of ten years, who deserts the child in any place, with the intent wholly to abandon it, is punishable by imprisonment in the state prison for not more than one year; \*and a husband, who, without lawful excuse, and against her will, so deserts his wife, is guilty of a misdemeanor.

P. C. § 246, as amended 1889, ch. 212. Amendment changed the years from six to ten and imprisonment from seven years in state prison or one in county jail to one year in state prison, and added matter below\*. N. Y. Penal Code, § 287.

SEC. 6203. **Unlawfully omitting to provide for wife or child.**— Any person who wilfully omits, without lawful excuse, to perform a duty by law imposed upon him to furnish food, clothing, shelter or medical attendance to his wife or to a minor, is guilty of a misdemeanor.

P. C. § 247, as amended 1889, ch. 212, § 2. Amendment inserted "to his wife or." N. Y. Penal Code, § 288.

SEC. 6204. **Endangering life, health or morals of child.**— A person who, having the care or custody of a minor, either

1. Wilfully causes or permits the minor's life to be endangered, or its health to be injured, or its morals to become depraved; or
2. Wilfully causes or permits the minor to be placed in such a situation, or

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to engage in such an occupation, that its life is endangered, or its health is likely to be injured, or its morals likely to be impaired,

Is guilty of a misdemeanor.

P. C. § 248. Same as § 289, N. Y. Penal Code.

SEC. 6205. **Children under sixteen.**— A person who admits to, or allows to remain in any dance house, concert saloon, or in any place where wines or spirituous or malt liquors are sold or given away, or in any place of entertainment injurious to morals, owned, kept, or managed by him in whole or in part, any child actually or apparently under the age of sixteen years, unless accompanied by its parent or guardian, is guilty of a misdemeanor. \*Any person who shall suffer or permit any such child to play any game of skill or chance in any such place, or to be or remain therein, shall be guilty of a misdemeanor.

P. C. § 249. Same as § 290, N. Y. Penal Code, except below \*.

SEC. 6206. **Same — Employments prohibited.**— A person who employs or causes to be employed, or who exhibits, uses, or has in his custody for the purpose of exhibiting or employing, any child apparently or actually under the age of sixteen years, or who, having the care, custody, or control of such child as parent, relative, guardian, employer, or otherwise, sells, lets out, gives away, or in any way procures or consents to the employment or exhibition of such a child, either

1. As a rope or wire walker, dancer, gymnast, contortionist, rider, or acrobat; or,

2. In begging or receiving alms, or in any mendicant occupation; or,

3. In any indecent or immoral exhibition or practice; or,

4. In any practice or exhibition dangerous or injurious to the life, limb, health, or morals of the child,

Is guilty of a misdemeanor.

P. C. § 250. N. Y. Penal Code, § 292. Acts 1879, ch. 75 (*ante*, §§ 2115-2119), regulates employment of children.

## ABORTION AND CONCEALING DEATH OF INFANT.

SEC. 6207. **Abortion.**— A person who, with intent thereby to produce the miscarriage of a woman, unless the same is necessary to preserve the life of the woman, or of the child with which she is pregnant, either

1. Prescribes, supplies, or administers to a woman, whether pregnant or not, or advises or causes a woman to take any medicine, drug, or substance; or

2. Uses, or causes to be used, any instrument or other means,

Is guilty of abortion, and is punishable by imprisonment in the state prison for not more than four years, or in a county jail for not more than one year.

P. C. § 251. Same as § 294, N. Y. Penal Code. This is contained in acts 1873, ch. 9, §§ 1, 2, as amended 1875, ch. 49.

SEC. 6208. **Pregnant woman attempting abortion.**— A pregnant woman who takes any medicine, drug or substance, or uses or submits to the use of any instrument or other means, with intent thereby to produce her own miscarriage, unless the same is necessary to preserve her life, or that of the child whereof she is pregnant, is punishable by imprisonment in the state prison for not less than one year, nor more than four years.

P. C. § 252. Same as § 295, N. Y. Penal Code. Substantially contained in § 3, ch. 9, acts 1873.

SEC. 6209. **Evidence.**— No person shall, in any prosecution under either of the two foregoing sections, 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



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evidence in any action, prosecution or proceeding, civil or criminal, against such witness, or against his or her personal representatives.

P. C. § 253. Substantially § 5, ch. 9, acts 1873.

**SEC. 6210. Concealing birth.**— A person who endeavors to conceal the birth of a child by any disposition of the dead body of the child, whether the child died before or after its birth, is guilty of a misdemeanor.

P. C. § 254. Same as § 296, N. Y. Penal Code. G. S. ch. 100, §§ 7, 8, provided that if a woman conceals the death of any issue of her body, which, if born alive, would be a bastard, so that it may not be known whether such issue was born alive or not, or whether it was not murdered, shall be punished, etc.

**SEC. 6211. Selling drugs, etc.**— A person who manufactures, gives or sells an instrument, a medicine or drug, or any other substance, with intent that the same may be unlawfully used in procuring the miscarriage of a woman, is guilty of a felony.

P. C. § 255. Same as § 297, N. Y. Penal Code. Acts 1873, ch. 9, § 4, prescribed punishment for advertising means of causing abortion.

## BIGAMY, INCEST, SODOMY, ADULTERY AND FORNICATION.

**SEC. 6212. Bigamy — Punishment.**— A person who, having a husband or a wife living, marries another person, or in this state continues to cohabit with such second husband, or wife, is guilty of bigamy, and is punishable by imprisonment in the state prison for not more than five years.

P. C. § 256. Same as § 296, N. Y. Penal Code. Substantially § 2, ch. 100, G. S., except the punishment. 12 M. 476.

**SEC. 6213. Same — Exceptions.**— The last section does not extend,

1. To a person whose former husband, or wife, has been absent for five years successively, then last past, without being known to him or her within that time to be living, and believed by him, or her, to be dead; or

2. To a person whose former marriage has been pronounced void, or annulled, or dissolved, by the judgment of a court of competent jurisdiction.

P. C. § 257. N. Y. Penal Code, § 299. Substantially § 3, ch. 100, G. S., except the number of years and party divorced not guilty of the cause of divorce.

**SEC. 6214. Punishment of consort.**— A person who knowingly enters into a marriage with another, which is prohibited to the latter by the foregoing provisions of this chapter, is 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.

P. C. § 258. Same as § 301, N. Y. Penal Code.

**SEC. 6215. Incest.**— When persons, within the degrees of consanguinity within which marriages are declared by law to be incestuous and void, intermarry or commit adultery or fornication with each other, each of them is punishable by imprisonment in the state prison for not more than ten years.

P. C. § 259. Same as § 302, N. Y. Penal Code. Same as § 12 (13), ch. 100, G. S., except punishment.

**SEC. 6216. Crime against nature.**— A person who commits the detestable and abominable crime against nature, with mankind or with a beast, or attempts sexual intercourse with a dead body, is punishable by imprisonment in the state prison for not less than five nor more than twenty years.

P. C. § 260. Same as § 303, N. Y. Penal Code. G. S. ch. 100, § 13 (14), provided whoever commits sodomy or the crime against nature either with mankind or any beast shall be punished, etc.

**SEC. 6217. Same — Penetration.**— Any sexual penetration, however slight, is sufficient to complete the crime specified in the last section.

P. C. § 261. Same as § 304, N. Y. Penal Code.

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**SEC. 6218. Adultery.**—If any married woman has sexual intercourse with a man other than her husband, whether married or not, they shall both be guilty of adultery, and shall be punished by imprisonment in the state prison not more than two years, or by fine not exceeding three hundred dollars; but no prosecution shall be commenced except on the complaint of the husband, or the wife, save when such husband or wife is insane; and no such prosecution shall be commenced after one year from the time of the commission of the offense.

P. C. § 262. G. S. ch. 100, § 1, provided whoever commits the crime of adultery shall be punished, etc. When the crime is committed between a married woman and a man not married, the man shall be guilty of adultery and liable to same punishment; otherwise substantially as above. 4 M. 335.

**SEC. 6219. Fornication.**—If any man and a single woman cohabit together they shall be both guilty of fornication, and be punished by imprisonment in the county jail not more than thirty days, or by fine not exceeding thirty dollars.

P. C. § 263. G. S. ch. 100, § 5. If any man commits fornication with any single woman each of them shall be punishable, etc., as above.

## VIOLATING SEPULTURE AND THE REMAINS OF THE DEAD.

**SEC. 6220. Right to direct disposal of one's own body after death.** A person has a right to direct the manner in which his body shall be disposed of after his death; and also to direct the manner in which any part of his body, which becomes separated therefrom during his lifetime, shall be disposed of; and the provisions of this chapter do not apply to any case, where a person has given directions for the disposal of his body or any part thereof inconsistent with these provisions.

P. C. § 264. Same as § 305, N. Y. Penal Code.

**SEC. 6221. Duty of burial.**—Except in the cases in which a right to dissect it is expressly conferred by law, every dead body of a human being, lying within this state, must be decently buried within a reasonable time after death.

P. C. § 265. Same as § 306, N. Y. Penal Code.

**SEC. 6222. Removal for burial in other states.**—The last section does not impair any right to carry the dead body of a human being through this state, or to remove from this state the body of a person dying within it, for the purpose of burying the same elsewhere.

P. C. § 266. Same as § 307, N. Y. Penal Code.

**SEC. 6223. Dissection, when allowed.**—The right to dissect the dead body of a human being exists in the following cases:

1. In the cases prescribed by special statutes.
2. Whenever a coroner is authorized by law to hold an inquest upon the body, so far as such coroner authorizes dissection for the purposes of the inquest, and no further.
3. Whenever and so far as the husband, wife or next of kin of the deceased, being charged by law with the duty of burial, may authorize dissection for the purpose of ascertaining the cause of death, and no further.

P. C. § 267. Same as § 308, N. Y. Penal Code. Acts 1872, ch. 22, as amended 1879, ch. 42; 1887, ch. 40 (*ante*, §§ 678-681), provides for subjects for dissection.

**SEC. 6224. Unlawful dissection a misdemeanor.**—A person who makes, or causes or procures to be made, any dissection of the body of a human being, except by authority of law, or in pursuance of a permission given by the deceased, is guilty of a misdemeanor.

P. C. § 268. Same as § 309, N. Y. Penal Code.

**SEC. 6225. Remains after dissection must be buried.**—In all cases in which a dissection has been made, the provisions of this chapter, requiring

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the burial of a dead body, and punishing interference with or injuries to it, apply equally to the remains of the body dissected, as soon as the lawful purposes of such dissection have been accomplished.

P. C. § 269. Same as § 310, N. Y. Penal Code.

SEC. 6226. **Body stealing.**— A person who removes the dead body of a human being, or any part thereof, from a grave, vault or other place, where the same has been buried, or from a place where the same has been deposited while awaiting burial, without authority of law, with intent to sell the same, or for the purpose of dissection, or for the purpose of procuring a reward for the return of the same, or from malice or wantonness, is punishable by imprisonment in the state prison for not more than five years, or by a fine not exceeding one thousand dollars, or both.

P. C. § 270. Same as § 311, N. Y. Penal Code. G. S. ch. 100, § 15 (16), was limited to whoever unlawfully and wilfully digs up, disinters, removes or conveys any human body, or the remains thereof, or knowingly aids, etc.

SEC. 6227. **Receiving stolen body.**— A person who purchases, or receives, except for the purpose of burial, the dead body of a human being, or any part thereof, knowing that the same has been removed contrary to the last section, is punishable by imprisonment in the state prison for not more than three years.

P. C. § 271. Same as § 312, N. Y. Penal Code.

SEC. 6228. **Opening grave.**— A person who opens a grave or other place of interment, temporary or otherwise, or a building wherein the dead body of a human being is deposited while awaiting burial, without authority of law, with intent to remove the body, or any part thereof, for the purpose of selling it, or demanding money for the same, or for the purpose of dissection, or from malice or wantonness, or with intent to steal or remove the coffin or any part thereof, or anything attached thereto, or any vestment or other article interred, or intended to be interred, with the dead body, is punishable by imprisonment in the state prison for not more than two years, or by a fine of not more than two hundred and fifty dollars, or by both.

P. C. § 272. Same as § 313, N. Y. Penal Code. G. S. ch. 100, § 15 (16), was limited to unlawfully and wilfully digging up, disintering, removing or conveying any human body or the remains thereof, or knowingly aids therein.

SEC. 6229. **Arresting or attaching a dead body.**— A person who arrests or attaches the dead body of a human being, upon any debt or demand whatever, or detains or claims to detain it for any debt or demand, or upon any pretended lien or charge, is guilty of a misdemeanor.

P. C. § 273. Same as § 314, N. Y. Penal Code.

SEC. 6230. **Disturbing funerals.**— A person who, without authority of law, obstructs or detains any persons engaged in carrying or accompanying the dead body of a human being to a place of burial, is guilty of a misdemeanor.

P. C. § 274. Same as § 315, N. Y. Penal Code.

## INDECENT EXPOSURES, OBSCENE EXHIBITIONS, BOOKS AND PRINTS, AND BAWDY AND OTHER DISORDERLY HOUSES.

SEC. 6231. **Exposure of person.**— A person who wilfully and lewdly exposes his person, or the private parts thereof, in any public place, or in any place where others are present, or procures another to so expose himself, is guilty of a misdemeanor.

P. C. § 275. Same as § 316, N. Y. Penal Code. Acts 1881, ch. 33, provided: Whoever, being over fourteen years of age, wilfully makes any indecent exposure of his person in any public place, or any place where there are other persons to be offended or annoyed, or utters or uses any obscene or licentious language or words in the presence or hearing of any female, shall be fined not more than one hundred nor less than five dollars, or by imprisonment in the county jail not exceeding thirty days or less than ten days. This act amended G. S. ch. 100, by adding this provision thereto, and, as Penal Code repealed this chapter, it may also be repealed.

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**SEC. 6232. Public indecency.**— Any person who is guilty of any open or gross lewdness or lascivious behavior, or any public indecency, other than the one prohibited by the preceding section, is guilty of a misdemeanor.

P. C. § 276. Same provision in § 4, ch. 100, G. S., which also provided against lewdly and lasciviously cohabiting and associating together.

**SEC. 6233. Obscene prints.**— A person who

1. Sells, lends, gives away, or offers to give away, or shows, or has in his possession with intent to sell or give away, or show or advertise, or otherwise offers for loan, gift, sale, or distribution, an obscene or indecent book, magazine, pamphlet, newspaper, story paper, writing, paper, picture, drawing, or photograph, or any article or instrument of indecent or immoral character, or who designs, copies, draws, photographs, prints, utters, publishes, or otherwise prepares such a book, picture, drawing, paper, or other article, or writes, or prints, or causes to be written or printed, a circular, advertisement, or notice of any kind, or gives information orally, stating when, where, how, or of whom, or by what means, such an indecent or obscene article or thing can be purchased or obtained; or

2. Sells, lends, gives away, or shows, or has in his possession with intent to sell, or give away, or to show, or advertises or otherwise offers for loan, gift, sale, or distribution, to any minor child, any book, pamphlet, magazine, newspaper, or other printed paper, devoted to the publication, or principally made up of criminal news, police reports, or accounts of criminal deeds, or pictures and stories of deeds of bloodshed, lust, or crime; or

3. Exhibits upon any street or highway, or in any other place within the view of any minor child, any book, magazine, pamphlet, newspaper, writing, paper, picture, drawing, photograph, or other article or articles coming within the descriptions of articles mentioned in the first and second subdivisions of this section, or any of them; or

4. In any manner hires, uses, or employs any minor child to sell or give away, or in any manner to distribute, or who, having the care, custody, or control of any minor child, permits such child to sell, give away, or in any other manner distribute, any book, magazine, pamphlet, newspaper, story paper, writing, paper, picture, drawing, photograph, or other article or matter coming within the descriptions of articles and matter mentioned in the first and second subdivisions of this section, or any of them,

Is guilty of a misdemeanor.

P. C. § 277. N. Y. Penal Code, §§ 317, 318. G. S. ch. 100, § 11 (12), made similar provisions. This is substantially § 1, ch. 268, acts 1885, which also contained the following as section 2:

"All municipal courts and justices of the peace, on complaint, supported by oath or affirmation, that any person has in his possession or control any obscene and indecent books, papers, articles, and things described in this act shall issue a warrant directed to the sheriff of the county within which such complaint shall be made, or to any constable, marshal or police officer within said county, directing him, them or any of them, to search for, seize and take possession of such obscene and indecent books, papers, articles and things; and said court and justice of the peace shall, upon the conviction of the person or persons offending, under the law any of the provisions of this act, forthwith, in the presence of the person or persons upon whose complaint the said seizure or arrest is made, if he or they shall after notice thereof elect to be present, destroy or cause to be destroyed the aforesaid books, papers, articles and things and shall cause to be entered upon the records of his court the fact of such destruction.

"Justices of the peace and municipal courts shall have jurisdiction of the offenses mentioned in this act."

This act was not expressly repealed by Penal Code, but first section as amended 1887, ch. 56, is impliedly repealed by foregoing section.

**SEC. 6234. Prevent conception — Cause abortion.**— A person who sells, lends, gives away, or in any manner exhibits or offers to sell, lend, or give away, or has in his possession, with intent to sell, lend, or give away, or advertises or offers for sale, loan, or distribution, any instrument or article, or any drug or medicine, for the prevention of conception, or for causing unlawful abortion, or who writes or prints, or causes to be written or printed, a card, circular, pamphlet, advertisement, or notice of any kind, or gives information orally, stating when, where, how, of whom, or by what means, such

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an article or medicine can be purchased or obtained, or who manufactures any such article or medicine, is guilty of a misdemeanor.

P. C. § 278. Substantially same provision in § 4, ch. 9, acts 1873.

SEC. 6235. **Mailing, carrying obscene print, etc.**— A person who deposits, or causes to be deposited, in any post-office within the state, or places in charge of an express company, or of a common carrier, or other person, for transportation, any of the articles or things specified in the last two sections, or any circular, book, pamphlet, advertisement, or notice relating thereto, with the intent of having the same conveyed by mail or express, or in any other manner, or who knowingly or wilfully receives the same, with intent to carry or convey, or knowingly or wilfully carries or conveys the same, by express, or in any other manner, except in the United States mail, is guilty of a misdemeanor.

P. C. § 279. Same as § 319, N. Y. Penal Code.

SEC. 6236. **Physician's instruments.**— An article or instrument, used or applied by physicians lawfully practicing, or by their direction or prescription, for the cure or prevention of disease, is not an article of indecent or immoral nature or use, within this chapter. The supplying of such articles to such physicians or by their direction, or prescription, is not an offense under this chapter.

P. C. § 280. Same as § 321, N. Y. Penal Code.

SEC. 6237. **Houses of ill-fame — Disorderly houses.**— A person who keeps a house of ill-fame or assignation of any description, or a house or place for persons to visit for unlawful sexual intercourse, or for any other lewd, obscene, or indecent purpose, shall be guilty of felony. Any person who keeps a disorderly house, or any place of public resort by which the peace, comfort, or decency of a neighborhood is habitually disturbed, or who as agent or owner, lets a building or any portion of a building, knowing that it is intended to be used for any purpose specified in this section, or who permits a building or a portion of a building to be so used, is guilty of a misdemeanor.

P. C. § 281. Same as § 322, N. Y. Penal Code. G. S. ch. 100, §§ 9, 10: Whoever keeps house of ill-fame resorted to for purpose of prostitution or lewdness, lease and contract void.

## LOTTERIES.

This contains substance of §§ 1-5, ch. 99, G. S.

SEC. 6238. **Lottery defined.**— A lottery is a scheme for the distribution of property by chance, among persons who have paid or agreed to pay a valuable consideration for the chance, whether called a lottery, raffle, or gift enterprise, or by some other name.

P. C. § 282. Same as § 323, N. Y. Penal Code.

SEC. 6239. **Unlawful.**— A lottery is unlawful and a public nuisance.

P. C. § 283. Same as § 324, N. Y. Penal Code.

SEC. 6240. **Contriving, drawing, etc., lottery.**— A person who contrives, proposes or draws a lottery, or assists in contriving, proposing, or drawing the same, is punishable by imprisonment in the state prison for not more than two years or by a fine of not more than one thousand dollars, or both.

P. C. § 284. Same as § 325, N. Y. Penal Code. G. S. ch. 99, § 1, read "whoever sets up or promotes."

SEC. 6241. **Selling lottery tickets.**— A person who sells, gives, or in any way whatever furnishes or transfers, to or for another, a ticket, chance, share, or interest, or any paper, certificate, or instrument, purporting to be or to

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PENAL CODE — CRIMES AGAINST PUBLIC DECENCY. [SECS. 6242-6247.]

represent a ticket, chance, share, or interest in or dependent upon the event of a lottery, to be drawn within or without this state, is guilty of a misdemeanor.

P. C. § 285. Same as § 326, N. Y. Penal Code. G. S. ch. 99, § 2, provided that whoever, either for himself or another, offers or has in his possession or in any wise aids or assists in selling, negotiating or disposing. Sections 4, 5, ch. 99, G. S., provided against selling fictitious lottery tickets, which was not carried into Penal Code excepting so far as sentence in above section, "purporting to be or to represent."

**SEC. 6242. Advertising lotteries.**—A person who, by writing or printing, or by circular or letter, or in any other way, advertises or publishes an account of a lottery, whether within or without the state, stating how, when, or where the same is to be, or has been, drawn, or what are the prizes therein, or any of them, or the price of a ticket, or any share or interest therein, or where or how it may be obtained, is guilty of a misdemeanor.

P. C. § 286. Same as § 327, N. Y. Penal Code. Substantially contained in § 3, ch. 99, G. S.

**SEC. 6243. Disposing of property by lottery.**—A person who offers for sale or distribution, in any way, real or personal property, or any interest therein, to be determined by lot or chance, dependent upon the drawing of a lottery within or without this state, or who sells, furnishes or procures, or causes to be sold, furnished, or procured, in any manner, a chance or share, or any interest in property offered for sale or distribution, in violation of this chapter, or a ticket or other evidence of such a chance, share, or interest, is guilty of a misdemeanor.

P. C. § 287. Same as § 328, N. Y. Penal Code. Substance contained in § 1, ch. 99, G. S.

**SEC. 6244. Lottery office.**—A person who opens, sets up, or keeps, by himself, or another person, an office or other place for registering the numbers of tickets in a lottery within or without this state, or for making, receiving, or registering any bets or stakes for the drawing, or result of such a lottery, or who advertises or in any way publishes any account of an opening, setting up, or keeping of such an office or place, is guilty of a misdemeanor.

P. C. § 288. Same as § 329, N. Y. Penal Code. Substance in § 1, ch. 99, G. S.

**SEC. 6245. Insuring lottery tickets, etc.**—A person who insures or receives any consideration for insuring, for or against the drawing of a ticket, share, or interest in a lottery, or of a number of such a ticket, share, or interest, or who receives any valuable consideration upon an agreement to pay money, or deliver property, in the event that a ticket, share, or interest, or a number of such a ticket, share, or interest in a lottery, shall prove fortunate or unfortunate, or shall be drawn or not drawn in a particular way or in a particular order, or who promises or agrees, or offers to pay money or to deliver property, or to do, or forbear to do, anything for the benefit of any person, with or without consideration, upon any accident or contingency dependent on the drawing thereof, or of any number or ticket therein, is guilty of a misdemeanor.

P. C. § 289. Same as § 330, N. Y. Penal Code.

**SEC. 6246. Advertising to insure.**—A person who, by writing or printing, or by circular or letter, or in any other way, advertises or publishes an offer, notice, or proposition, in violation of the last section, is guilty of a misdemeanor.

