CHAPTER 621

OFFENSES AGAINST PROPERTY BY FORCE

621.01 DEFINITIONS.

HISTORY. Penal Code ss. 279 to 281, 287 to 291, 470; G.S. 1894 ss. 6673 to 6675, 6680 to 6685, 6766; R.L. 1905 s. 5035; G.S. 1913 s. 8820; G.S. 1923 s. 10308; M.S. 1927 s. 10308.

ARSON

621.02 ARSON; FIRST DEGREE.

HISTORY. Penal Code ss. 374, 377; G.S. 1894 ss. 6668, 6671; R.L. 1905 s. 5036; G.S. 1913 s. 8821; G.S. 1923 s. 10309; M.S. 1927 s. 10309.

The corpus delicti in arson requires proof not alone of the fact that the building burned, but also that the fire originated through criminal agency. State v McLarne, 128 M 164, 150 NW 787; State v McTague, 190 M 449, 252 NW 446.

By referring in his testimony to other fires about which he had been questioned by officers, defendant gave the state the privilege of cross-examining him on the subject and the privilege was not abused to defendant's prejudice. State v Ahlfs, 164 M 111, 204 NW 564; State v Tsiolis, 202 M 117, 277 NW 409.

Defendant, indicted for arson, asked the court to require the state to elect whether it will attempt to prove defendant personally set the fire or caused another to set it. The court's refusal to require an election was not error. The testimony of the accomplice that he was employed by defendant to set the fire has sufficient corroboration to justify the verdict. State v Demopoulos, 169 M 205, 210 NW 883.

The jury who are judges of the weight of the evidence, had before them sufficient facts to warrant the conclusion of guilt of attempt to commit arson. State v Hentschel, 173 M 368, 217 NW 378.

Defendant was found guilty of adjusting the carburetor of his car so that a leakage of oil would result and, when driven fast, the car would burn. Turnquist, who was employed to drive the car, so testified and his testimony was corroborated. State v Golden, 173 M 420, 217 NW 489.

The corroborating evidence must, independently of the testimony of the accomplice, tend in some degree to establish the guilt of the accused, but need not be sufficently weighty or full as standing alone to justify a conviction. State v Tsiolis, 202 M 126, 277 NW 409.

One who has procured, counseled, or commanded another to commit a crime may withdraw before the act is done and avoid criminal responsibility by communicating the fact of his withdrawal to the party who is to commit the crime. State v Peterson, 213 M 59, 4 NW(2d) 826.

621.03 ARSON; SECOND DEGREE.

HISTORY. Penal Code ss. 375, 377; G.S. 1894 ss. 6669, 6671; R.L. 1905 s. 5037; G.S. 1913 s. 8822; G.S. 1923 s. 10310; M.S. 1927 s. 10310.

Where by the felonious burning of a barn a dwelling house is "endangered," the communicating of the fire from the barn to the dwelling house does not raise the crime to the grade of arson in the first degree, unless, where the dwelling house took fire, there was a human being therein. State v Grimes, 50 M 123, 52 NW 275.

Circumstantial evidence alone may sufficiently establish the corpus delicti and the guilt of the accused in an arson conviction; but a careful study of the record impressed every member of the appellate court with grave doubts as to

the guilt of the appellant, and a new trial is ordered. State v Jacobson, 130 M 347, 153 NW 845; State v McCauley, 132 M 225, 156 NW 280.

The evidence sustains a finding that defendant is guilty of arson in the second degree. State v Burnstein, 158 M 122, 196 NW 936; State v Goldman, 166 M 292, 207 NW 627; State v Tuomi, 167 M 74, 208 NW 528.

The court submitted first degree arson and second degree arson. The jury found defendant guilty in the second degree. No objection was made as to the submission of the second degree nor request proffered that the jury be confined to first degree. The defendant cannot now claim that only the first degree should have been submitted. State v Tuomi, 167 M 74, 208 NW 528.

The common law rule by which a husband cannot be guilty of arson for the burning of a dwelling house owned by his wife where it is their joint abode does not obtain in Minnesota. State v Zemple, 196 M 159, 264 NW 587.

A conspiracy to commit arson is a misdemeanor. Arson is a felony. A conspiracy to commit a crime is a separate offense from the crime which is the object of the conspiracy. One who has procured, counseled, or commanded another to commit a crime may withdraw before the act is done and avoid criminal responsibility by communicating the fact of his withdrawal to the party who is to commit the crime. State v Peterson, 213 M 59, 4 NW(2d) 826.

621.04 ARSON; THIRD DEGREE.

HISTORY. Penal Code ss. 376, 377; G.S. 1894 ss. 6670, 6671; R.L. 1905 s. 5038; G.S. 1913 s. 8823; G.S. 1923 s. 10311; M.S. 1927 s. 10311; 1935 c. 144.

The court incorrectly gave to the jury the maxim of "falsus in uno, falsus in omnibus," but as no objection was raised at the time, the error is not ground for a new trial. The evidence supports the verdict of arson in the third degree. State v Henriksen, 116 M 366, 133 NW 850.

