

CRIMINAL JURISPRUDENCE.

- DIV. I. CRIMES AND PENALTIES.
 " II. GENERAL PROVISIONS.
 " III. BAILABLE OFFENSES, RECOGNIZANCES, ETC.
 " IV. PROSECUTIONS COMMENCED, LIMITATIONS.
 " V. PREVENT COMMISSION OF CRIMES.
 " VI. PURSUIT, ARREST, BY WHOM AND HOW.
 " VII. ARREST, COMMITMENT, EXAMINATION, BAIL.
 " VIII. SEARCH WARRANTS, SEARCH.
 " IX. JUSTICES' JURISDICTION, SMALL OFFENSES.
 " X. COURTS OF RECORD, CRIMINAL JURISDICTION.
 " XI. GRAND JURY, INDICTMENT.
 " XII. ARREST UPON INDICTMENT, BAIL.
 " XIII. ARRAIGNMENT, TRIAL, DISCHARGE.
 " XIV. JUDGMENT, EXECUTION THEREOF.
 " XV. WRITS OF ERROR, NEW TRIAL.
 CONSTRUCTION, DUTY OF COURTS.

DIVISION I.

- | | |
|--|--|
| Abduction. | § 30. <i>Marrying a Bigamist.</i> |
| 1. <i>Of Female.</i> | Bribery. |
| 2. <i>Of Child.</i> | § 31. <i>Punishment.</i> |
| Abortion. | § 32. <i>Offering to Give or Receive.</i> |
| 3. <i>Producing.</i> | § 33. <i>Of Judicial Officers.</i> |
| 4. <i>Ecbotic, or Abortifacient Drugs.</i> | § 34. <i>Of Sheriff, Constable, etc.</i> |
| 5. <i>Certificate Required.</i> | § 35. <i>Witnesses.</i> |
| 6. <i>Advertising Abortifacient Drugs.</i> | Burglary. |
| Adulteration. | § 36. <i>Punishment.</i> |
| 7. <i>Of Food, Candies, etc.</i> | § 37. <i>Attempt to Commit.</i> |
| 8. <i>Of Liquors.</i> | § 38. <i>Burglar found in Building.</i> |
| 9. <i>Of Milk.</i> | § 39. <i>Having Burglar's Tools.</i> |
| 10. <i>Of Medicine.</i> | Canada Thistles. |
| Adultery. | § 40. <i>Bringing into the State, or Allowing to Seed.</i> |
| 11. <i>Adultery and Fornication.</i> | § 41. <i>Railroads to Destroy.</i> |
| 12. <i>Proof.</i> | Castor Beans. |
| Arson and Burning. | § 42. <i>Failure to Protect.</i> |
| 13. <i>Arson.</i> | Compounding a Crime. |
| 14. <i>To Defraud Insurer.</i> | § 43. <i>Punishment.</i> |
| 15. <i>Of Other Property.</i> | Concealing Death of Bastard. |
| 16. <i>Attempt to Commit.</i> | § 44. <i>Punishment.</i> |
| 17. <i>Of One's Own Property.</i> | Conspiracy. |
| 18. <i>Of Woods, Prairies and other Grounds.</i> | § 45. <i>To Indict.</i> |
| 19. <i>Indictment.</i> | § 46. <i>To do Illegal Act.</i> |
| Assault and Assault and Battery. | Crime Against Nature. |
| 20. <i>Assault.</i> | § 47. <i>Punishment.</i> |
| 21. <i>Assault and Battery.</i> | § 48. <i>Emission.</i> |
| 22. <i>Punishment.</i> | Criminal Carelessness. |
| 23. <i>Assault with Intent.</i> | § 49. <i>Of Common Carrier.</i> |
| 24. <i>With Intent to Murder.</i> | Cruelty. |
| 25. <i>With Deadly Weapon.</i> | § 50. <i>Cruelty to Animals.</i> |
| Barratry and Maintenance. | § 51. <i>By Railroads and Carriers.</i> |
| 26. <i>Barratry.</i> | § 52. <i>Bull Baiting, Cock Fighting, etc.</i> |
| 27. <i>Maintenance.</i> | § 53. <i>Cruelty to Children and Others.</i> |
| Bigamy. | Currency Unauthorized. |
| 28. <i>Punishment.</i> | § 54. <i>Issuing or Uttering.</i> |
| 29. <i>Proof and Venue.</i> | |