P. C. § 290. Same as § 331, N. Y. Penal Code.

**SEC. 6247. Letting building for lottery purposes.**—A person who lets, or permits to be used, any building or portion of a building, knowing that it is intended to be used for any of the purposes declared punishable by this chapter, is guilty of a misdemeanor.

P. C. § 291. Same as § 333, N. Y. Penal Code.

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SECS. 6248-6256.] PENAL CODE — CRIMES AGAINST PUBLIC DECENCY.

SEC. 6248. **Lotteries out of this state.**— The provisions of this chapter are applicable to lotteries drawn, or to be drawn, out of this state, whether authorized or not by the laws of the state where they are drawn, or to be drawn, in the same manner as to lotteries drawn, or to be drawn, within this state.

P. C. § 292. Same as § 334, N. Y. Penal Code.

SEC. 6249. **Advertisements by persons out of this state.**— The provisions of sections two hundred and eighty-six and two hundred and ninety are applicable, whenever the advertisement was published, or the letter or circular sent, or delivered, through or in this state, though the person causing or procuring the same to be published, sent or delivered, was out of the state at the time of so doing.

P. C. § 293. Same as § 335, N. Y. Penal Code.

## GAMING.

This contains substance of §§ 6-13, ch. 99, G. S., and acts 1874, ch. 48, repealed by this code.

SEC. 6250. **Gambling prohibited.**— Gambling with cards, dice, gaming tables, or any other gambling devices whatever, is prohibited.

P. C. § 294. Same as § 6, ch. 99, G. S.

SEC. 6251. **Penalty.**— Whoever deals cards at the game called faro, pharo, or forty-eight, whether the same is dealt with fifty-two or any other number of cards, and whoever keeps any gambling device whatever, designed to be used in gambling, shall be punished by fine not exceeding two hundred dollars, or imprisonment in the county jail not exceeding six months, or both.

P. C. § 295. Same as § 7, ch. 99, G. S., except punishment. Acts 1874, ch. 48, repealed, provided that every violation of any statute prohibiting gambling is declared a misdemeanor.

SEC. 6252. **Betting.**— Whoever bets any money or other property at or upon any gaming table, game or device, shall be punished by fine not exceeding twenty nor less than five dollars.

P. C. § 296. Same as § 8, ch. 99, G. S.

SEC. 6253. **Premises used for gaming.**— Whoever suffers any gaming table, faro bank or gambling device to be set up or used for the purpose of gambling, in any house, building, steamboat, raft, keelboat or boom, lot, yard or garden, to him belonging or by him occupied, or of which he has the control, shall be punished by fine not exceeding two hundred dollars, or imprisonment in the county jail not exceeding six months, or both.

P. C. § 297. Same as § 9, ch. 99, G. S., except punishment. 17 M. 72.

SEC. 6254. **Evidence.**— No person shall be incapacitated or excused from testifying touching any offense committed by another against any of the provisions of this chapter relating to gambling, by reason of his having bet or played at the prohibited games or gambling devices; but the testimony which may be given by such person shall in no case be used against such witness.

P. C. § 298. Same as § 10, ch. 99, G. S.

SEC. 6255. **Recovery of money or goods lost.**— Whoever by playing at cards, dice or other game, or by betting on the hands or sides of such as are gambling, loses to any person so playing or betting any sum of money or any goods whatever, and pays or delivers the same, or any part thereof, to the winner, the person so losing and paying or delivering the same, may sue for and recover such money by a civil action before any court having competent jurisdiction.

P. C. § 299. Same as § 12 (13), ch. 99, G. S.

SEC. 6256. **Notes, etc., for gambling debt void.**— All notes, bills, bonds, mortgages or other securities or conveyances whatever, in which the

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PENAL CODE—CRIMES AGAINST PUBLIC DECENCY. [SECS. 6257-6259.]

whole or any part of the consideration shall be for any money or goods won by gambling or playing at cards, dice or any other game whatever, or by betting on the sides or hands of any person gambling, or for reimbursing or repaying any money knowingly lent or advanced at the time and place of such gambling or betting, or lent and advanced for any gambling or betting to any person so gambling or betting, shall be void and of no effect, as between the parties to the same, and as to all persons except such as hold or claim under them in good faith without notice of the illegality of the consideration of such contract or conveyance.

P. C. § 300. Same as § 13 (14), ch. 99, G. S.

SEC. 6257. **Swindling by cards.**—Whoever, by the means of three-card monte, so called, or of any other form or device, sleight of hand or other means whatever, by use of cards or instruments of like character, or by any other instrument, trick or device, obtains from another person any money or other property of any description, shall be deemed guilty of the crime of swindling, and shall, on conviction thereof, be punished by a fine not less than two hundred dollars nor more than two thousand dollars, or by imprisonment in the state prison not less than two years nor more than five years, or by both such fine and imprisonment, in the discretion of the court. All persons aiding, encouraging, advising or confederating with, or knowingly harboring or concealing any such person or persons, or in any manner being accessory to the commission of the above described offense, or confederating together for the purpose of playing such games, shall be deemed principals therein, and punished accordingly.

P. C. § 301. This is § 1, ch. 130, acts 1877. Acts 1874, ch. 48, § 1, declares such actions to be misdemeanors.

SEC. 6258. **Same—Power to arrest.**—Every person shall possess the power and authority, and it shall be the duty of every conductor, or any other employe, on any railroad, car or train, and of every captain, clerk, or other employe, on any boat, or station agent at any railway depot, or the officers of any fairs or fair grounds, and the proprietors of any places of public resort and their employes, with or without warrant, to arrest any person or persons whom they, or either of them, shall find in the act of committing any of the offenses mentioned in section three hundred and one of this chapter, or any person or persons whom he or they may have good reason to believe to have been guilty of the commission of the said offenses, and to take such person or persons before a magistrate, in any county where jurisdiction to try said offenses exists, and deliver such person or persons so arrested to the magistrate, and make written complaint, under oath, of the facts. And for executing the powers conferred by this section, the person making the arrest shall possess the same powers in all respects as are possessed by officers with warrants, including the power to summon assistance. And it shall be the duty of the person making such arrest to also arrest the person injured or defrauded by reason of the commission of any of the offenses mentioned in section three hundred and one of this chapter, and take such person before the examining magistrate, who shall require such person to give security to appear and testify on the trial of the cause. And the persons performing the services required by this chapter shall receive the same compensation as sheriffs receive for like services.

P. C. § 302. This is § 3, ch. 130, acts 1877. Acts 1874, ch. 48, § 3, provided substantially same provision, but limited to railroads and steamboats.

SEC. 6259. **Swindlers to be ejected—Laws to be posted.**—It shall be the duty of any conductor, captain, hotel or saloonkeeper, proprietor or manager of any public conveyance, or place of public resort, and the officer of any fair or fair grounds, to eject from his car, train, boat, hotel, saloon, public conveyance, fair grounds, or place of public resort, any person known to him, or whom he has good reason to believe to be a three-card-monte man,



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SECS. 6260-6264.] PENAL CODE—CRIMES AGAINST PUBLIC DECENCY.

or who offers to wager or bet money or other valuable things upon what is commonly known as three-card-monte, or bet on any trick or game with cards or other gaming device, and for such ejection no action for damage shall be maintained. And all parties operating any public conveyance by which passengers are carried shall keep posted up a copy of this chapter in such conveyance.

P. C. § 303. This is § 4, ch. 130, acts 1877. Same provision in § 2, ch. 48, acts 1874, but limited to conductors of railroad trains.

SEC. 6260. **Neglect to arrest.**— Any conductor of a railroad train, station agent, captain of any steamboat, proprietor or manager of any public conveyance, officer of any fair or fair grounds, or place of public resort, any hotel or saloonkeeper, or any agent or employe, who shall fail, neglect, or refuse to perform the duties herein mentioned, or who shall knowingly suffer or permit a violation of this chapter, shall be deemed guilty of a misdemeanor.

P. C. § 304. This is § 5, ch. 130, acts 1877.

SEC. 6261. **Evidence.**— Any person may be convicted for violations of this chapter on his own confession out of court, or upon the testimony of any accomplice.

P. C. § 305. This is § 6, ch. 130, acts 1877.

## PAWNBROKERS.

SEC. 6262. **Pawnbroking without license.**— A person who carries on the business of a pawnbroker, by receiving goods in pledge for loans at a rate of interest above that allowed by law, except by virtue of a license from a municipal corporation or other authority [empowered to grant licenses to pawnbrokers, is guilty of a misdemeanor.

P. C. § 306. Same as § 353, N. Y. Penal Code.

SEC. 6263. **Refusing to exhibit stolen goods to owner.**— A pawnbroker, or person carrying on the business of a pawnbroker, or junk dealer, who, having received any goods which have been embezzled or stolen, refuses or omits to exhibit them, upon demand, during the usual business hours, to the owner of said goods or his agent authorized to demand an inspection thereof or to any public officer, is guilty of a misdemeanor.

P. C. § 307. Same as § 354, N. Y. Penal Code.

SEC. 6264. **Selling before time to redeem expired.**— A pawnbroker who sells any article received by him in pledge, before the time to redeem the same has expired, or who wilfully refuses to disclose the name of the purchaser, or the price received by him for any article received by him in pledge, and subsequently sold, is guilty of a misdemeanor.

P. C. § 308. Same as § 355, N. Y. Penal Code.

## TITLE 11.

## OF OTHER OFFENSES.

**SEC. 6265. Acts of intoxicated physicians.**— A physician or surgeon, or person practicing as such, who, being in a state of intoxication, administers any poison, drug or medicine, or does any other act as a physician or surgeon, to another person, by which the life of the latter is endangered or seriously affected, is guilty of a misdemeanor.

P. C. § 309. Same as § 357, N. Y. Penal Code. G. S. ch. 101, § 5 (6), was limited to prescribing any poison, drug or medicine to another person, and § 20 (30), ch. 94, G. S., to administering any poison, drug or medicine, or doing any other act which produces death.

**SEC. 6266. Poisoning food, drink or medicine.**— A person who wilfully mingles poison with any food, drink or medicine intended or prepared for the use of human beings, and a person who wilfully poisons any spring, well or reservoir of water, is punishable by imprisonment in the state prison not exceeding ten years, or in a county jail not exceeding one year, or by a fine not exceeding five hundred dollars, or by both such fine and imprisonment.

P. C. § 310. Same as § 358, N. Y. Penal Code. Substantially § 44 (54), ch. 94, G. S.

**SEC. 6267. Overloading passenger vessel.**— A person navigating a vessel for gain, who wilfully or negligently receives so many passengers, or such a quantity of other lading on board the vessel, that by means thereof it sinks or is upset or injured, and thereby the life of a human being is endangered, is guilty of a misdemeanor.

P. C. § 311. Same as § 359, N. Y. Penal Code. This is § 17 (27), ch. 94, G. S., except the punishment.

**SEC. 6268. Unauthorized pressure of steam.**— A person who applies, or causes to be applied, to a steam boiler a higher pressure of steam than is allowed by law, or by the inspector, officer or person authorized to limit the pressure of steam to be applied to such boiler, is guilty of a misdemeanor.

P. C. § 312. Same as § 360, N. Y. Penal Code. G. S. ch. 94, § 18 (28), was limited to creating or allowing to be created such an undue quantity of steam as to burst or break the boiler or other apparatus.

**SEC. 6269. Generation of unsafe amount of steam.**— A captain or other person having charge of the machinery or boiler of a steamboat, used for the conveyance of passengers, in the waters of this state, who, from ignorance or gross neglect, or for the purpose of increasing the speed of the boat, creates, or causes to be created, an undue and unsafe pressure of steam, is guilty of a misdemeanor.

P. C. § 313. Same as § 361, N. Y. Penal Code. Substantially § 18 (28), ch. 94, G. S., except that the undue quantity should be such "as to burst or break the boiler or other apparatus."

**SEC. 6270. Mismanagement of steam boilers.**— An engineer or other person having charge of a steam boiler, steam engine, or other apparatus for generating or employing steam, employed in a railway, manufactory or other mechanical works, who, wilfully or from ignorance or gross neglect, creates or allows to be created, such an undue quantity of steam as to burst the boiler, engine or apparatus, or cause any other accident whereby human life is endangered, is guilty of a misdemeanor.

P. C. § 314. Same as § 362, N. Y. Penal Code. This was contained in § 18 (28), ch. 94, G. S.

**SEC. 6271. Solemnizing unlawful marriages.**— A minister, or magistrate, who solemnizes a marriage when either of the parties is known to him to be under the age of legal consent, or to be an idiot or insane person, or a

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SECS. 6272-6275.] PENAL CODE — CRIMES AGAINST PUBLIC HEALTH.

marriage to which, within his knowledge, a legal impediment exists, is guilty of a misdemeanor.

P. C. § 315. Same as § 376, N. Y. Penal Code. Section 3878, *ante*, imposes fine for solemnizing marriage "knowing of any legal impediment," and § 3883, *ante*, for knowingly solemnizing any marriage contrary to law.

SEC. 6272. **Idiot, lunatic, insane — Treatment.**— A person who confines an idiot, lunatic or insane person, in any other manner or in any other place than as authorized by law, and a person guilty of harsh, cruel or unkind treatment of, or any neglect of duty towards, any idiot, lunatic or insane person under confinement, whether lawfully or unlawfully confined, is guilty of a misdemeanor.

P. C. § 316. Same as § 377, N. Y. Penal Code.

SEC. 6273. **Frauds on hotel keepers.**— A person who obtains any food or accommodation at an inn without paying therefor, with intent to defraud the proprietor or manager thereof, or who obtains credit at an inn by use of any false pretense, or who, after obtaining credit or accommodation at an inn, absconds and surreptitiously removes his baggage therefrom without paying for his food and accommodation, is guilty of a misdemeanor.

P. C. § 317. Same as § 382, N. Y. Penal Code. Acts 1874, ch. 52, § 3, as amended 1875, ch. 111 (*ante*, § 3819), is only affected by this section in so far as the doctrine of implied repeals applies.

SEC. 6274. **Acrobatic exhibitions.**— The proprietor, occupant, or lessee of any place where acrobatic exhibitions are held, who permits any person to perform on any trapeze, rope, pole, or other acrobatic contrivance, without network or other sufficient means of protection from falling or other accident, is guilty of a misdemeanor, punishable for the first offense by a fine of two hundred and fifty dollars, and for each subsequent offense by a fine of two hundred and fifty dollars and imprisonment not less than three months nor more than one year.

P. C. § 318. Same as § 384, N. Y. Penal Code.

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## TITLE 12.

### OF CRIMES AGAINST THE PUBLIC HEALTH AND SAFETY.

Acts 1866, ch. 32, prohibiting throwing offal in lakes and rivers; 1866, ch. 42, prohibiting the going at large of diseased sheep; 1868, ch. 59, as amended 1879, ch. 46, prohibiting glandered animals from running at large; 1869, ch. 42, prohibiting the importation of Texas cattle, were repealed by, and provisions thereof not carried into, Penal Code.

SEC. 6275. **"Public nuisance" defined.**— A public nuisance is a crime against the order and economy of the state, and consists in unlawfully doing an act, or omitting to perform a duty, which act or omission

1. Annoys, injures, or endangers the comfort, repose, health, or safety of any considerable number of persons; or
2. Offends public decency; or
3. Unlawfully interferes with, obstructs, or tends to obstruct, or renders dangerous for passage, a lake, or a navigable river, bay, stream, canal, or basin, or a public park, square, street, alley, or highway; or
4. In any way renders a considerable number of persons insecure in life, or the use of property.

P. C. § 319. Same as § 385, N. Y. Penal Code.

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PENAL CODE -- CRIMES AGAINST PUBLIC HEALTH. [SECS. 6276-6283.]

SEC. 6276. **Same — Unequal damage.**— An act which affects a considerable number of persons, in either of the ways specified in the last section, is not less a nuisance because the extent of the damage is unequal.

P. C. § 320. Same as § 386, N. Y. Penal Code.

SEC. 6277. **Same — Misdemeanor.**— A person who commits, or maintains, a public nuisance, the punishment for which is not specially prescribed, or who wilfully omits or refuses to perform any legal duty relating to the removal of such a public nuisance, is guilty of a misdemeanor.

P. C. § 321. Same as § 387, N. Y. Penal Code.

SEC. 6278. **Permitting building to be used for nuisance.**— A person who lets, or permits to be used, a building, or portion of a building, knowing that it is intended to be used for committing, or maintaining, a public nuisance, is guilty of a misdemeanor.

P. C. § 322. Same as § 388, N. Y. Penal Code.

SEC. 6279. **Keeping gunpowder unlawfully.**— A person who makes, or keeps, gunpowder, nitro-glycerine, or any other explosive or combustible material, within a city or village, or carries such materials through the streets thereof, in a quantity or manner prohibited by law, or by ordinance of the city or village, is guilty of a misdemeanor. And a person who, by the careless, negligent or unauthorized use or management of gunpowder or other explosive substance, injures, or occasions the injury of, the person or property of another, is punishable by imprisonment in the county jail for not more than one year.

P. C. § 323. Same as § 389, N. Y. Penal Code, except the punishment.

SEC. 6280. **Obstructing health officer.**— A person who wilfully opposes, or obstructs, a health officer, or physician charged with the enforcement of the health laws, in performing any legal duty, is guilty of a misdemeanor.

P. C. § 324. Same as § 396, N. Y. Penal Code.

SEC. 6281. **Wilful violation of health laws.**— A person who wilfully violates any provision of the health laws, the punishment for violating which is not otherwise prescribed by those laws, or by this code, and a person who wilfully violates, or refuses, or omits to comply with any lawful order or regulation prescribed by any board of health or health officer, or any regulation lawfully made or established by any public officer under authority of the health laws, is punishable by imprisonment in the county jail not exceeding one year, or by a fine not exceeding two thousand dollars, or by both.

P. C. § 325. Same as § 397, N. Y. Penal Code.

SEC. 6282. **Apothecary or druggist.**— An apothecary or druggist, or a person employed as clerk, or salesman, by an apothecary or druggist, or otherwise carrying on business as a dealer in drugs or medicines, who, in putting up any drugs or medicines, or making up any prescription, or filling any order for drugs or medicines, wilfully, negligently, or ignorantly omits to label the same, or puts any untrue label, stamp, or other designation of contents upon any box, bottle, or other package containing a drug or medicine, or substitutes a different article for any article prescribed, or ordered, or puts up a greater or less quantity of any article than that prescribed or ordered, or otherwise deviates from the terms of the prescription or order which he undertakes to follow, in consequence of which human life or health is endangered, is guilty of a misdemeanor.

P. C. § 326. Same as § 401, N. Y. Penal Code. G. S. ch. 101, § 6 (7), required labeling of poisons only.

SEC. 6283. **Selling poison without recording.**— An apothecary or druggist, or a person employed as clerk or salesman by an apothecary or druggist,\* or any person otherwise carrying on business, who shall sell or give

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SECS. 6284-6286.] PENAL CODE—CRIMES AGAINST PUBLIC HEALTH.

away arsenic, or its preparations, aconite, belladonna, lead or its preparations, mercury or its preparations, hydrocyanic acid, oxalic acid, copper or its preparations, phosphorus, oil of savin, oil of tansy, morphine, strychnine, laudanum, rough on rats, or cyanide of potassium,\* without first recording in a book to be kept for that purpose the name and residence of the person receiving such poison, together with the kind and quantity of such poison received, except upon the written order or prescription of some practicing physician whose signature is attached to the order, is guilty of a misdemeanor.† Any person purchasing any of the above named drugs, who shall give the person selling the same a false name for registration, shall, upon conviction thereof, be deemed guilty of a misdemeanor: *Provided*, that this section shall not apply to the sale of paris green.

P. C. § 327, as amended 1889, ch. 210. Approved April 23d. Amendment between \*\* and below †. This is substantially acts 1875, ch. 91. See *ante*, § 667, for acts 1885, ch. 147. N. Y. Penal Code, § 402.

SEC. 6284. **Refusing to exhibit records.**— A person whose duty it is by the last section to keep a book for recording the sale or gift of poisons, who wilfully refuses to permit \* any officer or person acting under the directions of an officer,\* to inspect said book upon a reasonable demand made during the ordinary business hours, shall, upon conviction thereof, be deemed guilty of a misdemeanor, and be punished by a fine not to exceed fifty dollars.

P. C. § 328, as amended 1889, ch. 213. Approved April 23d. Amendment inserted matter between \*\* . N. Y. Penal Code, § 403.

SEC. 6285. **Selling poison without label.**— An apothecary or druggist, or a person employed as clerk or salesman by an apothecary or druggist, or any person otherwise carrying on business, who shall sell or give away arsenic or its preparations, aconite, belladonna, lead or its preparations, mercury or its preparations, hydrocyanic acid, oxalic acid, copper or its preparations, morphine, phosphorus, oil of savin, oil of tansy, oil of cedar, strychnine, rough on rats, cyanide of potassium, carbolic acid, tincture nux vomica, fluid extract ergot, fluid extract cotton root, chloroform, chloral hydrate, croton oil, sulphate of zinc, mineral acids, stramonium, conium, opium or its preparations, except paregoric and Dewees' carminative,\* without attaching to the vial, box or parcel containing such substance, a label with the name and residence of such person, the word "poison," and the name of such article written or printed, or partly written and partly printed thereon in plain and legible characters, is guilty of a misdemeanor.

P. C. § 329, as amended 1889, ch. 210. Approved April 23d. Amendment above \*. This was required by § 6 (7), ch. 101, G. S. Acts 1885, ch. 147, § 14 (*ante*, § 667), contains some different provisions not inconsistent with this section. N. Y. Penal Code, § 404.

SEC. 6286. **Medical prescriptions.**— No person employed in a drug store or apothecary shop shall prepare a medical prescription unless he has served two years' apprenticeship in such store or shop, or is a graduate of a medical college or college of pharmacy, except under the direct supervision of some person possessing one of those qualifications; nor shall any proprietor or other person in charge of such store or shop permit any person not possessing such qualifications to prepare a medical prescription in his store or shop, except under such supervision. A person violating any provision of this section is guilty of a misdemeanor, punishable by a fine not exceeding one hundred dollars, or by imprisonment in the county jail not exceeding six months; and in case of death ensuing from such violation, the person offending is guilty of a felony, punishable by a fine not less than one thousand dollars nor more than five thousand dollars, or by imprisonment in the state prison not less than two years nor more than four years, or by both such fine and imprisonment.

P. C. § 330. Same as § 405, N. Y. Penal Code, Acts 1885, ch. 147 (*ante*, §§ 657-670), prohibits any person other than registered pharmacist to retail, compound or dispense drugs.

SEC. 6287. **Adulterating food, drugs, liquors, etc.**—A person who either

1. With intent that the same may be sold as unadulterated or undiluted, adulterates or dilutes wine, milk, distilled spirits, or malt liquor, or any drug, medicine, food, or drink, for man or beast: or

2. Knowing that the same has been adulterated or diluted, offers for sale or sells the same as unadulterated or undiluted, or without disclosing or informing the purchaser that the same has been adulterated or diluted, in a case where special provision has not been otherwise made by statute for the punishment of the offense,

Is guilty of a misdemeanor.

P. C. § 331. Same as § 407, N. Y. Penal Code. This contains substance of §§ 2 (3), 3 (4), ch. 101, G. S., as amended 1881, ch. 19. Acts 1867, ch. 38, and 1871, ch. 32, prohibiting adulteration of milk, was superseded by provisions in ch. 7, *ante*. For other penal provisions, see ch. 7, title 14, *ante*. Acts 1879, ch. 87, made it unlawful to offer for sale, sell or cause to be sold, any compounded or manufactured honey, unless the same is so marked, represented and designated as such, and bearing a label upon each package, either printed or written, giving the name of the person or persons having compounded or manufactured the same.