Indictment for arson in third degree is not bad because it fails to state that burning was "under circumstances not amounting" to arson in the first or second degree, nor because acts charged might constitute crime under section 621.41. State v Roth, 117 M 404, 136 NW 12.

Where the offense is defined by statute and this definition is given to the jury, if defendant desires a more specific statement as to the elements necessary to constitute such offense, he should make a request therefor. State v O'Hagan, 124 M 58, 144 NW 410.

Although circumstantial, the proof of defendant's guilt of arson is sufficient to sustain conviction. State v Witt, 161 M 96, 200 NW 933; State v Fredeen, 167 M 234, 208 NW 653; State v Korsch, 168 M 354, 210 NW 10; State v Pothakos, 170 M 400, 212 NW 598; State v Lynch, 192 M 534, 257 NW 278.

Defendant was not entitled to an instruction permitting a conviction for malicious mischief. An objection of incompetent, irrelevant and immaterial to introduction of sworn statement of defendant to state fire marshal, does not present a question whether or not the statement was an involuntary one which defendant was required to give against himself. State v Rosensweig, 168 M 464, 210 NW 403.

One who has procured, counseled, or commanded another to commit a crime may withdraw before the act is done and avoid criminal responsibility by communicating the fact of his withdrawal to the part ywho is to commit the crime. State v Peterson, 213 M 59, 4 NW(2d) 826.

621.05 CONSTRUCTION; CONTIGUOUS BUILDINGS.

HISTORY. Penal Code s. 378; G.S. 1894 s. 6672; R.L. 1905 s. 5039; G.S. 1913 s. 8824; G.S. 1923 s. 10312; M.S. 1927 s. 10312.

The Tuomi building was not inhabited; but the adjoining hotel building was. There was a question whether this case came under section 621.03 or 621.05. The construction of the two sections of the statute is not free of difficulty, but defendant and his counsel were willing that both degrees be submitted. State v Tuomi, 167 M 79, 208 NW 528.

621.06 OWNERSHIP OF BUILDING.

HISTORY. Penal Code s. 382; G.S. 1894 s. 6676; R.L. 1905 s. 5040; G.S. 1913 s. 8825; G.S. 1923 s. 10313; M.S. 1927 s. 10313.

The common law rule by which a husband cannot be guilty of arson for the burning of a dwelling house owned by his wife where it is their joint abode does not obtain in this state. Defendant was properly convicted. State v Zemple, 196 M 159, 264 NW 587.

BURGLARY

621.07 BURGLARY; FIRST DEGREE.

HISTORY. Penal Code ss. 383, 394; G.S. 1894 ss. 6677, 6688; R.L. 1905 s. 5041; G.S. 1913 s. 8826; G.S. 1923 s. 10314; M.S. 1927 s. 10314.

1. Indictment
2. Intent
3. Sufficiency of the evidence

1. Indictment

The indictment must describe with reasonable certainty the dwelling house or buildings entered. State v Ullman, 5 M 13 (3).

The indictment accused the defendants of the crime of burglary, committed as follows; and then stated facts constituting the crime of larceny. This was held good as an indictment for larceny. State v Coon, 18 M 518 (464).

Warehouse of Halvorson-Richards Company sufficiently describes the building. It is unnecessary to allege the corporate ownership. State v Golden, 86 M 206, 90 NW 398.

2. Intent

The criminal intent with which the entrance is made may be inferred from the facts of the larceny committed. State v Johnson, 33 M 34, 21 NW 843.

The evidence was wholly insufficient to show intent. State v Riggs, 74 M 460, 77 NW 302.

The felonious intent with which entrance into the room was effected may be inferred from the fact that the defendant attempted larceny therein. State v Ward, 116 M 516, 134 NW 115.

3. Sufficiency of the evidence

Evidence held sufficient to warrant conviction. Maroney v State, 8 M 218 (188); State v Johnson, 33 M 34, 21 NW 843.

Evidence held insufficient. State v Riggs, 74 M 460, 77 NW 302; State v Zoff, 196 M 382, 265 NW 34.

621.08 BREAKING AND ENTERING.

HISTORY. 1905 c. 210 s. 1; G.S. 1913 s. 8827; G.S. 1923 s. 10315; M.S. 1927 s. 10315.

621.09 BURGLARY; SECOND DEGREE.

HISTORY. Penal Code ss. 384, 394; G.S. 1894 ss. 6678, 6688; R.L. 1905 s. 5042; 1907 c. 227 s. 1; G.S. 1913 s. 8828; G.S. 1923 s. 10316; M.S. 1927 s. 10316.

621.10 BURGLARY; THIRD DEGREE.

HISTORY. Penal Code ss. 385, 394; G.S. 1894 ss. 6679, 6688; R.L. 1905 s. 5043; 1911 c. 15 s. 1; G.S. 1913 s. 8829; G.S. 1923 s. 10317; M.S. 1927 s. 10317.

Defendant, who broke into and entered a room in a hotel, was properly convicted of burglary in the third degree. State v Ward, 116 M 516, 134 NW 115.

621.11 UNLAWFULLY ENTERING BUILDING.

HISTORY. Penal Code s. 392; G.S. 1894 s. 6686; R.L. 1905 s. 5044; G.S. 1913 s. 8830; G.S. 1923 s. 10318; M.S. 1927 s. 10318.

When two girls entered the store one of the proprietors said to them: "You get out of here. You came in here to see what you could find to steal." The words are actionable per se. A case was made which should have been submitted to the jury. Lowry v Evans, 87 M 396, 92 NW 224.

Defendants withdrew their plea of not guilty of riot and plead guilty to unlawful entry of a building under the theory that the one crime "is an element, or is embodied in the statute under which the indictment is pending." State v Hemenway, 194 M 124, 259 NW 687.

621.12 BURGLARY AND OTHER CRIME PUNISHED SEPARATELY.

HISTORY. Penal Code s. 393; G.S. 1894 s. 6687; R.L. 1905 s. 5045; G.S. 1913 s. 8831; G.S. 1923 s. 10319; M.S. 1927 s. 10319.

A person who, having entered any building under such circumstances as to constitute burglary in any degree, commits the crime of larceny therein, is punishable therefor as well as for the burglary, and may be prosecuted for each crime separately State v Hackett, 47 M 425, 50 NW 472.

621.13 MAKING OR HAVING BURGLARS' TOOLS; EVIDENCE.

HISTORY. Penal Code s. 395; G.S. 1894 s. 6689; R.L. 1905 s. 5046; 1909 c. 157 s. 1; G.S. 1913 s. 8832; G.S. 1923 s. 10320; M.S. 1927 s. 10320.

EXTORTION, BLACKMAIL, OPPRESSION

621.14 EXTORTION.

HISTORY. Penal Code ss. 437 to 440; 1891 c. 92 s. 1; G.S. 1894 ss. 6732 to 6736; R.L. 1905 s. 5096; G.S. 1913 s. 8889; G.S. 1923 s. 10377; M.S. 1927 s. 10377.

The gist of the offense is the attempt by threats to extort money, property, or some pecuniary advantage, from another, by compelling him to do some act against his will; so, where the indictment charged that the threats were made to compel a party to sign a conveyance of property against his will, without alleging that such parties had any interest in the property, the indictment was insufficient. State v Ullman, 5 M 13 (1).

The crime of extortion defined. State v Coleman, 99 M 487, 110 NW 5; State v Lampe, 131 M 65, 154 NW 737.

Demand for money under threat to disclose that the persons from whom the money was demanded were conducting a gambling house. State v Duffy, 179 M 440, 229 NW 558.

Conspiracy to compel a bribe from one selling a truck to the city. State v Sweeney, 180 M 456, 231 NW 225.

Threats of criminal prosecution and exposure to disgrace made in one county which frightened the threatened person into the payment of money in another county sustain a conviction of extortion in the latter county. State v McKenzie, 182 M 513, 235 NW 274.

A mere announcement by a labor union, even if in the form of an advertisement, that its members do not patronize a certain business house is not in itself extortion. OAG July 6, 1936 (641).

Extortion; threat to discharge employee. 19 MLR 341.

621.15 EXTORTION BY PUBLIC OFFICER.

HISTORY. Penal Code s. 442; G.S. 1894 s. 6738; R.L. 1905 s. 5099; G.S. 1913 s. 8892; G.S. 1923 s. 10380; M.S. 1927 s. 10380.

Where an indictment for extortion charges that a defendant took certain illegal fees, "by color of office" it is not sufficient, if it does not show by color of what office he took such fees; and such indictment must also show in what county the offense was committed. State v Brown, 12 M 490 (393).

Indictment charging a justice of the peace held insufficient. State v Coon, 14 M 456 (340).

"It may be noted, however, that it may be that defendant and his fellow-alderman in dealing with gambling houses were guilty of extortion." State v Sweeney, 180 M 456, 231 NW 225.

621.16 INTERFERING WITH EMPLOYEE OR MEMBERSHIP IN UNION.

HISTORY. 1895 cc. 172, 174; R.L. 1905 s. 5097; G.S. 1913 s. 8890; 1921 c. 389 s. 1; G.S. 1923 s. 10378; M.S. 1927 s. 10378.

Laws 1895, Chapter 174 (excluding section 3) (section 621.16), is not in conflict with Minnesota Constitution nor with the Fourteenth Amendment of the Federal Constitution. State ex rel v Justus, 85 M 279, 88 NW 759.

This section declaring it unlawful for two or more employers to combine or confer together for purpose of preventing any person from procuring employment, is not unconstitutional. If one employer by conference with another prevents, without excuse or justification, a third person from procuring employment with such other employer, he is liable for damages to the person interfered with. A malicious motive of purpose is essential, but not malice, but such as the law implies from fact that act complained of was unlawful and without justification. Joyce v Gt. Northern, 100 M 225, 110 NW 975.