SEC. 6288. **Disposing of tainted food.**—A person who, with intent that the same may be used as food, drink, or medicine, sells, or offers, or exposes for sale, any article whatever which to his knowledge is tainted or spoiled, or for any cause unfit to be used as such food, drink or medicine, is guilty of a misdemeanor.

P. C. § 332. Same as § 408, N. Y. Penal Code. G. S. ch. 101, § 1, as amended 1879, ch. 9, prohibited the sale or furnishing as food any diseased, corrupted or unwholesome provisions.

SEC. 6289. **Making, selling, etc., dangerous weapons.**—A person who manufactures or causes to be manufactured, or sells or keeps for sale, or offers, or gives, or disposes of any instrument or weapon of the kind usually known as slung-shot, sand-club, or metal knuckles, or who, in any city of this state, without the written consent of a magistrate, sells or gives any pistol or firearm to any person under the age of eighteen years, is guilty of a misdemeanor.

P. C. § 333. N. Y. Penal Code, § 409.

SEC. 6290. **Carrying, using, etc., certain weapons.**—A person who attempts to use against another, or who, with intent so to use, carries, conceals or possesses any instrument or weapon of the kind commonly known as slung-shot, sand-club or metal knuckles, or a dagger, dirk, knife, pistol or other firearm, or any dangerous weapon, is guilty of a misdemeanor.

P. C. § 334. Same as § 410, N. Y. Penal Code. G. S. ch. 104, § 17 (*post*, § 6573), provides that whoever carries dirk, dagger, sword, pistol or other dangerous weapons without reasonable cause to fear an assault, etc.

SEC. 6291. **Same—Possession, presumptive evidence.**—The possession by any person other than a public officer, of any of the weapons specified in the last section, concealed or furtively carried on the person, is presumptive evidence of carrying, or concealing, or possessing, with intent to use the same in violation of that section.

P. C. § 335. Same as § 411, N. Y. Penal Code.

SEC. 6292. **Negligence in respect to fire.**—Whoever negligently or carelessly sets on fire or causes to be set on fire, any woods, prairies or other combustible material, whether on his own lands or not, by means whereof the property of another is endangered, or whoever negligently suffers any fire upon his own lands to extend beyond the limits thereof, is guilty of a misdemeanor, and shall be punished by a fine not exceeding one hundred dollars, or by imprisonment in the county jail for a period not exceeding three months.

P. C. § 336. Substantially § 5, ch. 36, acts 1877. Acts 1877, ch. 36, repealed by acts 1883, ch. 128, provided for burning of prairie grass under supervision of superintendent, and provided in § 5, that, whoever wilfully and intentionally or negligently and carelessly sets on fire or causes to be set on fire any woods, prairies or other grounds contrary to that act should be punished, etc.

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SECS. 6293-6300.] PENAL CODE — CRIMES AGAINST PUBLIC HEALTH.

SEC. 6293. **Obstructing attempts to extinguish fires.**— A person who, at any burning of a building, is guilty of any disobedience to lawful orders of a public officer or fireman, or of any resistance to or interference with the lawful efforts of any fireman or company of firemen, to extinguish the same, or of any disorderly conduct likely to prevent the same from being extinguished, or who forbids, prevents or dissuades others from assisting to extinguish the same, is guilty of a misdemeanor.

P. C. § 337. Same as § 415, N. Y. Penal Code. Acts 1874, ch. 49, required the act to be wilful and malicious.

SEC. 6294. **Maintaining ferry without authority of law.**— A person who maintains a ferry for profit or hire upon any waters within this state, without authority of law, is punishable by a fine not exceeding twenty-five dollars for each time of crossing or running such ferry. Where such ferry is upon waters dividing two counties the offender may be prosecuted in either.

P. C. § 338. Same as § 416, N. Y. Penal Code.

SEC. 6295. **Violating conditions of bond to keep a ferry.**— A person who, having entered into a bond to keep and attend a ferry, violates the condition of such bond, is guilty of a misdemeanor.

P. C. § 339. Same as § 417, N. Y. Penal Code.

SEC. 6296. **Employment of engineer who cannot read.**— A person who, as an officer of a corporation, or otherwise, knowingly employs as an engineer or engine driver to run locomotives or trains on any railway in this state, a person who cannot read the time tables and ordinary handwriting, is guilty of a misdemeanor.

P. C. § 340. Same as § 418, N. Y. Penal Code.

SEC. 6297. **Person acting as engineer who cannot read.**— A person who, being unable to read the time tables of the road and ordinary handwriting, acts as an engineer, or runs a locomotive or train on any of the railways in this state, is guilty of a misdemeanor.

P. C. § 341. Same as § 419, N. Y. Penal Code.

SEC. 6298. **Intoxication of persons running trains and boats.**— A person who, being employed upon any railway as engineer, conductor, baggagemaster, brakeman, switch tender, fireman, bridge tender, flagman, signalman, or having charge of stations, starting, regulating or running trains upon a railway, or being employed as captain, engineer or other officer of a vessel propelled by steam, is intoxicated while engaged in the discharge of any such duties, is guilty of a misdemeanor.

P. C. § 342. Same as § 420, N. Y. Penal Code.

SEC. 6299. **Failure to ring bell, etc.**— A person, acting as engineer, driving a locomotive on any railway in this state, who fails to ring the bell or sound the whistle, upon such locomotive, or cause the same to be rung or sounded, at least eighty rods from any place where such railway crosses a traveled road or street on the same level (except in cities), or to continue the ringing such bell, or sounding such whistle at intervals, until such locomotive, and the train to which such locomotive is attached, shall have completely crossed such road or street, is guilty of a misdemeanor.

P. C. § 343. Same as § 421, N. Y. Penal Code.

SEC. 6300. **Other violations of duty by officers, agents or servants of railroad companies.**— An engineer, conductor, brakeman, switch tender, train dispatcher, or any other officer, agent or servant of any railway company, who is guilty of any wilful violation or omission of his duty, as such officer, agent or servant, by which human life or safety is endangered,\* the punishment of which is not otherwise prescribed, is guilty of a misdemeanor.

P. C. § 344. Same as § 424, N. Y. Penal Code. This is substantially acts 1883, ch. 121, except that latter also included telegraph operator, officer, trustee or association operating any

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PENAL CODE — CRIMES AGAINST PUBLIC HEALTH. [SECS. 6301-6307.]

railroad in this state, and "any gross negligence of duty," and read after \*, "shall, in case any human being shall thereby receive injuries resulting in death, be guilty of manslaughter in the third degree, and in every other case not resulting in death shall be punished by imprisonment in the state prison for a term not exceeding two years or in county jail for a period not exceeding one year."

**SEC. 6301. Dangerous exhibitions.**— A person who, being lessee or occupant of any place of amusement, or any plot of ground or building, uses it or allows it to be used for the exhibition of skill, in throwing any sharp instrument at or toward any human being; or aims or discharges any bow-gun, pistol or firearm of any description whatever, or allows one to be aimed or discharged at or towards any human being, is guilty of a misdemeanor.

P. C. § 345. N. Y. Penal Code, § 427.

**SEC. 6302. Duty of guarding ice cuttings.**— A person or corporation cutting ice in or upon any waters wholly or partly within the boundaries of this state, for the purpose of removing the ice for sale, must surround the cuttings and openings made with fences of bushes or other guards sufficient to warn all persons of such cuttings and openings. Which fences or guards must be erected at or before the time of commencing the cuttings or openings, and must be maintained until ice has again formed therein to the thickness of at least six inches. Whoever omits to comply with this section is guilty of a misdemeanor.

P. C. § 346. Same as § 429, N. Y. Penal Code. This is substantially acts 1866, ch. 31, except the punishment.

**SEC. 6303. Articles in imitation of food.**— A person who sells or manufactures, exposes or offers for sale as an article of food, any substance in imitation thereof, without disclosing the imitation by a suitable and plainly visible mark or brand, is guilty of a misdemeanor.

P. C. § 347. Same as § 430, N. Y. Penal Code.

**SEC. 6304. Noisome or unwholesome substances, etc., in highway.**— A person who deposits, leaves or keeps, on or near a highway or route of public travel, either on the land or on the water, any noisome or unwholesome substance, or establishes, maintains or carries on, upon or near a public highway or route of public travel, either on the land or on the water, any business, trade or manufacture which is noisome or detrimental to the public health, or who deposits or casts in any lake, creek or river, wholly or partly within this state, or deposits upon the ice of such lake, creek or river the offal from, or the dead body of, any animal, is guilty of a misdemeanor, punishable by a fine of not less than one hundred dollars, or by imprisonment in the county jail not less than three nor more than six months, or both.

P. C. § 348. N. Y. Penal Code, § 431.

**SEC. 6305. Exposing person affected with a contagious disease in a public place.**— A person who wilfully exposes himself or another, affected with any contagious or infectious disease, in any public place or thoroughfare, except upon his necessary removal in a manner not dangerous to the public health, is guilty of misdemeanor.

P. C. § 349. Same as § 434, N. Y. Penal Code. See *ante*, ch. 7, title 14. G. S. ch. 101, § 4 (5), repealed, imposed penalty for inoculating with small-pox.

**SEC. 6306. Getting on or off cars in motion.**— It shall be unlawful for any person, other than passengers or employes, to get on or off, or to swing on or hang on from the outside, of any engine or car upon any railroad while the same is in motion or switching.

1879, ch. 81: "An act declaring it unlawful to get on or off railroad cars and engines when in motion or switching, and providing penalties for the violation thereof." Approved February 18th. This was not repealed.

**SEC. 6307. Penalty.**— Any person violating any of the provisions of this act shall be fined in any sum not exceeding ten dollars, of which violations justices of the peace and judges of municipal courts shall have exclusive jurisdiction.

1879, ch. 81, § 2.



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SECS. 6308-6314.] PENAL CODE — CRIMES AGAINST PUBLIC HEALTH.

SEC. 6308. **Duty of officers.**—It shall be the duty of the police officers of any city and constable and sheriffs of any town or county in this state to arrest persons in the act of violating the provisions of this act, and take them before the proper magistrate and make complaint under oath of such violation, to the end that due punishment may be enforced for such violation.

1879, ch. 81, § 3.

SEC. 6309. **Selling tobacco to minors.**—Any person who sells or gives to a minor under the age of sixteen years any cigar or cigarette of any kind or form, or tobacco in any form, shall be deemed guilty of a misdemeanor, and shall be punished by imprisonment in a county jail for not more than thirty days or by a fine of not more than fifty dollars, or by both.

1889, ch. 14: "An act to prevent the sale of cigarettes or tobacco to certain minor children." Approved April 2d.

SEC. 6310. **Use of firearms by minors.**—That it shall be unlawful for any minor person under the age of fourteen years to handle or have in his possession or control, except while accompanied by or under the immediate charge of his parent or guardian, any firearm of any species, whatever, for hunting or target practice, or any other purpose whatever. And any one violating any of the provisions of this act, or aiding or knowingly permitting any minor person of such age, except as herein provided, to violate the same, shall be deemed guilty of a misdemeanor.

1889, ch. 16: "An act to prohibit the use of firearms by minors and to punish the same." Approved April 24th.

SEC. 6311. **Opium joints.**—Any person who opens and maintains, to be resorted to by other persons, any place where opium or any of its preparations is sold or given away to be smoked at such a place; and any person who at such place sells or gives away any opium or its said preparations, to be there smoked or otherwise used; and any person who visits or resorts to any such place for the purpose of smoking opium or its said preparations, is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not exceeding five hundred dollars (\$500) or by imprisonment in the county jail not exceeding six (6) months, or by both such fine and imprisonment.

1889, ch. 17: "An act to prohibit the maintenance of opium joints and to punish the keepers of such resorts and those who smoke opium therein." Approved March 11th.

SEC. 6312. **Protection of Mississippi river.**—That it shall not be lawful to cast, throw or empty, or cause, suffer or procure to be cast, thrown or emptied from mills of any kind whatever, any slabs, edgings or timber, sound or unsound, or by falling or throwing any tree into the Mississippi river. *Provided*, nothing in this bill will prevent persons from depositing mill waste of any kind for the purpose of building or extending wharfs or yard room in any city or town on the Mississippi river.

1879, ch. 104: "An act to protect the Mississippi river from injury to navigation." Approved March 8th. In force June 1, 1879.

SEC. 6313. **Same — Penalty.**—That any person, persons or corporations offending against the provisions of this act, shall for each and every such offense, forfeit and pay a penalty not exceeding fifty dollars, besides such further sum as may be found in any action for the recovery of the penalty or penalties, to the extent of any expense in making good the damage incurred or removing to a proper place the things deposited in violation of this act, such penalty to be recoverable in any of the courts in this state having jurisdiction thereof.

1879, ch. 104, § 2.

SEC. 6314. **Oleomargarine.**—Any person who shall knowingly sell or offer for sale or procure the sale or offer for sale of any article or substance in semblance of butter not the legitimate product of the dairy made exclusively of milk and cream, but into the composition of which the oil or fat of

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PENAL CODE — CRIMES AGAINST PUBLIC PEACE. [SECS. 6315-6318.]

animals or melted butter or any oil thereof enters as a substitute for cream, in tubs, firkins or other original packages not distinctly, legibly and durably branded, stamped or marked in a conspicuous place with the word "Oleomargarine" in letters not less than three-fourths of an inch in length, and one-half of an inch in width, or in retail packages not plainly and conspicuously labeled with said word "Oleomargarine," shall be guilty of a misdemeanor and punished by fine not less than twenty dollars nor more than one hundred dollars, or shall be confined in the county jail not less than ten nor more than ninety days, or by both such fine and imprisonment in the discretion of the court.

1881, ch. 133, § 1: "An act to regulate the traffic in oleomargarine." Approved March 2, 1881.

SEC. 6315. **Evidence.**— The sale or offer for sale of the substance mentioned in the foregoing section in packages not branded, stamped, marked or labeled as therein required shall be prima facie evidence of knowledge of the character of such substance on the part of the person so selling or offering for sale and his employer.

1881, ch. 133, § 2.

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## TITLE 13.

### OF CRIMES AGAINST THE PUBLIC PEACE.

Acts 1876, ch. 54, providing against noise or disturbance at or near an occupied dwelling-house, and against fighting in any public street, highway, alley, lane, public hall, inn, tavern, saloon, postoffice or other place of public resort, was repealed by, but not carried into, Penal Code.

SEC. 6316. **Disturbing lawful meetings.**— A person who, without authority of law, wilfully disturbs any assembly or meeting, not unlawful in its character, is guilty of a misdemeanor.

P. C. § 350. Same as § 448, N. Y. Penal Code. Acts 1876, ch. 54, § 3, repealed, provided that if any person wilfully interrupt or disturb any lawful assembly of the people or any school while in session, or any meeting of any debating, social or other club or society, shall be, etc.

SEC. 6317. **Riot.**— Whenever three or more persons, having assembled for any purpose, disturb the public peace, by using force or violence to any other person, or to property, or threaten or attempt to commit such disturbance, or to do an unlawful act by the use of force or violence, accompanied with the power of immediate execution of such threat or attempt, they are guilty of riot.

P. C. § 351. Same as § 449, N. Y. Penal Code. G. S. ch. 98, §§ 1-7, required the unlawful assembly of twelve or more to constitute riot, and provided the common-law method of dispersing unlawful assemblies, and, as amended 1872, ch. 74, making it felony to destroy or injure any building or structure during the unlawful gathering.

SEC. 6318. **Punishment of riot.**— A person guilty of riot, or of participating in a riot, either by being personally present, or by instigating, promoting, or aiding the same, is punishable as follows:

1. If the purpose of the assembly, or of the acts done or threatened, or intended by the persons engaged, is to resist the enforcement of a statute of this state, or of the United States, or to obstruct any public officer of this state, or of the United States, in serving or executing any process or other mandate of a court of competent jurisdiction, or in the performance of any other duty, or if the offender carries, at the time of the riot, firearms or any other dangerous weapon, or is disguised, by imprisonment in the state prison for not more than five years, or by a fine of not more than one thousand dollars, or by both such fine and imprisonment.

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SECS. 6319-6324.] PENAL CODE — CRIMES AGAINST PUBLIC PEACE.

2. In any other case, if the offender directs, advises, encourages, or solicits other persons, present or participating in the riot or assembly, to acts of force or violence, by imprisonment in the state prison for not more than two years, or by a fine of not more than five hundred dollars, or by both such fine and imprisonment.

3. In any case not embraced within the foregoing subdivisions of this section, by imprisonment in the state prison for not more than one year, or by a fine of not more than two hundred and fifty dollars, or by both such fine and imprisonment.

P. C. § 352. Same as § 450, N. Y. Penal Code.

SEC. 6319. **Unlawful assemblies.**— Whenever three or more persons

1. Assemble with intent to commit any unlawful act by force; or

2. Assemble, with intent to carry out any purpose, in such a manner as to disturb the public peace; or

3. Being assembled, attempt or threaten any act tending towards a breach of the peace, or an injury to person or property, or any unlawful act, such an assembly is unlawful, and every person participating therein, by his presence, aid, or instigation, is guilty of a misdemeanor. But this section shall not be so construed as to prevent the peaceable assembling of persons for lawful purposes of protest or petition.

P. C. § 353. N. Y. Penal Code, § 451.

SEC. 6320. **Remaining present at place of riot after warning.**— A person remaining present at the place of an unlawful assembly or riot, after the persons assembled have been warned to disperse by a magistrate or public officer, is guilty of a misdemeanor, unless as a public officer, or at the request or command of a public officer, he is endeavoring or assisting to disperse the same, or to protect persons or property, or to arrest the offenders.

P. C. § 354. Same as § 454, N. Y. Penal Code.

SEC. 6321. **Remaining after meeting has adopted unlawful purpose.**— Where three or more persons assemble for a lawful purpose, and afterwards proceed to commit an act that would amount to a riot, if it had been the original purpose of the meeting, every person who does not retire when the change of purpose is made known, or such act is committed, except public officers and persons assisting them in attempting to disperse the assembly, is guilty of a misdemeanor.

P. C. § 355. Same as § 455, N. Y. Penal Code.

SEC. 6322. **Refusing to assist in arresting rioter.**— A person present at the place of an unlawful assembly or riot, who, being commanded by a duly authorized public officer to act or aid in suppressing the riot, or in protecting persons or property, or in arresting a person guilty of or charged with participating in the unlawful assembly or riot, neglects or refuses to obey such command, is guilty of a misdemeanor.

P. C. § 356. Same as § 456, N. Y. Penal Code. Substantially § 2, ch. 98, G. S.

SEC. 6323. **Combinations to resist execution of process.**— A person who enters into a combination with another to resist the execution of any legal process, or other mandate of a court of competent jurisdiction, under circumstances not amounting to a riot, is guilty of a misdemeanor.

P. C. § 357. Same as § 457, N. Y. Penal Code.

SEC. 6324. **Prize fighting — Aiding therein, etc.**— A person who, within this state, engages in, instigates, aids, encourages, or does any act to further a contention or fight without weapons between two or more persons, or a fight commonly called a ring or prize fight, either within or without the state, or who sends or publishes a challenge or acceptance of a challenge for such a contention or fight, or carries or delivers such a challenge or accept-

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PENAL CODE — CRIMES AGAINST PUBLIC PEACE. [SECS. 6325-6331.]

ance, or trains or assists any person in training or preparing for such a contention or fight, is guilty of a misdemeanor.

P. C. § 358. Same as § 458, N. Y. Penal Code.

SEC. 6325. **Prize fighting and sparring.**— Any person who within this state engages in, instigates, aids or encourages, or does any act to further a contention or fight, with or without weapons, between two or more persons, or a fight commonly called a ring or prize fight, or a contention commonly called a sparring match, in which the combatants are provided with gloves, or who sends or publishes a challenge, or acceptance to a challenge for such a contention, prize fight, sparring match, with or without gloves, or carries, or delivers such a challenge or acceptance, or trains or assists any person or persons in training, or preparing for such contention, prize fight or sparring match, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by imprisonment in the common jail for a term of not less than thirty nor more than ninety days.

1889, ch. 12, § 1: "An act to prohibit prize fighting and sparring matches." Approved April 24th.

SEC. 6326. **Betting or stakeholding.**— Any person who bets, stakes or wagers money or other property upon the result of such a fight, encounter or contention, or holds or undertakes to hold money or other property so staked or wagered, to be delivered to or for the benefit of the winner thereof, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by imprisonment in the common jail for a term not less than thirty days nor more than ninety days.

1889, ch. 12, § 2.

SEC. 6327. **What is a challenge.**— Any words spoken or written, or any signs uttered or made, to any person, expressing or implying, or intended to express or imply, a desire, request, invitation, or demand to engage in any fight, such as is mentioned in section three hundred and fifty-eight, are to be deemed a challenge within the meaning of that section.

P. C. § 359. Same as § 459, N. Y. Penal Code.

SEC. 6328. **Same — Betting or stakeholding.**— A person who bets, stakes, or wagers money or other property, upon the result of such a fight or encounter, or holds or undertakes to hold money or other property so staked or wagered, to be delivered to or for the benefit of the winner thereof, is guilty of a misdemeanor.

P. C. § 360. Same as § 460, N. Y. Penal Code.

SEC. 6329. **Fight out of state.**— A person who leaves the state, with intent to elude any provision of this title, or to commit any act without the state, which is prohibited by this title, or who, being a resident of this state, does any act without the state, which would be punishable by the provisions of this title, if committed within the state, is guilty of the same offense and subject to the same punishment, as if the act had been committed within this state.

P. C. § 361. Same as § 461, N. Y. Penal Code.

SEC. 6330. **Same — Indictment.**— An indictment for an offense, specified in the last section, may be tried in any county within the state.

P. C. § 362. Same as § 462, N. Y. Penal Code.

SEC. 6331. **Apprehension of persons about to fight.**— A magistrate having power to issue warrants in criminal cases, to whom it is made to appear that there is reasonable ground to apprehend that an offense specified in sections three hundred and fifty-eight, three hundred and sixty, and three hundred and sixty-one is about to be committed within his jurisdiction, or by any person being within his jurisdiction, must issue his warrant to a sheriff or constable, or other proper officer, for the arrest of the person or persons so

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SECS. 6332-6338.] PENAL CODE—CRIMES AGAINST PUBLIC PEACE.

about to offend. Upon a person being arrested and brought before him by virtue of the warrant, he must inquire into the matter, and if it appears that there is reasonable ground to believe that the person arrested is about to commit any such offense, the magistrate must require him to give a bond to the state in such sum, not exceeding one thousand dollars, as the magistrate may fix, either with or without sureties in his discretion, conditioned that such person will not, for one year thereafter, commit any such offense.

P. C. § 363. Same as § 463, N. Y. Penal Code.

**SEC. 6332. Same — Bail — Commitment.**— If the person arrested, as prescribed in the last section, does not furnish a bond as prescribed therein, within a time fixed by the magistrate, the latter must commit him to the county jail, there to remain until discharged by a court of record having criminal jurisdiction. A person so committed may at any time be discharged upon a writ of *habeas corpus*, upon his executing the bond required by the committing magistrate. If the bond is required to be given with one or more sureties, the surety or sureties must be approved by the officer taking the same.

P. C. § 364. Same as § 464, N. Y. Penal Code.

**SEC. 6333. Forcible entry and detainer.**— A person guilty of using or of procuring, encouraging, or assisting another to use any force or violence in entering upon or detaining any lands or other possessions of another, except in the cases and the manner allowed by law, is guilty of a misdemeanor.

P. C. § 365. Same as § 465, N. Y. Penal Code.

**SEC. 6334. Taking possession of lands after being legally removed.** A person who has been removed from any lands by process of law, or who has removed from any lands pursuant to the lawful adjudication or direction of any court, tribunal, or officer, and who afterwards, without authority of law, returns to settle, or reside upon, or take possession of such lands, is guilty of a misdemeanor.

P. C. § 366. Same as § 466, N. Y. Penal Code.

**SEC. 6335. Discharging firearms in public places.**— A person who wilfully discharges any species of firearms, air-gun, or other weapon, or throws any deadly missile in any public place, or in any place where there is any person to be endangered thereby, although no injury to any person shall ensue, is guilty of a misdemeanor.

P. C. § 367. Same as § 468, N. Y. Penal Code.

**SEC. 6336. Witnesses' privilege.**— No person shall be excused from giving evidence upon an investigation or prosecution for any of the offenses specified in this title, upon the ground that the evidence might tend to convict him of a crime. But such evidence shall not be received against him upon any criminal proceeding.

P. C. § 368. Same as § 469, N. Y. Penal Code.

**SEC. 6337. Language causing breach of peace.**— Any person who shall use in reference to and in the presence of another, or in reference to or in the presence of any member of the family of another, abusive or obscene language, intended, or naturally tending to provoke an assault or any breach of the peace, shall be punished by imprisonment in the county jail not more than three months or by fine not exceeding one hundred dollars.

1881, ch. 134: "An act to prevent the use of language calculated to cause a breach of the peace." Approved February 18th. This was not repealed by the Penal Code.

**SEC. 6338. Rowdiness on railway cars.**— That no person shall use any profane, vulgar or indecent language, or fire off any fire arms, while being on any horse, steam or other railway car in this state.

That any person who shall use any profane, vulgar or indecent language, or fire off any fire arms, while being on any horse, steam or other railway car

in this state, shall be guilty of a misdemeanor, and shall be fined for each such offense, when convicted thereof, not to exceed the sum of twenty-five dollars and costs of prosecution.

1881, ch. 137: "An act to punish rowdyism on railway cars." Approved March 7th.

**SEC. 6339. Disorderly conduct in public conveyances.**—Any person who shall wilfully, by any offensive or disorderly act or language, annoy or interfere with the passengers of any public stage, railroad car, ferry-boat or other public conveyance, or who shall wilfully disturb or annoy the occupants or passengers of such public stage, car, ferry-boat or other public conveyance, by any disorderly act, language or display, although such act, conduct or display may not amount to assault, or assault and battery, shall be deemed guilty of a misdemeanor, and such person so offending, upon conviction before any municipal court, police court or justice of the peace of the county in which such act or offense was committed, shall be punished by fine not exceeding fifty dollars and costs of prosecution, and in default of payment thereof may be imprisoned for a period not exceeding sixty days.

1881, ch. 153, § 1: "An act to repress and punish disorderly conduct on public conveyances." Approved February 18th.

**SEC. 6340. Same — Arrest — Commitment.**—Any conductor of any railroad train may arrest, with or without warrant, any person whom he shall see or find in the act of committing any offense mentioned in this act, and may take such offender before any magistrate of the county where the offense was committed, there to be dealt with according to law, or such conductor may take such offender to the railroad station next after the place of such arrest, and there deliver such offender to any sheriff, constable or police officer or railroad station agent, to be by such station agent taken before any magistrate in the county where the offense was committed, there to be dealt with according to law, or such station agent may forthwith deliver such offender to any sheriff, constable or police officer, to be by him taken before any such magistrate and dealt with according to law, and for the purpose of executing the powers of this act, such railroad conductor, station agent and officers aforesaid shall possess the powers in all respects possessed by sheriffs, constables and police officers with warrants, including the power to summon assistance.

1881, ch. 153, § 2.

**SEC. 6341. Offenses on street cars.**—Whoever, being requested by an employee of a street railroad company, or of the person operating such road, to desist from smoking on or in any street car, fails immediately to do so, or uses obscene, profane or indecent language, or engages in a quarrel on or in such car; or whoever, without permission, takes a dog on or in such car; or fails, on demand, to pay the proper fare on or in such car, by delivering the money or a ticket, or by depositing the same in a fare box, as he may be required by any such employee, shall be fined in any sum not exceeding ten dollars with costs of suit, and be imprisoned until the fine and costs are paid; *provided*, that on demand of such fare, the person of whom such demand is made, may immediately leave the car instead of paying such fare.

1881, Ex. S. ch. 78: "An act to punish offenses on street cars." Approved November 17th.

**SEC. 6342. Hotel runners.**—Any licensed hotel, railroad, steamboat or restaurant runner in any city in this state who shall wilfully annoy or obstruct any person or persons on the public streets of such city, or who shall conduct himself in a disorderly manner, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than five dollars nor more than fifty dollars, or shall be imprisoned in the county jail for a term not less than five days nor more than twenty days, and upon such conviction the license of such person shall be revoked.

1889, ch. 48: "An act relating to hotel and other runners." Approved April 23d.

TITLE 14.

OF CRIMES AGAINST THE REVENUE AND PROPERTY OF THE STATE.

**SEC. 6343. Misappropriation, etc.—Falsification of accounts by public officers.**— A public officer, or a deputy, or clerk of any such officer, or any other person receiving money on behalf of, or for account of the people of this state, or of any department of the government of this state, or of any bureau or fund created by law, and in which the people of this state are directly or indirectly interested, or for or on account of any city, county, village, borough, school district, or town, who

1. Appropriates to his own use, or to the use of any person not entitled thereto, without authority of law, any money so received by him as such officer, clerk or deputy, or otherwise; or

2. Knowingly keeps any false account, or makes any false entry or erasure in any account of, or relating to, any money so received by him; or

3. Fraudulently alters, falsifies, conceals; destroys or obliterates any such account; or

4. Wilfully omits or refuses to pay over to the state or its officer or agent authorized by law to receive the same, or to such city, village, borough, school district, county or town, or the proper officer or authority empowered to demand and receive the same, any money received by him as such officer, when it is his duty imposed by law to pay over, or account for, the same,

Is guilty of a felony.

P. C. § 369. Same as § 470, N. Y. Penal Code. Const. art. 9, § 12, provides that if any officer or other person convert to his own use, loan or deposit otherwise than in name of state, deposit or exchange any of the state or school funds, except as prescribed by law, shall be guilty of felony; and any failure to pay over, produce or account is *prima facie* evidence of guilt. Acts 1877, ch. 175, repealed, provided against unlawful appropriation by county or town officer. G. S. ch. 95, §§ 27, 28, 29, 30, repealed, also provided that refusal to pay unlawful demand deemed embezzlement; provided for accessories, and, when officer, failure to pay was not embezzlement.

**SEC. 6344. Other violations of law by public officers.**— An officer or other person mentioned in the last section who wilfully disobeys any provision of law regulating his official conduct in cases other than those specified in that section, is guilty of a misdemeanor, punishable by a fine not exceeding one thousand dollars, or imprisonment in the county jail not exceeding two years, or both.

P. C. § 370. Same as § 471, N. Y. Penal Code.

**SEC. 6345. Misappropriation, etc., by county treasurer.**— A county treasurer who wilfully misappropriates any moneys, funds or securities received by or deposited with him as such treasurer, or who is guilty of any other malfeasance or wilful neglect of duty in his office, is punishable by a fine not less than five hundred dollars nor more than ten thousand dollars, or by imprisonment in the state prison not less than one year or more than five years, or by both such fine and imprisonment.

P. C. § 371. Same as § 472, N. Y. Penal Code.

**SEC. 6346. Officer becoming interested in contract.**— A public officer who is authorized to sell or lease any property, or to make any contract in his official capacity, or to take part in making any such sale, lease or contract, who voluntarily becomes interested individually in such sale, lease or contract, directly or indirectly, is guilty of a misdemeanor.

P. C. § 372. Same as § 473, N. Y. Penal Code.

**SEC. 6347. Making false statement in reference to taxes.**— A person who, in making any statement, oral or written, which is required or author-

ized by law to be made as the basis of imposing any tax or assessment, or of an application to reduce any tax or assessment, wilfully makes, as to any material matter, any statement which he knows to be false, is guilty of a misdemeanor.

P. C. § 373. Same as § 485, N. Y. Penal Code.

## TITLE 15.

### OF CRIMES AGAINST PROPERTY.

This title abrogates and generally contains the substance of all prior laws. G. S. chs. 95, 96, Acts 1866, chs. 29, 30, 34; 1867, chs. 22, 33, 35, 40, 71, 86; 1868, ch. 57; 1869, ch. 64; 1871, ch. 31; 1872, chs. 75, 38, 99, 36; 1873, ch. 21; 1874, ch. 51; 1875, chs. 89, 90; 1876, chs. 97, 55; 1877, chs. 36, 135, 175, 98, 123; 1881, Ex. S. ch. 74; 1883, chs. 120, 32, 35, 65, 72, 128; 1885, chs. 28, 126; 1887, chs. 198, 57. The following acts were repealed by, but their provisions not carried into, Penal Code: Acts 1866, ch. 24, penalty against smoking in buildings; 1867, ch. 40, as amended 1885, ch. 28, draining meandered lakes; 1867, ch. 86, restoring stolen property to owner; 1871, ch. 31, as amended 1876, ch. 97, prohibiting the gathering of cranberries before September 1st; 1872, ch. 33, as amended 1883, ch. 35, providing against Canada thistles; 1875, ch. 89, injuries to books in public libraries; 1867, ch. 35, and 1873, ch. 21; 1874, ch. 51; 1885, ch. 126, for protection of sheep; 1874, ch. 49, protection against incendiarism; 1869, ch. 64, penalty for removing building or structure or fixtures from mortgaged premises; G. S. ch. 95, § 49, branding cattle; 1868, ch. 60, as amended 1875, ch. 109, requiring tumbling rods of threshing machines to be covered. Acts 1887, ch. 57, amended acts 1872, ch. 33, after it was repealed by Penal Code.

#### ARSON.

SEC. 6348. **Arson in the first degree.**— A person who wilfully burns, or sets on fire, in the night time, either

1. A dwelling house in which there is, at the time, a human being, or
2. A car, vessel, or other vehicle, or a structure or a building other than a dwelling house, wherein, to the knowledge of the offender, there is, at the time, a human being,

Is guilty of arson in the first degree.

P. C. § 374. Same as § 486, N. Y. Penal Code. G. S. ch. 95, § 1, provided that whoever wilfully and maliciously burns in the night time the dwelling house of another, or sets fire to another building whereby such dwelling is burned and life of any person is destroyed, is guilty of murder in second degree. If no life is destroyed, imprisonment in state prison not more than fourteen nor less than seven years. If no person lawfully in the dwelling, imprisonment not more than ten nor less than three years. Sec. 3. Whoever wilfully and maliciously burns in night time any meeting-house, church, court-house, town-house, college, academy, jail or other building erected for public use; any ship, steamboat or other vessel, any banking house, warehouse, store, manufactory or mill of another, any barn, stable, shop or office of another within the curtilage of any dwelling, or any other building which would cause the burning of such structure, punishable by imprisonment in state prison not more than fifteen nor less than five years.

SEC. 6349. **Arson — Second degree.**— A person who

1. Commits an act of burning in the daytime, which, if committed in the night time, would be arson in the first degree; or
2. Wilfully burns, or sets on fire, in the night time, a dwelling house wherein, at the time, there is no human being; or
3. Wilfully burns, or sets on fire, in the night time, a building not inhabited, but adjoining or within the curtilage of an inhabited building, in which there is, at the time, a human being, so that the inhabited building is endangered, even though it is not in fact injured by the burning; or
4. Wilfully burns, or sets on fire, in the night time, a car, vessel, or other



vehicle, or a structure or building, ordinarily occupied at night by a human being, although no person is within it at the time,  
 Is guilty of arson in the second degree.

P. C. § 375. Same as § 487, N. Y. Penal Code. The first subdivision substantially covers §§ 2, 4, ch. 95, G. S., except that latter also provided against setting fire in the day-time whereby such dwelling was burned at night.

SEC. 6350. **Arson — Third degree.**— A person who wilfully burns, or sets on fire, either

1. A vessel, car, or other vehicle, or a building, structure, or other erection, which is at the time insured against loss or damage by fire, with intent to prejudice the insurer thereof; or

2. A vessel, car, or other vehicle, or a building, structure, or other erection, under circumstances, not amounting to arson in the first or second degree; or

3. Any machinery, vehicle, pile or parcel of boards, timber or other lumber, or any stack of hay, grain or other vegetable product, severed from the soil, whether stacked or not, or any standing grain, grass or other standing products of the soil,

Is guilty of arson in the third degree.

P. C. § 376. Same as § 488, N. Y. Penal Code, except the third subdivision. The first subdivision is substantially § 8, ch. 95, G. S., except that latter also covered any goods, wares, merchandise or other chattels. The second subdivision is substantially § 5, ch. 95, G. S., except that latter covered any bridge, lock, dam or flume, and any unsuccessful attempt. Third subdivision is substantially § 6, ch. 95, G. S., except the words "machinery" and "vehicle."

SEC. 6351. **Arson, how punished.**— Arson is punishable as follows:

1. In the first degree, by imprisonment in the state prison for not less than ten years.

2. In the second degree, by imprisonment in the state prison for not less than seven nor more than fifteen years.

3. In the third degree, by imprisonment in the state prison not more than seven years.

P. C. § 377. Same as § 489, N. Y. Penal Code.

SEC. 6352. **Contiguous buildings.**— Where an appurtenance to a building is so situated with reference to such building, or where any building is so situated with reference to another building that the burning of the one will manifestly endanger the other, a burning of the one is deemed a burning of the other, within the foregoing provisions, against any person actually participating in the original setting on fire, as of the moment when the fire from the one communicates to and sets on fire the other.

P. C. § 378. Same as § 491, N. Y. Penal Code.

SEC. 6353. **Night time and dwelling house defined.**— The words "night time," as used in this chapter, include the period between sunset and sunrise, and every building or structure, which shall have been usually occupied by persons lodging therein at night, is a dwelling house within the meaning of this chapter.

P. C. § 379. Same as § 492, N. Y. Penal Code.

SEC. 6354. **Building defined.**— Any house, vessel, or other structure, suitable for affording shelter for human beings, or appurtenant to, or connected with, a structure so adapted, is a "building" within the meaning of this chapter.

P. C. § 380. Same as § 493, N. Y. Penal Code.

SEC. 6355. **Inhabited building defined.**— A building is deemed an "inhabited building" within the meaning of this chapter, any part of which has usually been occupied by a person lodging therein at night.

P. C. § 381. Same as § 494, N. Y. Penal Code.

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SEC. 6356. **Ownership of building.**— To constitute arson it is not necessary that another person than the defendant should have had ownership in the building set on fire.

P. C. § 382. Same as § 495, N. Y. Penal Code. Under G. S., ch. 95, §§ 1, 2, 3, 4, the ownership of another was necessary.

## BURGLARY.

SEC. 6357. **Burglary — First degree.**— A person who, with intent to commit some crime therein, breaks and enters, in the night time, the dwelling house of another, in which there is at the time a human being,

1. Being armed with a dangerous weapon; or
2. Arming himself therein with such a weapon; or
3. Being assisted by a confederate actually present; or
4. Who, while engaged in the night time in effecting such entrance, or in committing any crime in such a building, or in escaping therefrom, assaults any person,

Is guilty of burglary in the first degree.

P. C. § 383. Same as § 496, N. Y. Penal Code. Substantially contained in § 9 (19), ch. 95, G. S., except the third subdivision, and in latter the limitation to felony. The former law, G. S. ch. 95, §§ 9, 10, 11, 12, as amended 1883, ch. 65, limited the intent to intent to commit felony, and provided against (1) the breaking and entering any dwelling in the *night* or *day* time; (2) the breaking and entering any office, shop, warehouse, ship, steamboat, vessel, in the *night* or *day* time; (3) entry without breaking; (4) attempts.

SEC. 6358. **Burglary — Second degree.**— A person who, with intent to commit some crime therein, breaks and enters the dwelling house of another in which there is a human being, under circumstances not amounting to burglary in the first degree, is guilty of burglary in the second degree.

P. C. § 384. Same as § 497, N. Y. Penal Code. Substance of § 10 (20), ch. 95, G. S.

SEC. 6359. **Burglary — Third degree.**— A person who either

1. With intent to commit a crime therein, breaks and enters a building, or a room, or any part of a building; or
2. Being in any building, commits a crime therein and breaks out of the same,

Is guilty of burglary in the third degree.

P. C. § 385. Same as § 493, N. Y. Penal Code.

SEC. 6360. **Break defined.**— The word "break," as used in this chapter, means and includes

1. Breaking or violently detaching any part, internal or external, of a building; or
2. Opening, for the purpose of entering therein, by any means whatever, any outer door of a building, or of any apartment or set of apartments therein separately used or occupied, or any window, shutter, scuttle, or other thing used for covering or closing an opening thereto or therein, or which gives passage from one part thereof to another; or
3. Obtaining an entrance into such a building or apartment, by any threat or artifice used for that purpose, or by collusion with any person therein; or
4. Entering such a building or apartment by or through any pipe, chimney, or other opening, or by excavating, digging, or breaking through or under the building, or the walls or foundation thereof.

P. C. § 386. Same as § 499, N. Y. Penal Code.

SEC. 6361. **Night time defined.**— The words "night time," in this chapter, include the period between sunset and sunrise.

P. C. § 387. Same as § 500, N. Y. Penal Code.

SEC. 6362. **Enter defined.**— The word "enter," as used in this chapter, includes the entrance of the offender into such building or apartment, or the insertion therein of any part of his body, or of any instrument or weapon

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held in his hand, and used, or intended to be used, to threaten or intimidate the inmates, or to detach or remove property.

P. C. § 388. Same as § 501, N. Y. Penal Code.

SEC. 6363. **Dwelling house defined.**—A building, any part of which is usually occupied by a person lodging therein at night, is, for the purposes of this chapter, deemed a dwelling house.

P. C. § 389. Same as § 502, N. Y. Penal Code.

SEC. 6364. **Dwelling houses, etc., when deemed separate.**—If a building is so constructed as to consist of two or more parts, intended to be occupied by different tenants usually lodging therein at night, each part is deemed the separate dwelling house of a tenant occupying the same. If a building is so constructed as to consist of two or more parts occupied by different tenants separately for any purpose, each part or apartment is considered a separate building within the meaning of this chapter.

P. C. § 390. Same as § 503, N. Y. Penal Code.

SEC. 6365. **Building defined.**—The term "building," as used in this chapter, includes a railway car, vessel, booth, tent, shop, or other erection or inclosure.

P. C. § 391. Same as § 504, N. Y. Penal Code. G. S. ch. 95, §§ 11, 12, as amended 1883, ch. 65, mentioned office, shop, warehouse, ship, steamboat, vessel.

SEC. 6366. **Unlawfully entering building.**—A person who, under circumstances or in a manner not amounting to a burglary, enters a building, or any part thereof, with intent to commit a felony or a larceny, or any malicious mischief, is guilty of a misdemeanor.

P. C. § 392. Same as § 505, N. Y. Penal Code. This and the previous sections seems to cover § 13 (23), ch. 95, G. S., as amended 1883, ch. 32, 1883, ch. 65, providing that whoever commits the crime of larceny in any dwelling-house, office, shop, bank, warehouse, ship, steamboat, vessel; or breaks and enters any meeting-house, church, court-house, town-house, college, academy or other public building, and steals therein, shall be punished, etc.

SEC. 6367. **Burglar punishable separately for crime in building.**—A person who, having entered a building under such circumstances as to constitute burglary in any degree, commits any crime therein, is punishable therefor, as well as for the burglary; and may be prosecuted for each crime, separately.

P. C. § 393. N. Y. Penal Code, § 506. G. S. ch. 95, § 12 (22), as amended 1883, ch. 65, provided "whoever enters in the night time without breaking," etc.

SEC. 6368. **Punishment.**—Burglary is punishable by imprisonment in the state prison, as follows:

1. Burglary in the first degree for not less than ten years.
2. Burglary in the second degree for not more than ten nor less than five years.
3. Burglary in the third degree for not more than five years nor less than one year.

P. C. § 394. Same as § 507, N. Y. Penal Code.

SEC. 6369. **Possessing burglar's instrument, etc.**—A person who makes or mends, or causes to be made or mended, or has in his possession in the day or night time, any engine, machine, tool, false key, pick-lock, bit, nippers, or implements adapted, designed, or commonly used for the commission of burglary, larceny, or other crime, under circumstances evincing an intent to use, or employ, or allow the same to be used or employed, in the commission of a crime, or knowing that the same are intended to be so used, shall be guilty of a misdemeanor.

P. C. § 395. N. Y. Penal Code, § 508.

FORGERY.

SEC. 6370. **Forgery — First degree.**— A person is guilty of forgery in the first degree who, with intent to defraud, forges,

1. A will or codicil of real or personal property, or the attestation thereof, or a deed or other instrument, being or purporting to be the act of another, by which any right or interest in property is or purports to be transferred, conveyed or in any way charged or affected; or

2. A certificate of the acknowledgment or proof of will, codicil, deed, or other instrument, which by law may be recorded or given in evidence when duly proved or acknowledged, made or purporting to have been made by a court or officer duly authorized to make such a certificate; or

3. A certificate, bond, paper, writing, or other public security, issued or purporting to have been issued by or under the authority of this state, or of the United States, or of any other state or territory of the United States, or of any foreign government, country or state, or by any officer thereof in his official capacity, by which the payment of money is promised absolutely or upon any contingency, or the receipt of any money or property is acknowledged, or being or purporting to be evidence of any debt or liability, either absolute or contingent, issued or purporting to have been issued by lawful authority; or

4. An indorsement or other instrument, transferring or purporting to transfer the right or interest of any holder of such a certificate, obligation, public security, evidence of debt or liability, or of any person entitled to such right or interest; or

5. A certificate of stock, bond or other writing, bank note, bill of exchange, draft, check, certificate of deposit or other obligation or evidence of debt, issued or purporting to be issued by any bank, banking association or body corporate existing under the laws of this state, or of the United States, or of any other state, government or country, declaring or purporting to declare any right, title or interest of any person in any portion of the capital stock or property of such a body corporate, or promising or purporting to promise or agree to the payment of money, or the performance of any act, duty or obligation; or

6. An indorsement or other writing, transferring or purporting to transfer the right or interest of any holder of such a certificate, bond or writing obligatory, or of any person entitled to such right or interest.

P. C. § 396. Same as § 509, N. Y. Penal Code. The former law, G. S. ch. 96, §§ 1, 3, 4, provided "whoever falsely makes, alters, forges or counterfeits" a public record, certificate, return or attestation of public officer, chart, deed, will, testament, bond or writing obligatory, letter of attorney, policy of insurance, bill of lading, bill of exchange, promissory note, order, acquittance or discharge for money or other property, acceptance of bill of exchange, indorsement or assignment of bill, note, receipt; note, certificate, or bill of credit, issued for any debt of this state; bank bill, promissory note, draft or other evidence of debt issued by any lawful company or corporation, "with intent to injure and defraud," shall be punished, etc.

SEC. 6371. **False certificate to certain instruments.**— An officer authorized to take the proof or acknowledgment of an instrument which by law may be recorded, who wilfully certifies falsely, that the execution of such an instrument was acknowledged by any party thereto, or that the execution of any such instrument was proved, is guilty of forgery in the first degree.