Under the decision of the supreme court of the United States in Adair v United States, 208 M 161, which this court must follow and apply, a criminal complaint based upon Revised Laws 1905, Section 5097, (section 621.16) which merely alleges that the employer required the employee to enter into a verbal agreement not to remain a member of a labor organization as a condition of retaining his employment, does not state a criminal offense. State v Daniels, 118 M 155, 136 NW 584.

Mere entry of the words "Relieved, account unable to properly handle work assigned or men" or defendant's own books as the cause of plaintiff's discharge was not blacklisting within the meaning of Minnesota Statutes 1941, Section 621.16. Cleary v Gt. Northern, 147 M 403, 180 NW 545.

The rights of labor organizations are defined by Laws 1917, Chapter 493, which enacts in the form of a statute principles theretofore announced by the courts. The rights of employees have also been defined (section 621.16). There should be no misunderstanding about the restrictions which the law has imposed on both parties to a labor dispute. Campbell v Motion Pic. Union, 151 M 233, 186 NW 220.

At common law a person who is prevented from obtaining employment by wrongful interference of another may recover damages from the intermeddler. Carnes v St. P. Stockyards, 164 M 457, 200 NW 630, 206 NW 396.

Under section 8 (3) of the national labor relations act, an employer who refuses to hire an applicant for employment solely because of applicant's affiliation with a union is guilty of an unfair labor practice. Phelps Dodge v Nat'l Labor Relations Bd. 313 US 184.

Industrial disputes. 6 MLR 536.

Interference with employment as actionable. 10 MLR 449.

Interference with contract. 12 MLR 171.

Extortion; threat to discharge employee. 19 MLR 341.

Labor injunction in Minnesota. 24 MLR 759.

621.17 OPPRESSION UNDER COLOR OF OFFICE.

HISTORY. Penal Code s. 441; G.S. 1894 s. 6737; R.L. 1905 s. 5098; G.S. 1913 s. 8891; G.S. 1923 s. 10379; M.S. 1927 s. 10379.

From the evidence as a whole, the jury could properly find that plaintiff had been unlawfully arrested and caused to be imprisoned by Webb, a special agent of the defendant. McDermott v M. St. P. & S. 176 M 203, 223 NW 94.

621.18 BLACKMAIL.

HISTORY. Penal Code s. 443; G.S. 1894 s. 6739; R.L. 1905 s. 5100; G.S. 1913 s. 8893; G.S. 1923 s. 10381; M.S. 1927 s. 10381.

Where the intent with which any act is done, is an essential ingredient of an offense, the indictment must allege such intent. So where the indictment charged that threats were made "to compel" the party to do an act, instead of charging that they were made "with intent to compel" him to do the acts, it was held insufficient. State v Ullman, 5 M 13 (1).

Labor unions may advertise that its members do not patronize certain businesses. OAG July 6, 1936 (641).

621.19 WRITTEN AND VERBAL THREATS.

HISTORY. Penal Code ss. 444 to 446; G.S. 1894 ss. 6740 to 6742; R.L. 1905 s. 5101; G.S. 1913 s. 8894; G.S. 1923 s. 10382; M.S. 1927 s. 10382.

Evidence does not justify the verdict of guilty in that the evidence fails to show an overt act essential to the conviction of an attempt to commit the crime of extortion. State v Lampe, 131 M 65, 154 NW 737.

INJURIES TO PROPERTY

621.20 REMOVING PROPERTY FROM MORTGAGED LAND.

HISTORY. 1869 c. 64 s. 1; 1878 c. 95 s. 77; G.S. 1894 s. 6880; R.L. 1905 s. 5108; G.S. 1913 s. 8906; G.S. 1923 s. 10394; M.S. 1927 s. 10394.

Sand and gravel are not a fixture. OAG July 21, 1936 (301a).

621.21 SELLING OR CONCEALING MORTGAGED CHATTELS.

HISTORY. Penal Code ss. 453 to 455; G.S. 1894 ss. 6749 to 6751; R.L. 1905 ss. 5109, 5110; G.S. 1913 ss. 8907, 8908; 1917 c. 90 s. 1; G.S. 1923 ss. 10395, 10396; M.S. 1927 ss. 10395, 10396; 1931 c. 343 s. 1.

The intent to defraud mentioned in General Statutes 1878, Chapter 39, Section 14 (prior to the adoption of the Penal Code, Sections 453 to 455) (section 621.21) is an intent to defraud the mortgagee named therein. Such intent is an essential ingredient of the offense defined by that section, so that an indictment under it, alleging no intent to defraud some other person than the mortgagee, is defective. State v Ruhnke, 27 M 309, 7 NW 264.

While the practice of attaching an instrument as an exhibit, instead of incorporating it into the body of the indictment, is loose and objectionable practice, yet upon demurrer the exhibit is part of the indictment. State v Williams, 32 M 537, 21 NW 576.

In an action for false imprisonment, it is enough if the warrant of commitment designates the offense, and shows that, upon examination before the committing magistrate, it had appeared that such offense had been committed, and there was probable cause to believe the accused to be guilty. Such process is a justification to the officer who executes it. Collins v Brackett, 34 M 339, 25 NW 708.