P. C. § 397. Same as § 510, N. Y. Penal Code.

SEC. 6372. **Forgery — Second degree.**— A person is guilty of forgery in the second degree who, with intent to defraud,

1. Forges the great or privy seal of this state, the seal of any court of record, or of any public office or officer authorized by law, or of any body corporate created by or existing under the laws of this state, or of the United States, or of any other state or any territory of the United States, or of any other state, government or country, or any impression of such a seal or any gold or silver

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coin, whether of the United States, or of any foreign state, government or country; or

2. Forges a record of a will, conveyance, or instrument of any kind, the record of which is by the law of this state made evidence, or of any judgment, order, or decree of any court or officer, or a certified or authenticated copy thereof; or

A judgment roll, judgment, order, or decree of any court or officer, or an enrollment thereof, or a certified or authenticated copy thereof; or

Any document or writing purporting to be such judgment, decree, enrollment or copy; or

An entry made in any book of record or accounts, kept by or in the office of any officer of this state, or of any village, city, town, borough, school district or county of the state, by which any demand, claim, obligation or interest, in favor of or against the people of the state, or any city, village, town, borough, school district or county, or any officer thereof, is or purports to be created, increased, diminished, discharged, or in any manner affected; or an entry made in any book of records or accounts kept by a corporation doing business within the state, or in any account kept by such a corporation, whereby any pecuniary obligation, claim, or credit is or purports to be created, increased, diminished, discharged, or in any manner affected; or

An instrument, document, or writing being, or purporting to be, a process or mandate issued by a competent court, magistrate, or officer of the state, or the return of an officer, court or tribunal, to such a process or mandate; or a bond, recognizance, undertaking, pleading or proceeding, filed or entered in any court of the state; or a certificate, order or allowance by a competent court, or officer, or a license or authority granted pursuant to any statute of the state, or a certificate, document, instrument or writing, made evidence by any law or statute; or

An instrument or writing, being or purporting to be the act of another, by which a pecuniary demand or obligation is or purports to be or to have been created, increased, discharged or diminished, or in any manner affected, or by which any rights or property whatever are or purport to be or to have been created, transferred, conveyed, discharged, increased, or diminished, or in any manner affected, the punishment for forging, altering or counterfeiting which is not hereinbefore prescribed, by which false making, forging, altering or counterfeiting, any person may be bound, affected or in any way injured in his person or property; or

3. Makes or engraves a plate in the form or similitude of a promissory note, bill of exchange, bank note, draft, cheque, certificate of deposit, or by other evidence of debt, issued by a banker, or by any banking corporation or association, incorporated or carrying on business under the laws of the state, or of the United States, or of any other state or territory of the United States, or of any foreign government or country, without the authority of such banker, or banking corporation or association; or

Without like authority, has in his possession or custody such a plate, with intent to use, or permit the same to be used, for the purpose of taking therefrom any impression to be uttered; or

Without like authority, has in his possession or custody any impression taken from such a plate, with intent to have the same filled up and completed for the purpose of being uttered; or

Makes or engraves, or causes to be made or engraved, upon any plate, any figures or words, with intent that the same may be used for the purpose of falsely altering any evidence of debt hereinbefore mentioned.

P. C. § 398. Same as § 511, N. Y. Penal Code. Subdivision 3 contains substance of §§ 5, 6, 7, ch. 96, G. S. Sec. 8, ch. 96, G. S., providing against fraudulently connecting different parts of several bank notes or other instruments, and §§ 11, 12, counterfeiting coin or having possession thereof, and § 13, making or possessing counterfeiting tools, were repealed by, but do not appear to have been carried into, Penal Code. Subdivision 2 contains substance of § 2, ch. 96, G. S.

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**SEC. 6373. Form and similitude defined.**— A plate, specified in the last section, is in the form and similitude of the genuine instrument imitated, if the finished parts of the engraving thereupon resemble and conform to similar parts of the genuine instruments.

P. C. § 399. Same as § 512, N. Y. Penal Code.

**SEC. 6374. Writing — Written instrument defined.**— An instrument partly written and partly printed, or wholly printed, with a written signature thereto, and any signature or writing purporting to be a signature of, or intended to bind an individual, a partnership, a corporation, or association, or an officer thereof, is a written instrument, or a writing within the provisions of this chapter.

P. C. § 400. Same as § 513, N. Y. Penal Code. Sec. 9, ch. 96, G. S., provided that if any fictitious or pretended signature . . . is fraudulently affixed . . . shall be deemed forgery.

**SEC. 6375. Forgery — Third degree.**— A person who either,

1. Being an officer, or in the employment of a corporation, association, partnership, or individual, falsifies, or unlawfully and corruptly alters, erases, obliterates, or destroys any accounts, book of accounts, records, or other writing, belonging to or appertaining to the business of the corporation, association, partnership, or individual; or

2. Who, with intent to injure or defraud, shall falsely make, alter, forge, or counterfeit, or shall cause, aid, abet, assist, or otherwise connive at, or be a party to, the making, altering, forging, or counterfeiting of any letter, telegram, report, or other written communication, paper, or instrument, by which making, altering, forging, or counterfeiting any other person shall be in any manner injured in his good name, standing, position, or general reputation; or

3. Who shall utter, or shall cause, aid, abet, or otherwise connive at, or be a party to, the uttering of any letter, telegram, report, or other written communication, paper, or instrument purporting to have been written or signed by another person, or any paper purporting to be a copy of any such paper or writing where no original existed, which said letter, telegram, report, or other written communication, paper, or instrument, or paper purporting to be a copy thereof, as aforesaid, the person uttering the same shall know to be false, forged, or counterfeited, and by the uttering of which the sentiments, opinions, conduct, character, prospects, interests, or rights of such other person shall be misrepresented or otherwise injuriously affected,

Is guilty of forgery in the third degree.

P. C. § 401. N. Y. Penal Code, § 514.

**SEC. 6376. Same.**— A person who, with intent to defraud, or to conceal any larceny, or misappropriation, by any person of any money or property, either

1. Alters, erases, obliterates, or destroys an account, book of accounts, record, or writing, belonging to, or appertaining to the business of, a corporation, association, public office or officer, partnership, or individual; or

2. Makes a false entry in any such account, or book of accounts; or

3. Wilfully omits to make true entry of any material particular in any such account, or book of accounts, made, written, or kept by him, or under his direction,

Is guilty of forgery in the third degree.

P. C. § 402. Same as § 515, N. Y. Penal Code.

**SEC. 6377. Forging passage tickets.**— A person who, with intent to defraud, forges, counterfeits, or falsely alters any ticket, cheque, or other paper or writing, entitling or purporting to entitle the holder or proprietor thereof to a passage upon any railway, or in any vessel or other public conveyance; and a person who, with like intent, sells, exchanges, or delivers, or keeps, or offers for sale, exchange, or delivery, or receives upon any purchase,

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exchange or delivery any such ticket, knowing the same to have been forged, counterfeited, or falsely altered, is guilty of forgery in the third degree.

P. C. § 403. Same as § 516, N. Y. Penal Code.

**SEC. 6378. Forging postage or revenue stamps.**—A person who forges, counterfeits, or alters any postage or revenue stamp of the United States, or who sells, or offers, or keeps for, as genuine or as forged, any such stamp, knowing it to be forged, counterfeited, or falsely altered, is guilty of forgery in the third degree.

P. C. § 404. Same as § 517, N. Y. Penal Code.

**SEC. 6379. Officer of corporation selling, etc., shares.**—An officer, agent, or other person, employed by any company or corporation existing under the laws of this state, or of any other state or territory of the United States, or of any foreign government, who wilfully and with a design to defraud, sells, pledges or issues, or causes to be sold, pledged or issued, or signs or procures to be signed with intent to sell, pledge or issue, or to be sold, pledged or issued, a false, forged or fraudulent paper, writing or instrument, being or purporting to be a scrip, certificate or other evidence of the ownership or transfer of any share or shares of the capital stock of such company or corporation, or a bond or other evidence of debt of such company or corporation, or a certificate or other evidence of the ownership or of the transfer of any such bond or other evidence of debt, is guilty of forgery in the third degree, and, upon conviction, in addition to the punishment prescribed in this title for that offense, may also be sentenced to pay a fine not exceeding three thousand dollars.

P. C. § 405. Same as § 518, N. Y. Penal Code.

**SEC. 6380. Falsely indicating person as corporate officer.**—The false making or forging of an instrument or writing, purporting to have been issued by or in behalf of a corporation or association, state or government, and bearing the pretended signature of any person, therein falsely indicated as an agent or officer of such corporation, is forgery in the same degree, as if that person were in truth such officer or agent of the corporation or association, state or government.

P. C. § 406. Same as § 519, N. Y. Penal Code.

**SEC. 6381. Terms forge, forged, and forging defined.**—The expressions "forge," "forged," and "forging," as used in this chapter, include false making, counterfeiting and the alteration, erasure or obliteration of a genuine instrument, in whole or in part, the false making or counterfeiting of the signature, of a party or witness, and the placing or connecting together with intent to defraud different parts of several genuine instruments.

P. C. § 407. Same as § 520, N. Y. Penal Code.

**SEC. 6382. Uttering, etc., forged instruments, coins, etc., is forgery.** A person who, knowing the same to be forged or altered, and, with intent to defraud, utters, offers, or disposes of or puts off, as true, or has in his possession, with intent so to utter, offer, dispose of or put off, either

1. A forged seal or plate, or any impression of either; or

2. A forged coin; or

3. A forged will, deed, certificate, indorsement, record, instrument or writing, or other thing, the false making, forging or altering of which is punishable as forgery,

Is guilty of forgery in the same degree as if he had forged the same.

P. C. § 408. Same as § 521, N. Y. Penal Code. G. S. ch. 96, §§ 2, 11, 12, 13, provided for uttering or passing forged instruments and coin.

**SEC. 6383. Uttering writing signed with wrong-doer's name.**—Whenever the false making or uttering of any instrument or writing is forgery in any degree, a person is guilty of forgery in the same degree who, with

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intent to defraud, offers, disposes of, or puts off such an instrument or writing subscribed or indorsed in his own name, or that of any other person, whether such signature be genuine or fictitious, under the pretense that such subscription or indorsement is the act of another person of the same name, or of a person not in existence.

P. C. § 409. Same as § 522, N. Y. Penal Code.

**SEC. 6384. Punishment — Forgery in first degree.**— Forgery in the first degree is punishable by imprisonment in the state prison for not more than twenty (20) years.

P. C. § 410, as amended 1889, ch. 208. Amendment struck out "not less than ten years" and inserted "not more than twenty years." N. Y. Penal Code, § 523.

**SEC. 6385. Same — In second degree.**— Forgery in the second degree is punishable by imprisonment in the state prison for not more than ten (10) years.

P. C. § 411, as amended 1889, ch. 208. Approved April 10th. Amendment struck out "not less than five years." N. Y. Penal Code, § 524.

**SEC. 6386. Same — In third degree.**— Forgery in the third degree is punishable by imprisonment in the state prison for not more than five years.

P. C. § 412. Same as § 525, N. Y. Penal Code.

**SEC. 6387. Possession of counterfeit coin.**— A person who has in his possession a counterfeit of any gold or silver coin, whether of the United States or of any foreign country or government, knowing the same to be counterfeited, with intent to sell, utter, use, circulate or export the same, as true or as false, or to cause the same to be so uttered or passed, is punishable by imprisonment in the state prison not more than five years, or by a fine not exceeding five hundred dollars, or by both such fine and imprisonment.

P. C. § 413. Same as § 526, N. Y. Penal Code. G. S. ch. 96, §§ 11, 12, provided for such punishment.

**SEC. 6388. Advertising counterfeit money.**— A person who, with intent to defraud, prints, circulates or distributes a letter, circular, card, pamphlet, handbill, or any other written or printed matter, offering or purporting to offer for sale, exchange, or as a gift, counterfeit coin or paper money, or giving or purporting to give information where counterfeit coin or paper money can be procured, is punishable by imprisonment not more than five years, or by a fine not exceeding five hundred dollars, or by both such fine and imprisonment.

P. C. § 414. Same as § 527, N. Y. Penal Code.

## LARCENY, INCLUDING EMBEZZLEMENT, OBTAINING PROPERTY BY FALSE PRETENSES, AND FELONIOUS BREACH OF TRUST.

**SEC. 6389. Larceny.**— A person who, with the intent to deprive or defraud the true owner of his property or of the use and benefit thereof, or to appropriate the same to the use of the taker, or of any other person, either

1. Takes from the possession of the true owner, or of any other person; or obtains from such possession by color or aid of fraudulent or false representation or pretense, or of any false token or writing; or secretes, withholds, or appropriates to his own use, or that of any person other than the true owner, any money, personal property, thing in action, evidence of debt or contract, or article of value of any kind; or

2. Having in his possession, custody, or control, as a bailee, servant, attorney, agent, clerk, trustee, or officer of any person, association, or corporation, or as a public officer, or as a person authorized by agreement, or by competent authority, to hold or take such possession, custody or control, any money, property, evidence of debt or contract, article of value of any nature, or thing in action or possession, appropriates the same to his own use, or that of any



other person other than the true owner or person entitled to the benefit thereof,

Steals such property, and is guilty of larceny.

P. C. § 415. Same as § 528, N. Y. Penal Code. G. S. ch. 95, § 14 (24), as amended 1883, ch. 72, provided, "whoever commits the offense of larceny by stealing from the person," etc. Sec. 15 (25), as amended 1866, ch. 29; 1866, ch. 30; 1872, ch. 75: "Whoever commits the crime of larceny by stealing of the property of another," etc. Sec. 13 (23), as amended 1883, ch. 32; 1883, ch. 65: "Whoever commits the crime of larceny in any dwelling-house," etc. 8 M. 220; 4 M. 345; 18 M. 518. The second subdivision seems to take the place of §§ 22, 23, 24, 25, 26, 27, ch. 95, G. S., and acts 1876, ch. 55, providing for the punishment of embezzlement by officer, clerk or servant of any bank, incorporated company, copartnership; any attorney at law, collector, carriers, warehousemen, merchant, miller and public officers. 17 M. 76; 22 M. 41, 76, 67. The provision in first subdivision, obtaining possession by fraudulent and false representation, seems to take place of former law against false pretense (§ 33 (44), ch. 95, G. S.), which provided whoever designedly, by any false pretense, privy or false token, with intent to defraud, obtains from another any money, goods, wares, merchandise or other property, or the signature to any writing, shall be punished, etc. Acts 1872, ch. 36, provided for pursuit and capture of horse thieves, which was repealed by 1877, ch. 122.

SEC. 6390. **Commission no defense.**— It shall be no defense to a prosecution under the second subdivision of the foregoing section, that the accused was entitled to a commission out of the money or property appropriated, as compensation for collecting or receiving the same for or on behalf of the owner thereof, or that the money or property appropriated was partly the property of another and partly the property of the party accused; *provided*, that it shall not be larceny for any bailee, servant, attorney, agent, clerk, trustee, or any other person mentioned in the second subdivision of the foregoing section, to retain his reasonable collection fee or charges on the collection made by him.

P. C. § 415½. This is substantially acts 1876, ch. 55, which amended § 23, ch. 95, G. S., except the provision, "was partly the property of another and partly the property of the accused," which was in that section as part of the crime of embezzlement.

SEC. 6391. **Obtaining money or property by fraudulent draft.**— A person who wilfully, with intent to defraud, by color or aid of a cheque or draft, or order for the payment of money or the delivery of property, when such person knows that the drawer or maker thereof is not entitled to draw on the drawee for the sum specified therein, or to order the payment of the amount, or delivery of the property, although no express representation is made in reference thereto, obtains from another any money or property, is guilty of stealing the same, and punishable accordingly.

P. C. § 416. Same as § 529, N. Y. Penal Code.

SEC. 6392. **Grand larceny — First degree.**— A person is guilty of grand larceny in the first degree, who steals, or unlawfully obtains or appropriates, in any manner specified in this chapter,

1. Property of any value, by taking the same from the person of another in the night time; or
2. Property of the value of more than twenty-five dollars, by taking the same in the night time from any dwelling house, office, bank, shop, warehouse, vessel, railway car, or any building of any kind or description.
3. Property of the value of more than five hundred dollars, in any manner whatever.

P. C. § 417. Same as § 530, N. Y. Penal Code.

SEC. 6393. **Grand larceny — Second degree.**— A person is guilty of grand larceny in the second degree who, under circumstances not amounting to grand larceny in the first degree, in any manner specified in this chapter, steals or unlawfully obtains or appropriates,

1. Property of the value of more than twenty-five dollars, but not exceeding five hundred dollars, in any manner whatever; or
2. Property of any value, by taking the same from the person of another; or
3. Property of any value, by taking the same in the day time from any dwelling house, office, bank, shop, warehouse, vessel or railway car, or any

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building of any kind or description, property of less value than twenty-five dollars, by taking the same in the night time from any dwelling house, office, bank, shop, warehouse, vessel or railway car, or any building of any kind or description; or

4. A record of a court or officer, or a writing, instrument or record kept, filed or deposited according to law, with, or in keeping of any public office or officer.

P. C. § 418. Same as § 531, N. Y. Penal Code, except third subdivision.

SEC. 6394. **Petit larceny.**—Every other larceny is petit larceny.

P. C. § 419. Same as § 532, N. Y. Penal Code.

SEC. 6395. **Punishment of grand larceny—First degree.**—Grand larceny in the first degree is punishable by imprisonment in the state prison for not less than five nor more than ten years.

P. C. § 420. Same as § 533, N. Y. Penal Code.

SEC. 6396. **Same—Second degree.**—Grand larceny in the second degree is punishable by imprisonment in the state prison for not \* more than five years, or by imprisonment in the county jail for not exceeding one year or by fine not exceeding five hundred dollars. *Provided*, that this act shall not extend to any act done or offense committed prior to the passage hereof, but the provisions of law now in force prescribing the punishment for said offense shall continue in force as to all such offenses committed prior to the passage hereof.

P. C. § 421, as amended 1887, ch. 194. Amendment struck out at \* "less than two years nor" and added proviso. N. Y. Penal Code, § 534.

SEC. 6397. **Petit larceny a misdemeanor.**—Petit larceny is a misdemeanor punishable by a fine not exceeding one hundred dollars, or by imprisonment in a county jail for a period not exceeding three months.

P. C. § 422. N. Y. Penal Code, § 535.

SEC. 6398. **Completed and unissued instruments property.**—All the provisions of this chapter apply to cases where the property taken is an instrument for the payment of money, an evidence of debt, a public security, or a passage ticket, completed and ready to be issued or delivered, although the same has never been issued or delivered by the maker thereof to any person as a purchaser or owner.

P. C. § 423. Same as § 536, N. Y. Penal Code. G. S. ch. 95, §§ 16, 17, repealed, provides against larceny of railroad tickets.

SEC. 6399. **Severance of fixture, etc., larceny.**—All the provisions of this chapter apply to cases where the thing taken is a fixture or part of the realty, or any growing tree, plant, or produce, and is severed at the time of the taking, in the same manner as if the thing had been severed by another person at a previous time.

P. C. § 424. Same as § 537, N. Y. Penal Code.

SEC. 6400. **Lost property.**—A person who finds lost property under circumstances which give him knowledge or means of inquiry as to the true owner, and who appropriates such property to his own use, or to the use of another person who is not entitled thereto, without having first made every reasonable effort to find the owner and restore the property to him, is guilty of larceny.

P. C. § 425. Same as § 539, N. Y. Penal Code.

SEC. 6401. **Bringing stolen goods into state.**—A person who, having, at any place without the state, stolen the property of another, or received such property, knowing it to have been stolen, brings the same into this state, may be convicted and punished in the same manner as if such larceny or receiving had been committed within the state. Complaint may be made and

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the indictment found and tried, and the offense may be charged to have been committed, in any county into or through which the stolen property is brought.

P. C. § 426. Same as § 540, N. Y. Penal Code.

SEC. 6402. **Bringing stolen goods into another county.**— A person who, having, at any place within the state, stolen the property of another, or received such property, knowing it to have been stolen, brings the same into another county, is guilty of larceny of the same in every county into or through which such stolen property is brought, and is indictable and triable in any one of said counties.

P. C. § 427.

SEC. 6403. **Conversion by trustee — Punishment.**— A person acting as executor, administrator, committee, guardian, receiver, collector or trustee of any description, appointed by a deed, will or other instrument, or by an order or judgment of a court or officer, who secretes, withholds, or otherwise appropriates to his own use, or that of any person other than the true owner, or person entitled thereto, any money, goods, thing in action, security, evidence of debt or of property, or other valuable thing, or any proceeds thereof, in his possession or custody by virtue of his office, employment or appointment, is guilty of grand or petit larceny in such degree as is herein described with reference to the amount of such property

P. C. § 428. N. Y. Penal Code, § 541.

SEC. 6404. **Verbal false pretense not larceny.**— A purchase of property by means of a false pretense is not criminal, where the false pretense relates to the purchaser's means or ability to pay, unless the pretense is made in writing and signed by the party to be charged.

P. C. § 429. Same as § 544, N. Y. Penal Code.

SEC. 6405. **Value of evidence of debt, how ascertained.**— If the thing stolen consists of a written instrument, being an evidence of debt, other than a public or corporate certificate, scrip, bond, or security having a market value, or being the transfer of or evidence of title to any property, or of the creating, releasing or discharging of any demand, right or obligation, the amount of money due thereupon or secured to be paid thereby, and remaining unsatisfied, or which, in any contingency, might be collected thereupon or thereby, or the value of the property transferred or affected, or the title to which is shown thereby, or the sum which might be recovered for the want thereof, as the case may be, is deemed the value of the thing stolen.

P. C. § 430. Same as § 545, N. Y. Penal Code.

SEC. 6406. **Same — Passenger ticket.**— If the thing stolen is a ticket, paper or other writing, entitling or purporting to entitle the holder or proprietor thereof to a passage upon a railway car, vessel, or other public conveyance, the price at which a ticket, entitling a person to a like passage, is usually sold, is deemed the value thereof.

P. C. § 431. Same as § 546, N. Y. Penal Code.

SEC. 6407. **Same — Of other articles.**— In every case not otherwise regulated by statute, the market value of the thing stolen is deemed its value.

P. C. § 432. Same as § 547, N. Y. Penal Code.

SEC. 6408. **Claim of title, ground of defense.**— Upon an indictment for larceny it is a sufficient defense that the property was appropriated openly and avowedly under a claim of title preferred in good faith, even though such claim is untenable. But this section shall not excuse the retention of the property of another, to offset or pay demands held against him.

P. C. § 433. Same as § 548, N. Y. Penal Code.

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SEC. 6409. **Intent to restore property.**— The fact that the defendant intended to restore the property stolen or embezzled, is no ground of defense, nor shall such fact be received in mitigation of punishment, if the property has not been restored before complaint to a magistrate, charging the commission of the crime.

P. C. § 434. Same as § 549, N. Y. Penal Code.

SEC. 6410. **Receiving stolen property.**— A person, who buys or receives any stolen property, or any property which has been wrongfully appropriated in such a manner as to constitute larceny according to this chapter, knowing the same to have been stolen or so dealt with, or who corruptly, for any money, property, reward, or promise or agreement for the same, conceals, withholds, or aids in concealing or withholding, any property, knowing the same to have been stolen or appropriated wrongfully in such a manner as to constitute larceny under the provisions of this chapter, if such misappropriation had been committed within the state, whether such property were so stolen or misappropriated within or without the state, is guilty of criminally receiving such property, and is punishable, by imprisonment in the state prison for not more than five years or in a county jail for not more than six months, or by a fine of not more than two hundred and fifty dollars, or by both such fine and imprisonment.

P. C. § 435. N. Y. Penal Code, § 550. The language of G. S., ch. 95, § 18 (28), was, "whoever buys, receives or aids in the concealment \* \* \* knowing the same to have been stolen."