An indictment for selling mortgaged personal property without the consent of the mortgagee, which fails to show that an unpaid debt secured by the mortgage existed at the time of the sale, is fatally defective. State v Isaacson, 155 M 379, 193 NW 694.

Under an indictment charging the mortgagor with selling the personal property mortgaged without the written consent of the mortgagee and without informing the purchaser of the existence of the mortgage, intent is not an ingredient of the offense. State v Bates, 156 M 105, 194 NW 107.

The purpose of Minnesota Constitution, Article 4, Section 27, is to prevent deception as to the nature of the act by the title given it, and to prevent including wholly unrelated matters in a single act for the purpose of securing sufficient support to pass it. Laws 1917, Chapter 90, does not violate the provision. State v Helmer, 169 M 221, 211 NW 3.

Penalty prescribed by section 621.21. Hartkopf v First St. Bank, 191 M 601, 256 NW 169.

The "presumption of innocence" as applied to defendant charged with disposing of mortgaged property in violation of this section, does not conflict with the presumptions used to decide the law to be adopted in judging whether the mortgage involved is void because the note secured thereby is usurious. State v Rivers, 206 M 86, 287 NW 790.

A person accused of crime under this statute is not guilty unless the "intent to place mortgaged personal property beyond the reach of the mortgagee or his assigns" is present. Whether such intent is present is for the jury. 1942 OAG 30, Sept. 11, 1942 (133b-59).

Effect of Laws 1931, Chapter 343. 16 MLR 89.

621.22 SELLING OR PLEDGING BORROWED PROPERTY.

HISTORY. Penal Code ss. 456, 457; G.S. 1894 ss. 6752, 6753; R.L. 1905 s. 5111; G.S. 1913 s. 8909; G.S. 1923 s. 10397; M.S. 1927 s. 10397.

621.23 WILFUL DESTRUCTION OF VESSEL.

HISTORY. Penal Code ss. 458, 459; G.S. 1894 ss. 6754, 6755; R.L. 1905 s. 5112; G.S. 1913 s. 8910; G.S. 1923 s. 10398; M.S. 1927 s. 10398.

621.24 FRAUDULENT DESTRUCTION OF INSURED PROPERTY.

HISTORY. Penal Code s. 461; G.S. 1894 s. 6757; R.L. 1905 s. 5114; G.S. 1913 s. 8912; G.S. 1923 s. 10400; M.S. 1927 s. 10400.

621.25 INJURY OF PROPERTY.

HISTORY. Penal Code s. 481; 1893 c. 94 s. 1; G.S. 1894 s. 6781; R.L. 1905 s. 5133; 1909 c. 145 s. 1; G.S. 1913 s. 8934; G.S. 1923 s. 10422; M.S. 1927 s. 10422.

In an action for malicious prosecution, there was no proper showing of probable cause for the arrest of the plaintiff, no showing of malice. As in section 621.25, the word "wilfully" is used. To be criminal, the act must embody maliciousness. Price v Denison, 95 M 106, 103 NW 728.

The indictment being in the language of the statute, it is sufficient. The words "wilfully and unlawfully" embody the idea of maliciousness. State v Ward, 127 M 510, 150 NW 209.

621.26 INJURY TO OTHER PROPERTY.

HISTORY. Penal Code s. 491; 1891 c. 93 s. 1; G.S. 1894 s. 6791; R.L. 1905 s. 5141; G.S. 1913 s. 8944; G.S. 1923 s. 10432; M.S. 1927 s. 10432.

In case the jury found that defendant acted wantonly or maliciously, plaintiff, under Penal Code, Section 491, was entitled to receive treble damages for destruction of the house. Carlson v Dow, 47 M 335, 50 NW 232.

This section is violated when one casts thistle seeds on the land of another. OAG Aug. 26, 1935 (605a-18).

Where a fish screen was erected on a dam by a sportsmen's club under official authority, destruction or injury to the screen would be punishable under this section. OAG June 1, 1938 (494a).

621.27 INJURY TO BUILDINGS.

HISTORY. Ex. 1881 c. 74 s. 1; G.S. 1878 Vol. 2. (1888 Supp.) c. 95 s. 91a; G.S. 1894 s. 6894; R.L. 1905 s. 5149; G.S. 1913 s. 8952; G.S. 1923 s. 10440; M.S. 1927 s. 10440.

621.28 INJURING HIGHWAYS AND VARIOUS.

HISTORY. Penal Code s. 480; G.S. 1894 s. 6780; R.L. 1905 s. 5130; G.S. 1913 s. 8931; G.S. 1923 s. 10419; M.S. 1927 s. 10419.

A person seeking damages because of the obstruction or destruction of a public road, whether upon the theory of a nuisance or otherwise, must plead facts showing a special injury to plaintiff or his property different in kind from that suffered by the general public. Erspamer v Oliver Iron Co. 179 M 475, 229 NW 583.

In an action by the state to enjoin the removal by defendants of rock from an embankment along a state highway, the fact that a defendant's conduct is criminal is no bar to relief by injunction. State v Nelson, 189 M 89, 248 NW 751.