SEC. 6411. **Same — Averment and proof.**— It is not necessary to aver, in an indictment for an offense specified in the last section, nor to prove upon the trial thereof that the principal who stole the property has been convicted, or is amenable to justice.

P. C. § 436. Same as § 551, N. Y. Penal Code. Substantially § 20 (30), ch. 95, G. S.

## EXTORTION AND OPPRESSION.

SEC. 6412. **Extortion.**— Extortion is the obtaining of property from another, with his consent, induced by a wrongful use of force or fear, or under color of official right.

P. C. § 437. Same as § 552, N. Y. Penal Code.

SEC. 6413. **What threats may constitute extortion.**— Fear, such as will constitute extortion, may be induced by a threat:

1. To do an unlawful injury to the person or property of the individual threatened, or to any relative of his or to any member of his family; or
2. To accuse him, or any relative of his or any member of his family, of any crime; or
3. To expose, or impute to him, or any of them, any deformity or disgrace; or
4. To expose any secret affecting him or any of them.

P. C. § 438. Same as § 553, N. Y. Penal Code.

SEC. 6414. **Punishment of extortion.**— A person who extorts any money or other property from another, under circumstances not amounting to robbery, by means of force or a threat mentioned in the last two sections, is punishable by imprisonment in the state prison not exceeding five years.

P. C. § 439. Same as § 554, N. Y. Penal Code.

SEC. 6415. **Compulsion to execute instrument.**— The compelling or inducing of another, by such force or threat, to make, subscribe, seal, execute, alter, or destroy any valuable security, or instrument, or writing affecting, or intended to affect, any cause of action or defense, or any property, is an extortion of property, within the last two sections.

P. C. § 440. Same as § 555, N. Y. Penal Code.

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SECS. 6416-6422.] PENAL CODE — CRIMES AGAINST PROPERTY.

SEC. 6416. **Oppression committed under color of office.**— A public officer, or a person pretending to be such, who, unlawfully and maliciously, under pretense of color of official authority,

1. Arrests another, or detains him against his will; or
2. Seizes or levies upon another's property; or
3. Dispossesses another of any lands or tenements; or
4. Does any other act whereby another person is injured in his person, property, or rights,

Commits oppression and is guilty of a misdemeanor.

P. C. § 441. Same as § 556, N. Y. Penal Code.

SEC. 6417. **Extortion by public officers.**— A public officer who asks or receives, or agrees to receive, a fee or other compensation for his official service, either

1. In excess of the fee or compensation allowed to him by statute therefor; or
  2. Where no fee or compensation is allowed to him by statute therefor;
- Commits extortion and is guilty of a misdemeanor.

P. C. § 442. Same as § 557, N. Y. Penal Code.

SEC. 6418. **Blackmail.**— A person who, knowing the contents thereof, and with intent, by means thereof, to extort or gain any money or other property, or to do, abet, or procure any illegal or wrongful act, sends, delivers, or in any manner causes to be forwarded or received, or makes and parts with for the purpose that there may be sent or delivered, any letter or writing threatening

1. To accuse any person of a crime; or
2. To do any injury to any person or to any property; or
3. To publish, or connive at publishing, any libel; or
4. To expose or impute to any person, any deformity or disgrace,

Is punishable by imprisonment in the state prison for not more than five years.

P. C. § 443. Same as § 558, N. Y. Penal Code. G. S. ch. 94, § 38 (48), provided whoever, verbally or by any written or printed communication, maliciously threatens any injury to person or property of another with intent to extort money or any pecuniary advantage, or to compel the person threatened to do any act against his will, shall be punished, etc.

SEC. 6419. **Written threat.**— A person who, knowing the contents thereof, sends, delivers, or in any manner causes to be sent or received any letter or other writing, threatening to do any unlawful injury to the person or property of another, is guilty of a misdemeanor.

P. C. § 444. Same as § 559, N. Y. Penal Code.

SEC. 6420. **Attempts to extort by verbal threats.**— A person who, under circumstances not amounting to robbery, or an attempt at robbery, with intent to extort or gain any money or other property, verbally makes such a threat as would be criminal under either of the forgoing sections of this chapter, if made or communicated in writing, is guilty of a misdemeanor.

P. C. § 445. Same as § 560, N. Y. Penal Code.

SEC. 6421. **Unlawful threat referring to act of third person.**— It is immaterial whether a threat, made as specified in this chapter, is of things to be done or omitted by the offender, or by any other person.

P. C. § 446. Same as § 561, N. Y. Penal Code.

## FALSE PERSONATION AND CHEATS.

SEC. 6422. **Falsely personating another.**— A person who falsely personates another, and, in such assumed character,

1. Marries or pretends to marry, or to sustain the marriage relation toward another; or
2. Becomes bail or surety for a party in an action or special proceeding,

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civil or criminal, before a court or officer authorized to take such bail or surety; or

3. Confesses a judgment; or

4. Subscribes, verifies, publishes, acknowledges, or proves a written instrument which by law may be recorded with intent that the same may be delivered or used as true; or

5. Does any other act, in the course of any action or proceeding, whereby, if it were done by the person falsely personated, such person might in any event become liable to an action or special proceeding, civil or criminal, or to pay a sum of money, or to incur a charge, forfeiture or penalty, or whereby any benefit might accrue to the offender, or to any other person,

Is punishable by imprisonment in the state prison for not more than five years.

P. C. § 447. Same as § 562, N. Y. Penal Code, except punishment. G. S. ch. 95, § 34 (45), repealed, provided that whoever is convicted of any gross fraud or cheat at common law shall be punished, etc. G. S. ch. 95, § 40 (51), provided against any one falsely and fraudulently representing himself the owner of real estate.

**SEC. 6423. Limitations as to indictments.**— An indictment cannot be found, for the crime specified in subdivision first of the last section, except upon the complaint of the person injured, if there be any such person living, and within one year after the perpetration of the crime.

P. C. § 448. Same as § 563, N. Y. Penal Code, except the limitation.

**SEC. 6424. Receiving property in false character.**— A person who falsely personates another, and in such assumed character receives any money or property, knowing that it is intended to be delivered to the individual so personated, with intent to convert the same to his own use, or to that of another person who is not entitled thereto, is punishable in the same manner and to the same extent, as for larceny of the money or property so received.

P. C. § 449. Same as § 564, N. Y. Penal Code. This contains § 32 (43), ch. 95, G. S.

**SEC. 6425. Personating officers.**— A person who falsely personates a public officer, civil or military, or a policeman, or a private individual having special authority by law to perform an act affecting the rights or interests of another, or who assumes, without authority, any uniform or badge by which such an officer or person is lawfully distinguished, and in such assumed character does an act, purporting to be official, whereby another is injured or defrauded, is guilty of a misdemeanor.

P. C. § 450. Same as § 565, N. Y. Penal Code.

**SEC. 6426. Obtaining signature by false pretenses.**— A person who, with intent to cheat or defraud another, designedly, by color or aid of a false token or writing, or other false pretense, obtains the signature of any person to a written instrument, is punishable by imprisonment in the state prison for not more than three years, or in a county jail for not more than one year, or by a fine of not more than three times the value of the money or property affected or obtained thereby, or by both such fine and imprisonment.

P. C. § 451. Same as § 566, N. Y. Penal Code. This contains part of § 33 (44), ch. 95, G. S., which provided that whoever designedly, by any false pretense, privy or false token, with intent to defraud, obtains the signature of any person to any written instrument, the false making whereof would be forgery, shall be punished, etc.

**SEC. 6427. Obtaining employment by forged letter.**— A person who obtains employment, or appointment to any office or place of trust, by color or aid of any false or forged letter or certificate of recommendation, is guilty of a misdemeanor.

P. C. § 452. N. Y. Penal Code, § 570.

**SEC. 6428. Concealing mortgaged property.**— Whosoever with intent to place mortgaged personal property beyond the reach of the mortgagee, or his assigns, removes or conceals, or aids or abets in removing or concealing

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any such mortgaged personal property, and any mortgagor of such personal property who assents to, or knowingly suffers such removal, or concealment, shall be punished by imprisonment in the state prison for a term not exceeding one year, or by imprisonment in the common jail of the county for a period not exceeding one year, or by a fine not exceeding five hundred dollars.

P. C. § 453.

**SEC. 6429. Selling mortgaged property.**— Any mortgagor of personal property who, at any time before the debt secured by the chattel mortgage has been fully paid, sells, conveys, or in any manner disposes of the personal property so mortgaged, or any part thereof, without the written consent of the mortgagee, or his assigns, or without informing the person to whom he sells, conveys or disposes of the same, that the same is mortgaged, and the true amount then due on the debt secured by said mortgage, shall be punished by imprisonment in the state prison for a term not exceeding one year, or by imprisonment in the common jail of the county for a period not exceeding one year, or by a fine not exceeding five hundred dollars.

P. C. § 454.

**SEC. 6430. Same — Requirements of indictment.**— In all prosecutions under either of the two foregoing sections, it shall be a sufficient allegation and description of the mortgage and the mortgaging of said personal property, to state that the said personal property was duly mortgaged by a certain instrument of chattel mortgage, giving the names of the mortgagor and mortgagee and the date of the instrument, without any further description of the instrument.

P. C. § 455.

**SEC. 6431. Selling, pawning, etc., borrowed property.**— A person who, without the consent of the owner thereof, sells, pledges, pawns or otherwise disposes of any property which he has borrowed or hired from the owner, is guilty of a misdemeanor.

P. C. § 456. Same as § 572, N. Y. Penal Code.

**SEC. 6432. Last section qualified.**— The last section does not apply to a person leasing or lending property for a time not exceeding that for which the same was leased or lent to himself.

P. C. § 457. Same as § 573, N. Y. Penal Code.

**SEC. 6433. False registration of animal.**— 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, ch. 198, § 1: "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.

**SEC. 6434. Greater degree of blood.**— 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.

1887, ch. 198, § 2.

SEC. 6435. **Fraud in sale of cereals.**— That whoever, either for his own benefit or as agent of any corporation, company, association or person, obtains from any other person anything of value, or procures the signature of any such person, as maker, endorser, guarantor or surety thereon, to any bond, bill, receipt, promissory note, draft, check, or any other evidence of indebtedness, as the whole or part consideration of any bond, contract or promise given the vendee of any grain, seed or cereals, binding the vendor or any other person, corporation, company, association, or the agent thereof, to sell for such vendee any grain, seed, or cereals, at a fictitious price, or at a price equal to or more than four times the market price of such grain, seed or cereals, and who ever sells, barter or disposes of, or offers to sell, barter or dispose of, either for his own benefit or as the agent of any corporation, company, association or person, any bond, bill, receipt, promissory note, draft, check, or other evidence of indebtedness, knowing the same to have been obtained as the whole or part consideration for any bond, contract or promise given the vendee of any grain, seed or cereals, binding the vendor or any other person, corporation, company, association, or the agent thereof, to sell for such vendee any grain, seed or cereals, at a fictitious price, or at a price equal to or more than four times the market price of such grain, seed or cereals, shall, on conviction thereof, be imprisoned in the penitentiary not more than three years, or be fined in the sum of not more than five hundred dollars, nor less than one hundred dollars, or both, at the discretion of the court.

1889, ch. 11: "An act to punish and prevent fraud in the sale of grain, seed and other cereals." Approved April 24th.

SEC. 6436. **G. A. R. badges.**— That any person who shall wilfully wear the insignia or rosette of the military order of the Loyal Legion of the United States, or the badge of the order of the Grand Army of the Republic, or any similitude of either of the same, or use the same to obtain aid or assistance within this state, unless he shall be entitled to use the same under the constitution and by-laws, or rules and regulations of the one or the other of such orders, as the case may be, shall be guilty of a misdemeanor, and upon conviction, shall be punished by imprisonment for a term not exceeding thirty days, or a fine not to exceed twenty dollars, or by both such fine and imprisonment.

1889, ch. 15: "An act to prevent the improper use or wearing of the insignia or badge of the military order of the Loyal Legion of the United States, and of the Grand Army of the Republic." Approved April 2d.

SEC. 6437. **Badges of secret orders.**— Any person who shall wilfully wear any badge, emblem or insignia, pertaining to the order of Odd Fellows, Masons, Knights of Pythias, or any other secret order or society, or any similitude of either of the same, or shall use the same to obtain aid or assistance, within the state, unless he shall be entitled to wear or use the same under the constitution, by-laws, rules and regulations of any one of such orders, as the case may be, shall be guilty of a misdemeanor, and upon conviction, shall be punished by imprisonment for a term not exceeding twenty days or a fine not exceeding twenty-five dollars, or by both fine and imprisonment.

1889, ch. 18: "An act to punish the wilful and fraudulent use and wearing of badges, emblems and insignia of secret orders and societies." Approved April 24th.

#### FRAUDULENTLY FITTING OUT AND DESTROYING VESSELS.

SEC. 6438. **Wilfully destroying vessel, etc.**— A person who wrecks, burns, sinks, scuttles or otherwise injures or destroys a vessel, or the cargo of a vessel, or wilfully permits the same to be wrecked, burned, sunk, scuttled or otherwise injured or destroyed, with intent to prejudice or defraud an insurer or any other person, is punishable by imprisonment in the state prison for not more than five years.

P. C. § 458. Same as § 575, N. Y. Penal Code. Substantially § 35 (40), ch. 95, G. S.



# MINNESOTA STATUTES 1891

SECS. 6439-6445.] PENAL CODE—CRIMES AGAINST PROPERTY.

SEC. 6439. **Fitting out vessel with intent to wreck.**—A person who fits out any vessel, or who lades any cargo on board of a vessel, with intent to permit or cause the same to be wrecked, sunk or otherwise injured or destroyed, and thereby to defraud or prejudice an insurer or another person, is punishable by imprisonment in the state prison not exceeding five years.

P. C. § 459. N. Y. Penal Code, § 576. Substantially § 36 (47), ch. 95, G. S., except that latter also provided against whoever "assists in lading, equipping and fitting out" such vessel.

SEC. 6440. **Making false manifest, and invoice, etc.**—A person guilty of preparing, making or subscribing a false or fraudulent manifest, invoice, bill of lading, ship's register or protest, with intent to defraud another, is punishable by imprisonment in the state prison not exceeding three years, or by a fine not exceeding one thousand dollars, or both.

P. C. § 460. Same as § 577, N. Y. Penal Code. This contains substance of §§ 37, 38, ch. 95, G. S., except that latter embraced "any other person concerned."

## FRAUDULENT DESTRUCTION OF PROPERTY INSURED.

SEC. 6441. **Destroying property insured.**—A person who, with intent to defraud or prejudice the insurer thereof, wilfully burns or in any manner injures or destroys property not included or described in section four hundred and fifty-eight, which is insured at the time against loss or damage by fire or by any other casualty, under such circumstances that the offense is not arson in any of its degrees, is punishable by imprisonment in the state prison for not more than five years, or by a fine of not more than five hundred dollars, or by both such fine and imprisonment.

P. C. § 461. Same as § 578, N. Y. Penal Code.

## FALSE WEIGHTS AND MEASURES.

SEC. 6442. **Using false weights and measures.**—A person who injures or defrauds another by using, with knowledge that the same is false, a false weight, measure, or other apparatus for determining the quantity of any commodity, or article of merchandise, or by knowingly delivering less than the quantity he represents, is guilty of a misdemeanor.

P. C. § 462. Same as § 580, N. Y. Penal Code.

SEC. 6443. **Keeping false weights.**—A person who retains in his possession any weight or measure, knowing it to be false, unless it appears beyond a reasonable doubt that it was so retained without intent to use it, or permit it to be used, in violation of the last section, is guilty of a misdemeanor.

P. C. § 463. Same as § 581, N. Y. Penal Code.

SEC. 6444. **Stamping false weight or tare.**—A person who knowingly marks, or stamps, false or short weights, or false tare, on any cask or package, or knowingly sells or offers for sale any cask or package so marked, is guilty of a misdemeanor.

P. C. § 464. Same as § 585, N. Y. Penal Code.

## FRAUD IN THE MANAGEMENT OF CORPORATIONS.

SEC. 6445. **Fraud in subscriptions for stock of corporations.**—A person who signs the name of a fictitious person to any subscription for, or agreement to take, stock in any corporation, existing or proposed, and a person who signs, to any subscription or agreement, the name of any person, knowing that such person does not intend in good faith to comply with the terms thereof, or under any understanding, or agreement, that the terms of such subscription, or agreement, are not to be complied with, or enforced, is guilty of a misdemeanor.

P. C. § 465. Same as § 590, N. Y. Penal Code.

SEC. 6446. **Fraudulent issue of stock, scrip, etc.**— An officer, agent, or other person in the service of any joint stock company, or corporation formed or existing under the laws of this state, or of the United States, or of any state, or territory thereof, or of any foreign government or country, who wilfully and knowingly, with intent to defraud; either

1. Sells, pledges, or issues, or causes to be sold, pledged, or issued, or signs or executes, or causes to be signed or executed, with intent to sell, pledge, or issue, or to cause to be sold, pledged, or issued, any certificate or instrument purporting to be a certificate, or evidence of the ownership of any share or shares of such company or corporation, or any bond or evidence of debt, or writing purporting to be a bond or evidence of debt of such company or corporation, without being first thereto duly authorized by such company or corporation, or contrary to the charter or laws under which such corporation or company exists, or in excess of the power of such company or corporation, or of the limit imposed by law, or otherwise, upon its power to create or issue stock or evidence of debt; or

2. Reissues, sells, pledges, or disposes of, or causes to be reissued, sold, pledged or disposed of, any surrendered or canceled certificates, or other evidence of the transfer or ownership of any such share or shares,

Is punishable by imprisonment in the state prison for not less than three years nor more than seven years, or by a fine not exceeding three thousand dollars, or by both.

P. C. § 466. Same as § 591, N. Y. Penal Code.

SEC. 6447. **Receiving deposits in insolvent bank.**— An officer, agent, teller, or clerk of any bank, banking association, or savings bank, and every individual banker, or agent, and any teller or clerk of an individual banker, who receives any deposits, knowing that such bank, or association, or banker is insolvent, is guilty of a misdemeanor.

P. C. § 467. Same as § 601, N. Y. Penal Code.

SEC. 6448. **Frauds in keeping accounts, etc.**— A director, officer, or agent of any corporation or joint stock association, who knowingly receives or possesses himself of any property of such corporation or association, otherwise than in payment of a just demand, and with intent to defraud, omits to make, or to cause or direct to be made, a full and true entry thereof, in the books or accounts of such corporation or association; and a director, officer, agent, or member of any corporation or joint stock association, who, with intent to defraud, destroys, alters, mutilates, or falsifies, any of the books, papers, writings or securities belonging to such corporation or association, or makes or concurs in making any false entry, or omits or concurs in omitting to make any material entry in any book of accounts, or other record or document kept by such corporation or association, is punishable by imprisonment in the state prison not exceeding ten years,\* or by imprisonment in a county jail not exceeding one year, or by a fine not exceeding five hundred dollars, or by both such fine and imprisonment.

P. C. § 468. As amended 1889, ch. 208, by striking out at \* "and not less than three years." N. Y. Penal Code, § 602.

SEC. 6449. **Officer of corporation publishing false reports of its condition.**— A director, officer, or agent of any corporation or joint stock association, who knowingly concurs in making or publishing any written report, exhibit, or statement of its affairs or pecuniary condition, containing any material statement which is false, other than such as are elsewhere, by this code, specially made punishable, is guilty of a misdemeanor.

P. C. § 469. Same as § 603, N. Y. Penal Code.

SEC. 6450. **Director defined.**— The term "director," as used in this chapter, embraces any of the persons having by law the direction or manage-

ment of the affairs of a corporation, by whatever name such persons are described in its charter, or are known in law.

P. C. § 470. Same as § 614, N. Y. Penal Code.

FRAUDULENT ISSUE OF DOCUMENTS OF TITLE TO MERCHANDISE.

SEC. 6451. **Issuing fictitious bills of lading, etc.**— A person being the master, owner, or agent of any vessel, or officer or agent of any railway, express, or transportation company, or otherwise being or representing any carrier, who delivers any bill of lading, receipt or other voucher, by which it appears that merchandise of any kind has been shipped on board a vessel, or delivered to a railway, express, or transportation company, or other carrier, unless the same has been so shipped or delivered, and is at the time actually under the control of such carrier, or the master, owner, or agent of such vessel, or of some officer or agent of such company, to be forwarded as expressed in such bill of lading, receipt, or voucher, is punishable by imprisonment in a county jail not exceeding one year, or by a fine not exceeding one thousand dollars, or by both.

P. C. § 471. Same as § 628, N. Y. Penal Code.

SEC. 6452. **Issuing fictitious warehouse receipts.**— A person carrying on the business of a warehouseman, wharfinger, or other depositary of property, who issues any receipt, bill of lading, or other voucher for grain or merchandise of any kind which has not been actually received upon the premises of such person, and is not under his actual control at the time of issuing such instrument, whether such instrument is issued to a person as being the owner of such grain or merchandise, or as security for any indebtedness, is punishable by imprisonment in a county jail not exceeding one year, or by a fine not exceeding one thousand dollars, or by both.

P. C. § 472. Same as § 629, N. Y. Penal Code. Substantially contains § 31 (42), ch. 95, G. S.

SEC. 6453. **Same — Exception.**— No person can be convicted of an offense under the last two sections, for the reason that the contents of any barrel, box, case, cask, or other vessel or package mentioned in the bill of lading, receipt, or other voucher did not correspond with the description given in such instrument of the merchandise received, if such description corresponds substantially with the marks, labels, or brands upon the outside of such vessel or package, unless it appears that the defendant knew that such marks, labels, or brands were untrue.

P. C. § 473. Same as § 630, N. Y. Penal Code.

SEC. 6454. **Duplicate receipt must be marked.**— A person mentioned in sections four hundred and seventy-one and four hundred and seventy-two, who issues any second or duplicate receipt or voucher, of a kind specified in those sections, at a time while a former receipt or voucher for the grain or merchandise specified in such second receipt is outstanding and unconcealed, without writing across the face of the same the word "duplicate," in a plain and legible manner, is punishable by imprisonment in a county jail not exceeding one year, or by a fine not exceeding one thousand dollars, or by both.

P. C. § 474. Same as § 631, N. Y. Penal Code.

SEC. 6455. **Selling, etc., property received for transportation or storage.**— A person mentioned in sections four hundred and seventy-one and four hundred and seventy-two, who sells or pledges any merchandise for which a bill of lading, receipt, or voucher, has been issued by him, without the consent in writing thereto of the person holding such bill, receipt, or voucher, is punishable by imprisonment in a county jail not exceeding one year, or by a fine not exceeding one thousand dollars, or by both.

P. C. § 475. Same as § 632, N. Y. Penal Code.

# MINNESOTA STATUTES 1891

PENAL CODE—CRIMES AGAINST PROPERTY. [SECS. 6456-6460.]

## MALICIOUS MISCHIEF AND OTHER INJURIES TO PROPERTY.

SEC. 6456. **Injury to railroads, tracks, etc.**—A person who

1. Displaces, removes, injures or destroys a rail, sleeper, switch, bridge, viaduct, culvert, embankment, or structure, or any part thereof, attached or appertaining to or connected with a railway, whether operated by steam or by horses; or

2. Places any obstruction upon the track of such a railway; or

3. Wilfully discharges a loaded firearm, or projects or throws a stone, or any other missile, at a railway train, or at a locomotive, car or vehicle standing or moving upon a railway,

Is punishable as follows:

1. If thereby the safety of any person is endangered, by imprisonment in the state prison for not more than ten years;

2. In every other case, by imprisonment for not more than three years in the state prison, or by a fine of not more than two hundred and fifty dollars, or both.