If the officers of a township deliberately allow brush and rock to be piled along the road, causing snow to drift so as to constitute a nuisance, it might under certain circumstances be a misdemeanor on the part of the officers; and at any rate the continuance of the nuisance might be enjoined. 1934 OAG 484, Jan. 24, 1934 (377a-5).

621.29 INJURIES TO RAILWAYS.

HISTORY. Penal Code s. 476; G.S. 1894 s. 6772; R.L. 1905 s. 5124; G.S. 1913 s. 8925; G.S. 1923 s. 10413; M.S. 1927 s. 10413.

If one wilfully places on the railroad track, used by, and on which engines and carriages conveying persons are likely to pass, any obstruction likely to produce disaster, and endanger the safety of persons, is guilty of the offense described in this section, though no engine or carriage be actually stopped or impeded. State v Kilty, 28 M 421, 10 NW 475.

The word "structure" as used in this act is not applicable to structures, as a fence, not constituting any part of the railroad proper. State v Walsh, 43 M 444, 45 NW 721.

Defendants, boys 15 and 16 years of age, after drinking a pint of whiskey plied railroad ties on the track. These were discovered and removed before the train came along. They were properly convicted under this section. State v Kluseman, 53 M 541, 55 NW 741.

621.30 INTERFERING WITH RAILWAY GATES AND OBSTRUCTING.

HISTORY. 1877 c. 98 ss. 1 to 3; G.S. 1878 c. 95 ss. 84 to 86; G.S. 1894 ss. 6886 to 6888; R.L. 1905 s. 5147; G.S. 1913 s. 8950; G.S. 1923 s. 10438; M.S. 1927 s. 10438.

621.31 TRESPASS ON RAILWAY TRACK.

HISTORY. 1877 c. 98 s. 5; G.S. 1878 c. 95 s. 88; G.S. 1894 s. 6890; 1903 c. 262; R.L. 1905 s. 5148; G.S. 1913 s. 8951; G.S. 1923 s. 10439; M.S. 1927 s. 10439.

The travel by pedestrians along and upon the track of a fenced railway right of way, running through the ordinary agricultural districts, does not give rise to an inference that it is at the implied invitation or passive consent of the railroad. Hanks v Gt. Northern, 131 M 281, 154 NW 1088.

621.32 INJURY TO BAGGAGE.

HISTORY. 1883 c. 120 s. 1; G.S. 1878 Vol. 2 (1888 Supp.) c. 95 s. 91b; G.S. 1894 s. 6895; R.L. 1905 s. 5150; G.S. 1913 s. 8953; G.S. 1923 s. 10441; M.S. 1927 s. 10441.

621.33 INTERFERING WITH ELECTRIC APPARATUS.

HISTORY. 1903 c. 48; R.L. 1905 s. 5142; G.S. 1913 s. 8945; G.S. 1923 s. 10433; M.S. 1927 s. 10433.

The evidence supports a finding that defendant was negligent in suspending high power transmission lines but 20 feet above the street and permitting the insulation to become frayed and portions of the wire exposed. In the instant case,

General Statutes 1913, Section 8945, is no defense. Thornton v N. S. Power Co. 151 M 438, 186 NW 863, 187 NW 610.

Decedent was killed when helping a house-mover move a house under live electric wires carrying a voltage of 2,300, part of them not insulated and none protected or guarded and all without signs of warning. The question of defendant's negligence was for the jury. Faribault v N. S. Power Co. 188 M 514, 247 NW 680.

Where a boy 15 years old through mere curiosity removed a hasp on a cable mast from which a street light was suspended, he was not guilty as a matter of law of a violation of this section. Section 621.33 is directed at evil or malicious interference. Ekdahl v Minn. Utilities, 203 M 374, 281 NW 517.

This is a companion case to Ekdahl v Minnesota Utilities, 203 M 374. Defendant was not entitled to a directed verdict or to judgment non obstante. Plaintiff's only reason for touching the cable was to preserve defendant's property. The verdict of the jury is sustained. Schorr v Minnesota Utilities, 203 M 387, 281 NW 523.

621.34 FRAUDULENT APPROPRIATION OF ELECTRICITY, GAS, WATER OR HEAT.

HISTORY. 1903 c. 48; R.L. 1905 s. 5143; 1907 c. 166 s. 1; G.S. 1913 s. 8946; G.S. 1923 s. 10434; 1927 c. 298; M.S. 1927 s. 10434.

621.35 WILFUL TRESPASS ON PINE LANDS, HOW PUNISHED.

HISTORY. 1885 c. 265; G.S. 1878 Vol. 2 (1888 Supp.) c. 95 s. 55a; G.S. 1894 s. 6907; R.L. 1905 s. 5034; G.S. 1913 s. 8819; G.S. 1923 s. 10307; M.S. 1927 s. 10307.

621.36 CUTTING OF CERTAIN TREES FORBIDDEN.

HISTORY. 1927 c. 10 s. 1; M.S. 1927 s. 10422-1; 1929 c. 285 s. 1.

621.37 PENALTIES.

HISTORY. 1927 c. 10 s. 2; M.S. 1927 s. 10422-2; 1929 c. 285 s. 2.

621.38 PROOF OF INTENT; DEFENSES.

HISTORY. 1927 c. 10 s. 3; M.S. 1927 s. 10422-3.

621.39 CONSTRUCTION OF SECTIONS 621.36 to 621.39.

HISTORY. 1927 c. 10 s. 4; M.S. 1927 s. 10422-4.

621.40 INJURY TO STANDING CROPS.

HISTORY. Penal Code s. 485; G.S. 1894 s. 6785; R.L. 1905 s. 5136; G.S. 1913 s. 8937; G.S. 1923 s. 10425; M.S. 1927 s. 10425.

621.41 BURNING GROWING CROPS, TREES, OR OTHER PROPERTY.

HISTORY. Penal Code s. 468; 1889 c. 208 s. 3; G.S. 1894 s. 6774; R.L. 1905 s. 5126; G.S. 1913 s. 8927; G.S. 1923 s. 10415; M.S. 1927 s. 10415.

An indictment for arson in the third degree is not bad because it fails to state that the burning was "under circumstances not amounting to arson in the first or second degree; nor because the acts charged might also constitute a crime under section 621.41." State v Roth, 117 M 404, 136 NW 12.

If defendant was guilty of any crime it was that of arson. He was not entitled to a charge permitting a conviction of the crime of malicious mischief under section 621.41. State v Rosenweig, 168 M 464, 210 NW 403.

621.42 SMOKING, WHERE PROHIBITED.

HISTORY. 1866 c. 34 ss. 1, 2; G.S. 1878 c. 95 ss. 73, 74; G.S. 1894 ss. 6876, 6877; R.L. 1905 s. 5145; G.S. 1913 s. 8948; G.S. 1923 s. 10436; M.S. 1927 s. 10436.

621.43 OBSTRUCTING EXTINGUISHMENT OF FIRE.

HISTORY. 1874 c. 49 s. 1; G.S. 1878 c. 95 s. 9; G.S. 1894 s. 6862; R.L. 1905 s. 5144; G.S. 1913 s. 8947; G.S. 1923 s. 10435; M.S. 1927 s. 10435.

621.44 ENDANGERING LIFE AND PROPERTY BY EXPLOSIVES.

HISTORY. Penal Code ss. 477, 484; G.S. 1894 ss. 6773, 6784; R.L. 1905 s. 5125; G.S. 1913 s. 8926; G.S. 1923 s. 10414; M.S. 1927 s. 10414.

621.45 FALSE SIGNALS FOR VESSEL OR RAILWAY TRAIN.

HISTORY. Penal Code s. 479; G.S. 1894 s. 6775; R.L. 1905 s. 5127; G.S. 1913 s. 8928; G.S. 1923 s. 10416; M.S. 1927 s. 10416.

621.46 INJURY TO UNITED STATES LIGHTS.

HISTORY. 1893 c. 27 ss. 1, 2; G.S. 1894 ss. 6776, 6777; R.L. 1905 s. 5128; G.S. 1913 s. 8929; G.S. 1923 s. 10417; M.S. 1927 s. 10417.

See as to interference with navigable waters. See as to exercise of the right of eminent domain without permission of federal government. Minn. Canal v Pratt, 101 M 197, 112 NW 395.

621.47 BUOYS OR BEACONS; MOORING TO; INJURING.

HISTORY. 1893 c. 27 ss. 3, 4; G.S. 1894 ss. 6778, 6779; R.L. 1905 s. 5129; G.S. 1913 s. 8930; G.S. 1923 s. 10418; M.S. 1927 s. 10418.

621.48 DRAINING MEANDERED LAKES; USE AS LOG RESERVOIRS.

HISTORY. 1893 c. 27 ss. 3, 4; G.S. 1894 ss. 6878, 6879; R.L. 1905 s. 5146; G.S. 1913 s. 8949; G.S. 1923 s. 10437; M.S. 1927 s. 10437.

After a mill dam had been maintained for 41 years the mill owner had a prescriptive right to maintain the dam. He sold it to certain riparian owners who planned to destroy it and reclaim flooded lands. In an action of other riparian owners to enjoin the destruction of the dam, it was held they may have acquired a prescriptive right, but in this their equities were not sufficiently strong to overcome the equities of those who wished to destroy the dam. Kray v Muggli, 77 M 231, 241, 79 NW 964, 1026, 1064.

The state has an interest in and as the representative of the public is affected by drainage of a meandered lake, and it is the duty of the county boards and courts to guard the interests of the state in proceedings sought to drain a lake. In re County Ditch No. 34, 142 M 38, 170 NW 883.

Crow Lake in Stearn county is not within the class of lakes authorized to be drained by General Statutes 1913, Section 5523. State ex rel v District Court, 144 M 79, 174 NW 522.

Unauthorized drainage of lakes. 1938 OAG 99, July 29, 1938 (273c-1).