P. C. § 476. Same as § 635, N. Y. Penal Code. Acts 1868, ch. 57, imposed imprisonment in state prison for obstructing or injuring, aiding, assisting or doing any act intending to obstruct. Acts 1877, ch. 98, made it misdemeanor to break down or carry away any fence, bars, gates or plank, used for crossing, or any hedge, ditch or structure used as a fence, and a felony to take away, loosen, displace, cut, break or injure any railroad track, bridge, trestle, locomotive, car, machinery, appurtenance; and in addition liable civilly for damages caused, and criminally for maliciously causing death.

SEC. 6457. **Damaging building, etc., by explosion.**—A person who unlawfully and maliciously, by the explosion of gunpowder, or any other explosive substance, destroys or damages any building or vessel, is punishable as follows:

1. If thereby the life or safety of a human being is endangered, by imprisonment in the state prison for not more than ten years;

2. In every other case, by imprisonment in the state prison for not more than five years.

P. C. § 477. Same as § 636, N. Y. Penal Code.

SEC. 6458. **Burning growing crops, etc.**—A person who wilfully burns or sets fire to any grain, grass, or growing crop, or standing timber, or to any building, fixtures or appurtenances to real property of another, under circumstances not amounting to arson in any of its degrees, is punishable by imprisonment in a county jail for not more than one year.

P. C. § 478. N. Y. Penal Code, § 637. Part of § 6, ch. 95, G. S.

SEC. 6459. **Altering, etc., signal or light for vessel, etc.**—A person who, with intent to bring a vessel, railway engine, or railway train into danger, either

1. Unlawfully or wrongfully shows, masks, extinguishes, alters or removes a light or signal; or

2. Exhibits any false light or signal,

Is punishable by imprisonment in the state prison for not more than ten years.

P. C. § 479. Same as § 638, N. Y. Penal Code. G. S. ch. 95, § 44 (56), provided against injury or removal of any lamp or lamp post.

SEC. 6460. **Injuring highway, etc.**—A person who wilfully or maliciously displaces, removes, injures, or destroys,

1. A public highway or bridge, or a private way laid out by authority of law, or a bridge upon such public or private way; or

2. A pier, boom or dam lawfully erected or maintained upon any water within the state, or hoists any gate in or about such dam; or

3. A pile, or other material, fixed in the ground and used for securing any bank or dam of any river or other water, or any dock, quay, jetty, or lock; or

4. A buoy or beacon lawfully placed in any waters within the state; or

5. A tree, rock, post, or other monument, which has been either erected or marked for the purpose of designating a point in the boundary of the state, or of a county, city, town, or village, or of a farm, tract or lot of land, or any mark or inscription thereon; or

6. A mile-board, mile-stone or guide post, erected upon a highway, or any inscription upon the same; or

7. A line of telegraph, or any part thereof, or any appurtenance or apparatus connected with the working of any magnetic or electric telegraph, or the sending or conveyance of messages by any such telegraph; or

8. A pipe or main for conducting gas or water, or any works erected for supplying buildings with gas or water, or any appurtenance or appendage connected therewith; or

9. A sewer or drain, or a pipe or main connected therewith, or forming part thereof; or who

10. Destroys or damages with intent to destroy or render useless any engine, machine, tool or implement intended for use in trade or husbandry, is guilty of a misdemeanor.

P. C. § 480. Same as § 639, N. Y. Penal Code. Prior law, G. S. ch. 95, § 41 (52), provided punishment for injury to dams, reservoirs, canals or trenches, or mills. Section 42 (53), for injury or destruction of public bridge, railroad, plank-road, telegraph posts or wires, turnpike, gate, lock, culvert or embankment. Section 44 (56), injury to monuments, signs. Acts 1867, ch. 22, § 1, injury to telegraph.

SEC. 6461. **Malicious injury and destruction of property.**— A person who, wilfully,

1. Cuts down, destroys or injures any wood or timber standing or growing, or which has been cut down and is lying on lands of another, or of the state; or

2. Cuts down, girdles or otherwise injures a fruit, shade or ornamental tree standing on the lands of another, or of the state; or

3. Severs from the freehold of another, or of the state, any produce thereof, or anything attached thereto; or

4. Digs, takes or carries away without lawful authority or consent, from any lot of land, in any incorporated city or village, or from any lands included within the limits of a street or avenue laid down on the map of such city or village, or otherwise recognized or established, any earth, soil or stone; or

5. Enters without the consent of the owner or occupant, any orchard, fruit garden, vineyard, or ground whereon is cultivated any fruit, with intent to take, injure or destroy anything there growing or grown; or

6. Cuts down, destroys or in any way injures any shrub, tree or vine being or growing within any such orchard, garden, vineyard, or upon any such ground, or any building, frame-work or erection thereon,

Is punishable by imprisonment in a county jail not exceeding six months, or a fine not exceeding two hundred and fifty dollars, or both.

P. C. § 481. N. Y. Penal Code, § 640. Substantially contained in G. S. ch. 95, §§ 43, 45, 47, 48, and acts 1867, ch. 33; 1877, ch. 135, except that acts 1867 covered every injury to trees, vines and plants, and acts 1877 any injury or damage to the property of another. G. S. ch. 95, § 46 (58), as amended 1883, ch. 32, repealed, conferred jurisdiction on justices of the peace. Acts 1867, ch. 34, provided for protection of growing hedges. Acts 1868, ch. 75, prohibited carrying off, use or destruction of wood, timber, lumber, hay, grass or other personal property of another.

SEC. 6462. **Divulging, etc., telegram a misdemeanor.**— A person who, either

1. Wrongfully obtains, or attempts to obtain, any knowledge of a telegraphic message by connivance with a clerk, operator, messenger or other employe of a telegraph company; or

2. Being such clerk, operator, messenger or other employe, wilfully divulges, to any but the persons for whom it was intended, the contents of a telegraphic

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PENAL CODE — CRIMES AGAINST PROPERTY. [SECS. 6463-6468.]

message or dispatch intrusted to him for transmission or delivery, or the nature thereof, or wilfully refuses or neglects duly to transmit or deliver the same.

Is punishable by a fine of not more than one thousand dollars, or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.

P. C. § 482. Same as § 641, N. Y. Penal Code. The second subdivision is § 2, ch. 22, acts 1867.

**SEC. 6463. Opening and publishing a sealed letter, etc.**— A person who wilfully and without authority, either

1. Opens or reads, or causes to be opened or read, a sealed letter or telegram; or

2. Publishes the whole or any portion of such letter or telegram, knowing it to have been opened or read without authority,

Is guilty of a misdemeanor.

P. C. § 483. Same as § 642, N. Y. Penal Code.

**SEC. 6464. Endangering life by placing explosive near building.**—

A person who places in, upon, under, against, or near to, any building, car, vessel or structure, gunpowder or any other explosive substance, with intent to destroy, throw down, or injure the whole or any part thereof, under such circumstances, that if the intent were accomplished, human life or safety would be endangered thereby, although no damage is done, is guilty of a felony.

P. C. § 484. Same as § 645, N. Y. Penal Code.

**SEC. 6465. Malicious injury to standing crops.**— A person who maliciously injures or destroys any standing crops, grain, cultivated fruits, or vegetables, the property of another, in any case for which punishment is not otherwise prescribed, by this code or by some other statute, is guilty of a misdemeanor.

P. C. § 485. Same as § 646, N. Y. Penal Code.

**SEC. 6466. Wilful injury to works of art, etc.**— A person who, not being the owner thereof, and without lawful authority, wilfully injures, disfigures, removes, or destroys a grave stone, monument, work of art, or useful or ornamental improvement, or any shade tree or ornamental plant, whether situated upon private ground or upon a street, road or sidewalk, cemetery, or public park or place, or removes from any grave in a cemetery any flowers, memorials or other tokens of affection, or other thing connected with them, is guilty of a misdemeanor.

P. C. § 486. Same as § 647, N. Y. Penal Code. This contains substance of § 16 (17), ch. 100, G. S. Section 17 (19), ch. 100, G. S., prohibiting opening roads through cemeteries, was not carried into Penal Code.

**SEC. 6467. Malicious injury to articles in museum, etc.**— A person who maliciously cuts, tears, defaces, disfigures, soils, obliterates, breaks or destroys, a book, map, chart, picture, engraving, statue, coin, model, apparatus, specimen, or other work of literature or object of art, or curiosity, deposited in a public library, gallery, museum, collection, fair or exhibition, is punishable by imprisonment in the state prison for not more than three years, or in a county jail for not more than one year, or by a fine of not more than five hundred dollars, or by both such fine and imprisonment.

P. C. § 487. Same as § 648, N. Y. Penal Code.

**SEC. 6468. Destroying or delay of election returns.**— A messenger appointed by authority of law to receive and carry a report, certificate or certified copy of any statement relating to the result of any election, who wilfully mutilates, tears, defaces, obliterates or destroys the same, or does any other act which prevents the delivery of it as required by law; and a person who takes away from such messenger any such report, certificate or certified copy, with intent to prevent its delivery, or who wilfully does any injury or other

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SECS. 6469-6471.] PENAL CODE—CRIMES AGAINST PROPERTY.

act in this section specified, is punishable by imprisonment in the state prison not exceeding five years, and not less than two years.

P. C. § 488. Same as § 649, N. Y. Penal Code.

**SEC. 6469. Churches—Schools.**—A person who wilfully and without authority breaks, defaces or otherwise injures any house of religious worship or any part thereof, or any appurtenance thereto, or any ornament, musical instrument, articles of silverware or plated ware, or other chattel kept therein for use in connection with religious worship,\* or who wilfully breaks, defaces or otherwise injures any school house or appurtenance, or other public building, or who wilfully breaks, defaces or injures any globe, map or chart, or any other article kept and used in connection with said school-house or other public building, is guilty of a misdemeanor, and is punishable as follows:

First. If the value of the property broken, defaced or injured is thereby diminished to an amount less than one hundred dollars, by fine of not more than one hundred dollars, or imprisonment not more than ninety days, or by both.

Second. If the value of the property broken, defaced or injured is thereby diminished more than one hundred dollars, by imprisonment not less than six months nor more than two years.

Third. In addition to the punishment prescribed therefor, such person is liable in treble damages for the injury done, to be recovered in a civil action by the owner of such property, or the public officer having charge thereof.

P. C. § 489, as amended 1889, ch. 211. Approved March 19th. Amendment below\*. N. Y. Penal Code, § 650.

**SEC. 6470. Coercion.**—A person who, with a view to compel another person to do or abstain from doing an act which such other person has a legal right to do or to abstain from doing, wrongfully and unlawfully,

1. Uses violence or inflicts injury upon such other person or his family, or a member thereof, or upon his property, or threatens such violence or injury; or

2. Deprives any such person of any tool, implement or clothing, or hinders him in the use thereof; or

3. Uses or attempts the intimidation of such person by threats or force, Is guilty of a misdemeanor.

P. C. § 490. Same as § 653, N. Y. Penal Code.

**SEC. 6471. Injury to real or personal property.**—A person who unlawfully and wilfully destroys or injures any real or personal property of another, in a case where the punishment thereof is not specially prescribed by statute, is punishable as follows:

1. If the value of the property destroyed, or the diminution in the value of the property by the injury is more than one hundred dollars, by imprisonment in a county jail for not more than one year;

2. In any other case by imprisonment in a county jail for not more than six months, or by a fine of not more than two hundred and fifty dollars, or by both such fine and imprisonment.

3. And in addition to the punishment prescribed therefor, he is liable in treble damages for the injury done, to be recovered in a civil action by the owner of such property, or the public officer having charge thereof.

P. C. § 491. N. Y. Penal Code, § 654. Acts 1877, ch. 135, repealed, provided whoever wilfully, carelessly or negligently destroys, injures or damages the property of another. Acts 1881, Ex. S. ch. 74, not expressly repealed, provided "whoever shall wilfully 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," etc. Acts 1883, ch. 120, not expressly repealed, provided that "If any person employed by a railroad or other corporation, 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, wilfully, wantonly or carelessly break, injure or destroy the same," is guilty of misdemeanor, etc.

**SEC. 6472. Trespass on public lands.**—Whoever commits any wilful 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 wilfully 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, ch. 265: "An act to punish trespassers on pine lands." Approved March 5th.

#### LABELS AND TRADE MARKS.

**SEC. 6473. Protection.**—It shall be lawful for associations and unions of workmen to adopt for their protection labels, trade marks and advertisements used by such unions or associations, announcing that goods manufactured by members of such associations or unions are so manufactured by such members.

1889, ch. 9, § 1: "An act to punish the counterfeiting of labels, trade marks and advertisements, and the use of counterfeited labels, trade marks and advertisements." Approved April 23, 1889. In force sixty days after passage.

**SEC. 6474. Record of.**—That every association of workingmen or labor union adopting a label, trade mark or advertisement of the kind specified in the first section of this act, shall record the same in the office of the secretary of state by leaving two copies of said labels or advertisements with said secretary of state, who shall under his hand and seal deliver to the association or union recording such label or advertisements, a certificate of record, for which he shall receive a fee of one dollar.

1889, ch. 9, § 4.

**SEC. 6475. Fraudulent use.**—That any and all persons using such union or association trade mark, labels or advertisements, whether exactly like such labels, trade-marks or advertisements, or not, if with the intention to or likely to deceive the public, shall be guilty of a misdemeanor, and on conviction thereof shall be punished by imprisonment of not less than ten days nor more than thirty days, or a fine of not less than twenty-five dollars nor more than one hundred dollars.

1889, ch. 9, § 2.

**SEC. 6476. Counterfeited.**—That every person who shall use any such counterfeited trade mark, label or advertisement of such a union or association after having been notified that the same is so counterfeited, shall be guilty of a misdemeanor, and on conviction thereof shall be punished by imprisonment of not less than ten days nor more than thirty days, or by fine of not less than twenty-five dollars nor more than one hundred dollars.

1889, ch. 9, § 3.

**SEC. 6477. Injunction.**—That every association of workingmen or labor union adopting a label, trade mark or advertisement of the kind specified in the first section of this act, may proceed by suit in any of the courts of the state to enjoin the manufacture, use, display or sale of counterfeits or imitations of such labels, trade marks or advertisements, and that all courts having jurisdiction of the persons, and upon satisfactory proof of such wrongful use shall grant an injunction for such wrongful use of such counterfeits, and shall award the complainants such damages resulting from such wrongful use as may be proved, and shall require the defendants to pay to the complainant the profits derived from such wrongful use, or both profits and damages, and the courts shall also order all counterfeit labels and advertisements in the possession or



under the control of the defendant in such cause to be delivered to an officer of the court or to the complainants to be destroyed.

1889, ch. 9, § 5.

**SEC. 6478. Other proceedings.**— In like manner such unions or associations of workmen shall be authorized to proceed against all persons who shall wrongfully use or display the genuine labels, trade marks or advertisements of the respective associations or unions, not being authorized by such associations or unions to use or display the same, in any court having jurisdiction thereof.

1889, ch. 9, § 6.

**SEC. 6479. Forging and counterfeiting brands, etc.**— Any person or persons who shall knowingly and wilfully 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, ch. 178, § 1: "An act to prevent and punish fraud in use of false stamps, brands, labels or trade marks." Approved March 9th.

**SEC. 6480. Fraudulent use.**— 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, 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.

1885, ch. 178, § 2.

**SEC. 6481. Vending or keeping for sale.**— 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

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PENAL CODE—CRIMES AGAINST PROPERTY. [SECS. 6482-6484.]

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.

1885, ch. 178, § 3.

**SEC. 6482. Affixing fraudulent brand.**— 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 (6) nor more than twelve (12) months, or be fined not more than five thousand dollars (\$5,000,) and shall also be liable to the party aggrieved in the penal sum of one hundred dollars (\$100) for each and every offense, to be recovered by him in a civil action.

1885, ch. 178, § 4.

**SEC. 6483. False brands.**— 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.

1885, ch. 178, § 5.

**SEC. 6484. 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

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SECS. 6485-6488.] PENAL CODE—CRUELTY TO ANIMALS.

or compound to denote the same was imported, manufactured, produced, sold, compounded, bottled, packed or otherwise prepared by him.

1885, ch. 178, § 6.

SEC. 6485. **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.

1885, ch. 178, § 7.

SEC. 6486. **Imitation.**—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.

1885, ch. 178, § 8.

SEC. 6487. **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.

1885, ch. 178, § 9.

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## TITLE 16.

### CRUELTY TO ANIMALS.

This title contains substance of acts 1871, ch. 34, repealed.

SEC. 6488. **Acts of cruelty.**—A person who overdrives, overloads, tortures, or cruelly beats or neglects, or unjustifiably injures, maims or mutilates or kills any animal, whether belonging to himself or to another, deprives of necessary food, water or shelter, any animal of which he has the charge or control \*or which he has impounded or confined or keeps or carries in or upon a vehicle or otherwise, any animal in a cruel or inhuman manner; or keeps cows or other animals in any inclosure without wholesome exercise and change of air, or feeds cows on food that produces impure or unwholesome milk; or being a person or corporation engaged in transporting live stock, detains such stock in cars or in compartments for a longer continuous period than twenty-four hours, within this state, without supplying the same with necessary food, water and attention, or permits such stock to be so crowded together as to overlies, crush, wound or kill each other,\* or procures or permits any of the above mentioned acts to be done, or wilfully sets on foot, instigates, engages in, or in any way furthers any act of cruelty to any animal, or any act tending to produce such cruelty, is punishable by imprisonment not exceeding three months or fine of not more than one hundred dollars.

1889, ch. 209, § 2: "An act to amend title 16 of the Penal Code of Minnesota, relating to cruelty to animals." Approved April 24, 1889. Repeals all inconsistent acts. Substantially § 492 of Penal Code except between \*\* and the punishment. Between \*\* contains gist of

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PENAL CODE — CRUELTY TO ANIMALS. [SECS. 6489-6493.]

§§ 494, 495, 497, 498, of Penal Code. P. C. § 493, provided that in computing the twenty-four hours' time confined, connecting roads must be considered, and if owner or person in charge failed to care and feed, the carrier could do so, and had a lien therefor. This section contains substance of §§ 1, 5, 14, ch. 34, acts 1871, and § 39 (50), ch. 95, G. S., except the provision as to exposing poisonous substances with intent that same may be taken by such animals. 1 M. 292.

SEC. 6489. **Killing injured animal.**— Any agent or officer of the "Minnesota Society for the Prevention of Cruelty," or of any society duly incorporated for that purpose, may lawfully destroy, or cause to be destroyed, any animal found abandoned and not properly cared for, appearing, in the judgment of two reputable citizens, called by him to view the same in his presence, to be glandered, injured or diseased past recovery for any useful purpose.\* When any person arrested is, at the time of such arrest, in charge of any animal or of any vehicle drawn by or containing any animal, any agent of said society or societies may take charge of such animal and of such vehicle and its contents, and deposit the same in a safe place of custody, or deliver the same into the possession of the police or sheriff of the county or place wherein such arrest was made, who shall thereupon assume the custody thereof; and all necessary expenses incurred in taking charge of such property shall be a lien thereon.

1889, ch. 209, § 3. Above \* is substantially § 493, P. C.

SEC. 6490. **Birds — Kill or maim.**— Any person who shall wantonly maim, kill or destroy, by any means whatever, any brown thrush, bluebird, martin, swallow, wren, catbird, robin, pee-wee, meadow-lark, or other insect-devouring bird of any kind or name whatever, or wantonly destroy the nests or eggs of any such bird, is punishable by fine not exceeding fifteen dollars nor less than one dollar.

1889, ch. 209, § 4. Whether this section interferes with other laws, see *ante*, §§ 2006, 2005, 1991.

SEC. 6491. **Poisoning animals.**— A person who unjustifiably administers any poisonous or noxious drug or substance to any animal, or procures or permits the same to be done, or unjustifiably exposes any such drug or substance with intent that the same shall be taken by any animal, whether such animal be the property of himself or another,\* is punishable by imprisonment not exceeding three months, or fine of not more than one hundred dollars.

1889, ch. 209, § 5. Same as § 496, P. C., except below \*, which in latter read "is guilty of a misdemeanor." Sec. 39 (50), ch. 95, G. S., prohibited exposing poisonous substances. 1 M. 292.

SEC. 6492. **Fighting animals.**— Whoever engages in or is employed at, or aids or abets cock-fighting, dog-fighting, bear-baiting, pitting one animal against another, of the same or of a different kind, or any similar cruelty to animals, or receives money for the admission of any person to any place used or about to be used for any such purpose, or wilfully permits any one to enter upon or use for any such purpose premises of which he is the owner, agent or occupant; or uses, trains or possesses a dog or other animal for the purpose of seizing, detaining or maltreating any domestic animal, shall be fined not more than one hundred dollars, nor less than five dollars, or imprisoned not more than three months, nor less than ten days; and any one who knowingly purchases a ticket of admission to any place mentioned in this section, or is present thereat, or witnesses such spectacle, shall be deemed an aider and abettor.

1889, ch. 209, § 6. Supersedes and contains gist of §§ 499, 500, P. C. Contains § 10, ch. 99, G. S.

SEC. 6493. **Same — Taking possession.**— Any officer or agent authorized by law to make arrests may lawfully take possession of, any animals or implements, or other property used or employed, or about to be used or employed, in the violation of any provision of law relating to fights among animals. He shall state to the person in charge thereof at the time of such

taking, his name and residence, and also the time and place at which the application hereinafter provided for will be made.

1889, ch. 209, § 7. Similar provisions in § 11, ch. 34, acts 1871.

SEC. 6494. **Prosecution.**— The officer or agent after taking possession of such animals, or implements or other property, pursuant to the preceding section, shall apply to the magistrate or court before whom complaint is made against the offender violating such provisions of law, for the order next hereinafter mentioned, and shall make and file an affidavit with such magistrate or court, stating therein the name of the offender charged in such complaint, the time, place, and description of the animals, implements, or other property so taken, together with the name of the party who claims the same, if known; and that the affiant has reason to believe, and does believe, stating the grounds of such belief, that the same were used or employed in such violation, and will establish the truth thereof upon the trial of such offender. He shall then deliver such animals, implements or other property to such magistrate or court, who shall thereupon, by order in writing, place the same in the custody of the officer, or other proper person in such order named and designated, to be by him kept until the trial or final discharge of the offender, and shall send a copy of such order, without delay, to the county attorney. The officer or person so named and designated in such order shall immediately thereupon assume such custody, and shall retain the same for the purpose of evidence upon such trial, subject to the order of the court before which such offender may be required to appear, until his final discharge or conviction. Upon the conviction of such offender, the animals, implements or other property shall be adjudged by the court to be forfeited. In the event of acquittal or final discharge without conviction of such offender, such court shall, on demand, direct the delivery of the property so held in custody to the owner thereof.

1889, ch. 209, § 8. Such provision in acts 1871, ch. 34, §§ 11, 12.

SEC. 6495. **Complaint and warrant.**— When complaint is made on oath or affirmation to a magistrate or court authorized to issue warrants in criminal cases, that the complainant believes that any of the provisions of law relating to or affecting animals are being or about to be violated in any particular building or place, such magistrate or court shall issue and deliver immediately a warrant directed to any sheriff, constable, police officer or agent of such association aforesaid, authorizing him to enter and search such building or place, and to arrest any person there present violating or attempting to violate any such law, and to bring such person before some court or magistrate of competent jurisdiction within the city, village or county, within which such offense has been committed, to be dealt with according to law; and such attempt shall be held to be a violation of such law, and shall subject the person charged therewith, if found guilty, to the penalties provided therein.