621.49 INTERFERING WITH DAM OR APPURTENANCES.

HISTORY. Penal Code s. 480; G.S. 1894 s. 6780; 1895 c. 220; R.L. 1905 s. 5131; G.S. 1913 s. 8932; G.S. 1923 s. 10420; M.S. 1927 s. 10420.

See Minnesota Canal Co. v Pratt, 101 M 197, 112 NW 395.

In order to get out of the Big Fork river with logs the plaintiff dynamited the Backus owned log boom. Plaintiff was arrested and held in jail until released on bail. The grand jury found no bill. In this action for malicious prosecution his recovery of damages is sustained. Price v Minn. Ry. 130 M 229, 153 NW 532.

621.50 OBSTRUCTING PUBLIC LEVEES.

HISTORY. 1895 c. 345; R.L. 1905 s. 5132; G.S. 1913 s. 8933; G.S. 1923 s. 10421; M.S. 1927 s. 10421.

621.51 INJURY TO HOUSE OF WORSHIP OR APPURTENANCES.

HISTORY. Penal Code s. 489; 1889 c. 211 s. 1; G.S. 1894 s. 6789; R.L. 1905 s. 5139; G.S. 1913 s. 8942; G.S. 1923 s. 10430; M.S. 1927 s. 10430.

621.52 INJURY TO WORKS OF ART, GRAVESTONE, MONUMENT, OR VARIOUS.

HISTORY. R.S. 1851 c. 101 s. 44; P.S. 1858 c. 90 s. 44; G.S. 1866 c. 98 s. 44; Penal Code s. 486; G.S. 1878 c. 95 s. 56; G.S. 1894 ss. 6786, 6874; 1905 c. 90 s. 1; R.L. 1905 s. 5137; G.S. 1913 ss. 8938, 8939; G.S. 1923 ss. 10426, 10427; M.S. 1927 ss. 10426, 10427.

621.53 INJURY TO ARTICLES IN MUSEUM OR LIBRARY.

HISTORY. Penal Code s. 487; G.S. 1894 s. 6787; R.L. 1905 s. 5138; G.S. 1913 s. 8940; G.S. 1923 s. 10428; M.S. 1927 s. 10428.

621.54 PLACING OF NOXIOUS OR INFLAMMABLE SUBSTANCE FORBIDDEN; PENALTY.

HISTORY. 1931 c. 86 s. 1; M. Supp. s. 10422-5.

621.55 OPENING SEALED LETTERS OR TELEGRAMS.

HISTORY. Penal Code s. 483; G.S. 1894 s. 6783; R.L. 1905 s. 5135; G.S. 1913 s. 8936; G.S. 1923 s. 10424; M.S. 1927 s. 10424.

Comparative law relating to telegrams. Olmstead v United States, 277 US 480.

621.56 COERCION.

HISTORY. Penal Code s. 490; G.S. 1894 s. 6790; R.L. 1905 s. 5140; G.S. 1913 s. 8943; G.S. 1923 s. 10431; M.S. 1927 s. 10431.

Under the decision of the supreme court of the United States, Adair v United States, 208 US 161, which this court must follow and apply, a criminal complaint based on Revised Laws 1905, Section 5097 (section 621.56), which merely alleges that the employer required employee to enter into a verbal agrement not to remain a member of a labor organization as a condition of retaining his employment, does not state a criminal offense. State ex rel v Daniels, 118 M 155, 136 NW 584.

To sustain an action in damages on the ground of coercion there must be some wrongful or unlawful act, acts or conduct on the part of the defendant sufficient to constrain the plaintiff, against his will, to do or refrain from doing something which he has a legal right to do or refuse to do, and resulting in damage to him. First State Bank v Fed. Reserve Bank, 174 M 535, 219 NW 908.

A threat to shoot an officer if he takes property under replevin papers is a misdemeanor under section 621.56, and the crime being committed in the presence of the officer, he may arrest the offender without a warrant. Stromberg v Hansen, 177 M 307, 225 NW 148.

Proprietor of an apartment hotel prevented tenant from entering rooms, let by the week, for the purpose of removing personal property. As a landlord and tenant relation existed, the landlord had no lien and consequently was guilty of coercion in violation of section 621.56. State v Bowman, 202 M 44, 279 NW 214; State v Brown, 203 M 505, 282 NW 136.

A labor union is not guilty of coercion in advertising that its members do not patronize a named business house. OAG July 6, 1936 (641).

Distinction between guests, lodgers and tenants as distinguishing coercion. 22 MLR 1055.

Labor injunction in Minnesota. 24 MLR 760, 771, 800.

621.57 WILFUL TRESPASS A MISDEMEANOR.

HISTORY. 1939 c. 377; M. Supp. s. 10441-1.

A municipal ordinance forbidding any person to knock on doors, ring doorbells, or otherwise summon to the door the occupants of any residence for the purpose of distributing to them handbills, or circulars, as applied to a person distributing advertisements for a religious meeting is invalid under the federal constitution as a denial of freedom of speech and press. Martin v City of Struthers, 319 US 148.

Labor injunction in Minnesota. 24 MLR 797.