1889, ch. 209, § 9.

SEC. 6496. **Arrest without warrant.**— When a sheriff, constable, marshal, police officer, or any agent for any duly incorporated society for the prevention of cruelty to animals has reason to believe that any person within his jurisdiction is about to violate the provisions of section six hereof, he shall forthwith arrest such person, and take him before a court or magistrate named in section nine hereof; upon the proper affidavit being filed, such magistrate or court shall hear the witnesses produced, on oath, and if the complaint be found true, shall order the accused to enter into a recognizance, with sufficient sureties, to be approved by the magistrate or court before whom such person is brought, in a sum not less than one hundred dollars nor more than five hundred dollars, that he will not violate the provisions of said section six hereof within one year thereafter, within this state, and in default of

such recognizance the officer shall commit the accused to jail, there to remain until such order is complied with, or he is otherwise discharged by due course of law, or until he shall make and subscribe an oath, in the presence of two witnesses, that he will not violate the provisions of said section six (6) hereof, nor aid or abet in so doing within said year.

Upon conviction of said person for a subsequent violation of the provisions of said section within said year, he shall be fined not less than twenty-five dollars nor more than one hundred dollars or imprisoned not less than thirty days, nor more than ninety days, in the discretion of the court.

1889, ch. 209, § 10.

**SEC. 6497. Recognizance.**— Every such recognizance and every recognizance taken under section ten hereof, shall be, by such judge or magistrate, certified to the district court of the county, where the same shall be recorded, and the prosecuting attorney, when he has reason to believe that the condition of the same has been broken, shall immediately bring suit thereon, in any county, and collect the amount due thereon.

1889, ch. 209, § 11.

**SEC. 6498. Preventing cruelty.**— An officer, agent or member of any society for the prevention of cruelty to animals or children may interfere to prevent the perpetration of any act of cruelty in his presence, and may use such force as may be necessary to prevent the same, and to that end summon to his aid any bystanders.

Any person who shall interfere with or obstruct any such officer or agent in the discharge of his duty is punishable by imprisonment not exceeding three months or fine of not more than one hundred dollars. Any of said societies may, by its agent or attorney, prefer a complaint before any court, tribunal or magistrate having jurisdiction for the violation of any law relating to cruelty to animals or children, and may, by its agent or attorney, aid in presenting the law and facts before such court, tribunal, or magistrate in any proceedings taken.

1889, ch. 209, § 12.

**SEC. 6499. Protecting animal from neglect.**— Whenever it may be necessary, in order to protect any animal from neglect, any person may take possession of the same; and whenever an animal is impounded, yarded or confined, and continues without necessary food, water or proper attention for more than fifteen successive hours, any person may, from time to time, and as often as it may be necessary, enter into and upon any place in which such animal is so impounded, yarded or confined, and supply it with necessary food, water and attention so long as it remains there, or may, if necessary or convenient, remove such animal, and shall not be liable to any action for such entry; in all cases the owner, or custodian, of such animal, if known, shall be immediately notified of such action by the person taking possession of such animal; if the owner or custodian be unknown, and cannot be ascertained with reasonable effort, such animal shall be held to be an estray, and shall be dealt with as such; the necessary expense for food and attention given to any animal under the provisions of this section may be collected of the owner of the animal, and the animal shall not be exempt from levy and sale upon execution issued upon a judgment therefor.

1889, ch. 209, § 13.

**SEC. 6500. Contagious diseases.**— Whoever, being the owner, or having the charge of any animal, knowing the same to have any infectious or contagious disease, or to have been recently exposed thereto, sells or barter the same, or knowingly permits such animal to run at large, or knowing such animal to be diseased as aforesaid, knowingly permits the same to come into contact with any other animal, or another person, without his knowledge and

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permission, shall be fined not more than one hundred nor less than twenty dollars, or imprisoned not more than thirty days.

1889, ch. 209, § 14.

SEC. 6501. **Civil liability.**— A person guilty of cruelty to an animal, the property of another, shall be liable to the owner thereof in damages, in addition to the penalties prescribed by law.

1889, ch. 209, § 15.

SEC. 6502. **Jurisdiction.**— The several municipal and police courts and justices of the peace in this state shall have full concurrent jurisdiction with the district courts of all offenses under this act.

1889, ch. 209, § 16. Substantially § 13, ch. 34, acts 1871.

SEC. 6503. **Disposition of fines.**— All fines and forfeitures imposed or collected for violations of, or under the provisions of this act, shall be paid to the association or associations for the prevention of cruelty to animals or children organized in the county, city, town or village, where such violation occurred.

1889, ch. 209, § 17. Contained in § 12, ch. 34, acts 1871.

SEC. 6504. **Certain terms defined.**— The word "animal," as used in this title, does not include the human race, but includes every other living creature. The word "torture," or "cruelty," includes every act, omission or neglect whereby unnecessary or unjustifiable pain, suffering or death is caused or permitted.

The words "impure and unwholesome milk," includes all milk obtained from animals in a diseased or unhealthy condition, or fed on distillery waste, usually called "swill," or upon any substance in a state of putrefaction or fermentation.

1889, ch. 209, § 18. Same as § 501, P. C. Contained in § 8, ch. 34, acts 1871. Impure and unwholesome milk regulated in §§ 464-473, *ante*.

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## TITLE 17.

### OF MISCELLANEOUS CRIMES.

SEC. 6505. **Attorneys forbidden to defend certain prosecutions.**— An attorney who directly or indirectly advises in relation to, or aids or promotes the defense of any action or proceeding in any court, the prosecution of which is carried on, aided or promoted by a person as county attorney or other public prosecutor, with whom such attorney is directly or indirectly connected as a partner, or who, having himself prosecuted or in any manner aided or promoted any action or proceeding in any court, as county attorney or other public prosecutor, afterwards directly or indirectly advises in relation to, or takes any part in, the defense thereof, as attorney or otherwise, or who takes or receives any valuable consideration from or on behalf of any defendant in any such action, upon any understanding or agreement whatever, express or implied, having relation to the defense thereof, is guilty of a misdemeanor.

P. C. § 502. N. Y. Penal Code, § 670.

SEC. 6506. **Attorneys may defend themselves.**— The last section does not prohibit an attorney from defending himself in person, as attorney or as counsel, when prosecuted either civilly or criminally.

P. C. § 503. N. Y. Penal Code, § 671.

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PENAL CODE — GENERAL PROVISIONS.

[SECS. 6507-6513.]

**SEC. 6507. Fraudulently presenting bills or claims to public officers for payment.**— A person who, knowingly, with intent to defraud, presents, for audit, or allowance, or for payment, to any officer or board of officers of the state, or of any county, town, city, borough, school district, or village authorized to audit, or allow or to pay bills, claims or charges, any false or fraudulent claim, bill, account, writing or voucher, or any bill, account or demand, containing false, or fraudulent charges, items or claims, is guilty of a felony.

P. C. § 504. N. Y. Penal Code, § 672.

**SEC. 6508. Acts not expressly forbidden.**— A person who wilfully and wrongfully commits any act which seriously injures the person or property of another, or which seriously disturbs or endangers the public peace or health, or which openly outrages public decency, for which no other punishment is expressly prescribed by this code, is guilty of a misdemeanor; but nothing in this code contained shall be so construed as to prevent any person from demanding an increase of wages, or from assembling and using all lawful means to induce employers to pay such wages to all persons employed by them, as shall be a just and fair compensation for services rendered.

P. C. § 505. N. Y. Penal Code, § 675.

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## TITLE 18.

### GENERAL PROVISIONS.

**SEC. 6509. Crimes punishable in different ways.**— An act or omission which is made criminal and punishable in different ways by different provisions of law, may be punished under any one of those provisions, but not under more than one; and a conviction or acquittal under one bars a prosecution for the same act or omission under any other provision.

P. C. § 506. Same as § 677, N. Y. Penal Code.

**SEC. 6510. Punishable under foreign law.**— An act or omission declared punishable by this code is not less so because it is also punishable under the laws of another state, government, or country, unless the contrary is expressly declared in this code.

P. C. § 507. Same as § 678, N. Y. Penal Code.

**SEC. 6511. Foreign conviction or acquittal.**— Whenever it appears upon the trial of an indictment, that the offense was committed in another state or country, or under such circumstances that the courts of this state or government had jurisdiction thereof, and that the defendant has already been acquitted or convicted on the merits upon a criminal prosecution under the laws of such state or country, founded upon the act or omission in respect to which he is upon trial, such former acquittal or conviction is a sufficient defense.

P. C. § 508. Same as § 679, N. Y. Penal Code.

**SEC. 6512. Contempt.**— A criminal act is not the less punishable as a crime, because it is also declared to be punishable as a contempt of court.

P. C. § 509. Same as § 680, N. Y. Penal Code.

**SEC. 6513. Mitigation of punishment.**— Where it appears, at the time of passing sentence on a person convicted, that he has already paid a fine or suffered an imprisonment for the act of which he stands convicted, under an order adjudging it a contempt, the court, passing sentence, may mitigate the punishment to be imposed, in its discretion.

P. C. § 510. Same as § 681, N. Y. Penal Code.



**SEC. 6514. Punishment of accessory to misdemeanor.**— When an act or omission is declared by statute to be a misdemeanor, and no punishment for aiding or abetting in the doing thereof is expressly prescribed, every person who aids or abets another in such act or omission is also guilty of a misdemeanor.

P. C. § 511. Same as § 682, N. Y. Penal Code.

**SEC. 6515. Sending letter, when deemed complete.**— In the various cases in which the sending of a letter is made criminal by this code, the offense is deemed complete from the time when such letter is deposited in any postoffice or other place, or delivered to any person, with intent that it shall be forwarded. And the party may be indicted and tried in any county wherein such letter is so deposited or delivered, or in which it is received by the person to whom it is addressed.

P. C. § 512. Same as § 683, N. Y. Penal Code.

**SEC. 6516. Omission to perform duty.**— No person is punishable for an omission to perform an act, where such act has been performed by another person acting in his behalf, and competent by law to perform it.

P. C. § 513. Same as § 684, N. Y. Penal Code.

**SEC. 6517. Conviction for attempt when crime consummated.**— A person may be convicted of an attempt to commit a crime, although it appears on the trial that the crime was consummated.

P. C. § 514. N. Y. Penal Code, § 685.

**SEC. 6518. Attempts, how punishable.**— A person who unsuccessfully attempts to commit a crime is indictable and punishable, unless otherwise specially prescribed by statute, as follows:

1. If the crime attempted is punishable by the death of the offender, or by imprisonment for life, the person convicted of the attempt is punishable by imprisonment in the state prison for not more than ten years.

2. In any other case he is punishable by imprisonment in the state prison for not more than half of the longest term, or by a fine not more than one-half of the largest sum, prescribed upon a conviction for the commission of the offense attempted, or by both such fine and imprisonment.

P. C. § 515. Same as § 686, N. Y. Penal Code. This contains the substance of and supersedes § 7, ch. 91, G. S., not specifically repealed.

**SEC. 6519. Restrictions upon preceding sections.**— The last section does not protect a person who, in attempting unsuccessfully to commit a crime, accomplishes the commission of another and different crime, whether greater or less in guilt, from suffering the punishment prescribed by law for the crime committed.

P. C. § 516. Same as § 687, N. Y. Penal Code.

**SEC. 6520. Second offense, how punishable.**— A person, who, after having been convicted within this state, of a felony or an attempt to commit a felony, or of petit larceny, or, under the laws of any other state, government, or country, of a crime which, if committed within this state, would be a felony, commits any crime within this state, is punishable upon conviction of such second offense, as follows:

1. If the subsequent crime is such that, upon a first conviction, the offender might be punished, in the discretion of the court, by imprisonment for life, he must be sentenced to imprisonment in the state prison for life;

2. If the subsequent crime is such that, upon a first conviction, the offender would be punishable by imprisonment for any term less than his natural life, then such person must be sentenced to imprisonment for a term not less than the longest term, nor more than twice the longest term prescribed upon a first conviction.

P. C. § 517. Same as § 688, N. Y. Penal Code. Sec. 13, ch. 91, G. S., not specifically repealed by Penal Code, applies to any offense.

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[SECS. 6521-6528.]

SEC. 6521. **Women concealing birth of issue — Second offense.**— A woman, who, having been convicted of endeavoring to conceal the still birth of any issue of her body, which, if born alive, would be a bastard, or the death of any such issue under the age of two years, subsequently to such conviction, endeavors to conceal any such birth or death, is punishable by imprisonment in the state prison not exceeding five years.

P. C. § 518, as amended 1889, ch. 208, § 4, by striking out "and not less than two years" at the end of the section. With this exception same as § 693, N. Y. Penal Code.

SEC. 6522. **Imprisonment on two or more convictions.**— Where a person is convicted of two or more offenses, before sentence has been pronounced upon him for either offense, the imprisonment to which he is sentenced upon the second or other subsequent conviction, must commence at the termination of the first or other prior term or terms of imprisonment to which, he is sentenced.

P. C. § 519. Same as § 694, N. Y. Penal Code.

SEC. 6523. **Conviction after sentence.**— Where a person, under sentence for a felony, afterward commits any other felony, and is thereof convicted and sentenced to another term of imprisonment, the latter term shall not begin until the expiration of all the terms of imprisonment to which he is already sentenced.

P. C. § 520. Same as § 695, N. Y. Penal Code.

SEC. 6524. **Convict, when sentenced for life.**— When a crime is declared by statute to be punishable by imprisonment for not less than a specified number of years, and no limit of the duration of the imprisonment is declared, the court authorized to pronounce judgment upon conviction may, in its discretion, sentence the offender to imprisonment during his natural life, or for any number of years not less than the number prescribed.

P. C. § 521. Same as § 696, N. Y. Penal Code.

SEC. 6525. **Sentence, how limited.**— Where a convict is sentenced to be imprisoned in the state prison for a longer period than one year, it is the duty of the court before which the conviction is had to limit the term of the sentence so that it will expire between the month of March and the month of November, unless the exact period of the sentence is fixed by law.

P. C. § 522. Same as § 697, N. Y. Penal Code.

SEC. 6526. **In workhouse.**— Where a person is convicted of a crime for which the punishment inflicted is or may be imprisonment in a county jail, he may be sentenced to, and the imprisonment may be inflicted by confinement in a workhouse, if there be one in the county in which the offense is tried or committed.

P. C. § 523.

SEC. 6527. **Place to be specified in sentence and judgment — Removal.**— The place of the imprisonment must be specified in the judgment and sentence of the court. But convicts may be removed from one place of confinement to another, in a case, and by the authority designated by statute.

P. C. § 524. Same as § 705, N. Y. Penal Code.

SEC. 6528. **Limit of fine.**— Where, in this code, or in any other statute making any crime punishable by a fine, the amount of the fine is not specified, a fine of not more than five hundred dollars may be imposed, and in all cases where the defendant is sentenced and adjudged to pay a fine, the court may in its discretion, as part of the judgment, order that defendant shall be committed to the common jail of the county until such fine is paid, not exceeding a reasonable time, to be graduated according to the amount of such fine.

P. C. § 525. N. Y. Penal Code, § 706.

**SEC. 6529. Consequence of sentence to imprisonment for life.**— A person sentenced to imprisonment for life is thereafter deemed civilly dead.  
P. C. § 526. Same as § 708, N. Y. Penal Code.

**SEC. 6530. Convict protected by law.**— A convict sentenced to imprisonment is under the protection of the law, and any injury to his person, not authorized by law, is punishable in the same manner as if he were not sentenced or convicted.  
P. C. § 527. Same as § 709, N. Y. Penal Code.

**SEC. 6531. Certain forfeitures abolished — Deodands.**— A conviction of a person for any crime does not work a forfeiture of any property, real or personal, or of any right or interest therein. All forfeitures to the people of the state, in the nature of deodands, or in a case of suicide, or where a person flees from justice, are abolished.  
P. C. § 528. Same as § 710, N. Y. Penal Code.

**SEC. 6532. Witnesses' testimony on charge of perjury.**— The sections of this code which declare that evidence obtained upon the examination of a person as a witness shall not be received against him in a criminal proceeding, do not forbid such evidence being proved against such person upon any charge of perjury committed in such examination.  
P. C. § 529. Same as § 712, N. Y. Penal Code.

**SEC. 6533. Sentence of minor under sixteen.**— When a person under the age of sixteen is convicted of a crime, he shall, instead of being sentenced to fine or imprisonment, be placed in charge of the board of managers of the state reform school, and be thereafter, until majority or for a shorter term, to be fixed by the court, subjected to the discipline and control of the said board of managers.  
P. C. § 530. N. Y. Penal Code, § 713.

**SEC. 6534. Convict as witness.**— A person heretofore or hereafter convicted of any crime is, notwithstanding, a competent witness, in any case or proceeding, civil or criminal, but the conviction may be proved for the purpose of affecting the weight of his testimony, either by the record or by his cross-examination, upon which he must answer any proper question relevant to that inquiry; and the party cross-examining is not concluded by the answer to such question.  
P. C. § 531. Same as § 714, N. Y. Penal Code.

**SEC. 6535. Construction of terms.**— In construing this code, or an indictment or other pleading in a case provided for by this code, the following rules must be observed, except when a contrary intent is plainly declared in the provision to be construed, or plainly apparent from the context thereof:

1. Each of the terms "neglect," "negligence," "negligent," and "negligently," imports a want of such attention to the nature or probable consequences of the act or admission, as a prudent man ordinarily bestows in acting in his own concerns;
2. Each of the terms "corrupt" and "corruptly" imports a wrongful desire to acquire, or cause some pecuniary or other advantage to, or by the person guilty of the act or admission referred to, or some other person;
3. Each of the terms "malice" and "maliciously" imports an evil intent, or wish, or design to vex, annoy or injure another person, or to maltreat or injure an animal;
4. The term "knowingly" imports a knowledge that the facts exist which constitute the act or omission a crime, and does not require knowledge of the unlawfulness of the act or omission;
5. Where an intent to defraud constitutes a part of a crime, it is not necessary to aver or prove an intent to defraud any particular person;
6. The term "vessel" includes ships, steamers, and every boat or structure

adapted to navigation, or movement from place to place by water, either upon the lakes, rivers or artificial water-ways;

7. The term "signature" includes any memorandum, mark, or sign, written with intent to authenticate any instrument or writing, or the subscription of any person thereto;

8. The term "writing" includes both printing and writing;

9. The term "property" includes both real and personal property, things in action, money, bank bills, and all articles of value;

10. The singular number includes the plural, and the plural the singular;

11. A word used in the masculine gender comprehends as well the feminine and neuter;

12. A word used in the present tense includes the future;

13. The term "person" includes a corporation or joint association as well as a natural person. When it is used to designate a party whose property may be the subject of any offense, it also includes the state, or any other state, government, or country which may lawfully own property within the state;

14. The term "real property" includes every estate, interest, and right in lands, tenements, hereditaments;

15. The term "personal property" includes every description of money, goods, chattels, effects, evidences of rights in action, and all written instruments by which any pecuniary obligation, right or title to property, real or personal, is created, acknowledged, transferred, increased, defeated, discharged, or diminished, and every right and interest therein.

P. C. § 532. N. Y. Penal Code, § 718.

SEC. 6536. **Dogs are 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, ch. 177: "An act declaring dogs to be personal property." Approved March 2d.

SEC. 6537. **Application of this code to prior offenses.**— Nothing contained in any provision of this code applies to an offense committed, or other act done, at any time before the day when this code takes effect. Such an offense must be punished according to, and such act must be governed by the provisions of law existing when it is done or committed, in the same manner as if this code had not been passed; and as to such offenses, the statutes by this code repealed are to be deemed to be in full force and effect, except that whenever the punishment or penalty for an offense is mitigated by any provision of this code, such provision may be applied to any sentence or judgment imposed for the offense after this code takes effect. An offense specified in this code, committed after the beginning of the day when this code takes effect, must be punished according to the provisions of this code and not otherwise.

P. C. § 533. Same as § 719, N. Y. Penal Code.

SEC. 6538. **Existing civil rights preserved.**— The provisions of this code are not to be deemed to affect any civil rights or remedies existing at the time when this code takes effect, by virtue of the common law or of any provision of statute.

P. C. § 534. Same as § 720, N. Y. Penal Code.

SEC. 6539. **Intent to defraud.**— Whenever, by any of the provisions of this code, an intent to defraud is required in order to constitute an offense, it is sufficient if an intent appears to defraud any person, association, or body politic or corporate whatever.

P. C. § 535. Same as § 721, N. Y. Penal Code.

SEC. 6540. **Jurisdiction of offense committed on railroad trains.**— The route traversed by every railway car, coach, train, or public conveyance,

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and the lake or stream traversed by any boat, shall be deemed, and are hereby declared to be, criminal districts, and jurisdiction of all public offenses which shall be committed on any such railroad car, coach, train, boat, or other public conveyance, or at any station or depot upon such route, shall be in any county through which said car, coach, train, boat, or other public conveyance may pass during the trip or voyage, or in which the trip or voyage may begin or terminate.

P. C. § 536. This is acts 1885, ch. 189.

SEC. 6541. **Civil remedies preserved.**—The omission to specify, or affirm, in this code any liability to any damages, penalty, forfeiture, or other remedy imposed by law, and allowed to be recovered or enforced in any civil action or proceeding, for any act or omission declared punishable herein, does not affect any right to recover or enforce the same.

P. C. § 537. Same as § 722, N. Y. Penal Code.

SEC. 6542. **Proceedings to impeach, etc., preserved.**—The omission to specify, or affirm, in this code any ground or forfeiture of a public office or other trust or special authority conferred by law, or any power conferred by law, to impeach, remove, depose, or suspend any public officer or other person holding any trust, appointment, or other special authority conferred by law, does not affect such forfeiture or power, or any proceeding authorized by law to carry into effect such impeachment, removal, deposition, or suspension.

P. C. § 538. Same as § 723, N. Y. Penal Code.

SEC. 6543. **Military punishments, etc., preserved.**—This code does not affect any power conferred by law upon any court martial or other military authority, or officer, to impose or inflict punishment upon offenders; nor any power conferred by law upon any public body, tribunal, or officers, to impose or inflict punishment for a contempt; nor any provisions of the laws relating to apprentices, bastards, disorderly persons, Indians, and vagrants, except so far as any provisions therein are inconsistent with this code.

P. C. § 539. Same as § 724, N. Y. Penal Code.

SEC. 6544. **Certain statutes continued in force.**—Nothing in this code affects any of the provisions of the following statutes; but such statutes are recognized as continuing in force notwithstanding the provisions of this code, except so far as they have been repealed or affected by subsequent laws:

1. All statutes regulating the sale or disposition of intoxicating or spirituous liquors.

2. All statutes defining and providing for the punishment of offenses not defined and made punishable by this code.

P. C. § 540. N. Y. Penal Code, § 725. For acts 1889, ch. 13, to punish drunkenness, see *ante*, § 1874.

SEC. 6545. **Acts repealed.**—Chapters 93, 94, 95, 96, 97, 98, 99, 100, and 101 of the general statutes of 1878, and all acts and parts of acts which are inconsistent with the provisions of this act are repealed, so far as they define any crime or impose any punishment for crime, except as herein provided.

P. C. § 541. N. Y. Penal Code, § 726.

SEC. 6546. **When act to take effect.**—This act shall take effect on the first day of January, 1886. When construed in connection with other statutes, it must be deemed to have been enacted on the sixth day of January, 1885, so that any statute enacted after that day is to have the same effect as if it had been enacted after this code. Approved March 9, A. D. 1885.

P. C. § 542. N. Y. Penal Code, § 727.