I. Crimes and Penalties.

- Disorderly Conduct.
- § 55. *Punishment.*
- § 56. *Disturbing the Peace.*
- § 57. *Disorderly House of Ill Fame.*
- § 58. *Disturbing Religious Meeting.*
- § 59. *Disturbing Camp and Field Meeting.*
- § 60. *Disturbing School, etc.*
- § 61. *Disturbing Funeral.*
- Drugs.
- § 62. *To be Labeled.*
- § 63. *Selling Poisonous.*
- Drunkenness.
- § 64. *Punishment.*
- Dueling.
- § 65. *Punishment.*
- § 66. *Sending, Accepting or Carrying Challenge.*
- § 67. *Disabilities.*
- § 68. *By Appointment made Within the State.*
- § 69. *Leaving the State to Engage in.*
- § 70. *Former Recovery.*
- § 71. *Indictment.*
- § 72. *Officer to Prevent.*
- § 73. *Publishing as Coward.*
- Embezzlement.
- § 74. *Embezzlement is Larceny.*
- § 75. *Officers of Corporations, etc.*
- § 76. *Banker, Bank Officer or Agent.*
- § 77. *Railroad Ticket.*
- § 78. *Commission Merchants and Others.*
- § 79. *Attorneys and other Officers.*
- § 80. *Public Officer or his Servant.*
- § 81. *Loaning or Using Public Funds.*
- § 82. *Indictment.*
- Escape.
- § 83. *Officer Refusing to Arrest.*
- § 84. *Aiding a Prisoner.*
- § 85. *Rescue.*
- § 86. *Extended to Civil Process.*
- § 87. *Rescue, before Conviction.*
- § 88. *Prisoner Convicted of High Crime.*
- § 89. *Before Conviction, by Officer.*
- § 90. *After Conviction, by Officer.*
- § 91. *By Penitentiary Officer.*
- § 92. *Aiding Escape.*
- Extortion by Threats.
- § 93. *Punishment.*
- § 94. *False Heir.*
- False Imprisonment.
- § 95. *Definition and Punishment.*
- False Pretenses.
- § 96. *Obtaining Signature or Goods.*
- § 97. *Credit Obtained by.*
- § 98. *Confidence Game.*
- § 99. *Indictment.*
- § 100. *Swindling by Cards, Sleight of Hands.*
- § 101. *False Weights and Measures.*
- § 102. *Falsely Assuming an Office.*
- False Personation.
- § 103. *Receiving Money or Property.*
- § 104. *Reforming Various Acts.*
- Forgery and Counterfeiting.
- § 105. *Records and Writings.*
- § 106. *Public Securities, Bank Bills.*
- § 107. *Fictitious Bills and Notes.*
- § 108. *Parts of Bills United.*
- § 109. *Proof by Experts.*
- § 110. *Proof of Corporation.*
- § 111. *Coin.*
- § 112. *Possession of Counterfeit Coin.*
- § 113. *Counterfeiting Tools.*
- § 114. *Seals.*
- § 115. *Trade Marks.*
- § 116. *Simulating Trade Marks.*
- Frauds.
- § 117. *On Gas Companies.*
- § 118. *Insurance Companies.*
- Fraudulent Stock.
- § 119. *Issuing.*
- § 120. *Signing with Intent to Issue.*
- Fraudulent Sale.
- § 121. *Of Lands.*
- Fraudulent Conveyance.
- § 122. *Real or Personal Property.*
- Fraudulent Acknowledgment.
- § 123. *Punishment.*
- Fraudulent Receipts.
- § 124. *Issuing by Warehouse-men.*
- § 125. *Warehouse Goods Removed.*
- Gambling, Gambling Contracts.
- § 126. *Gaming.*
- § 127. *Gaming House.*
- § 128. *Gaming in Tavern.*
- § 129. *Decoys.*
- § 130. *In Grain.*
- § 131. *Gaming Contracts.*
- § 132. *Losses by Gaming.*
- § 133. *Premises Liable for Losses.*
- § 134. *Insurance Contracts Exempted.*
- § 135. *Gaming Contracts Vacated.*
- § 136. *Assignment not to Affect.*
- § 137. *Discovery.*
- Graves, Graveyards, Cemeteries.
- § 138. *Robbing Graves.*
- § 139. *Injuring Monuments.*
- Homicide.
- § 140. *Murder.*
- § 141. *Petit Treason, Murder.*
- § 142. *Murder, Punishment.*
- § 143. *Manslaughter Defined.*
- § 144. *Voluntary Manslaughter.*
- § 145. *Involuntary Manslaughter.*
- § 146. *Manslaughter, Punishment.*
- § 147. *Time of Death.*
- § 148. *Justifiable Homicide.*
- § 149. *Self-defense.*
- § 150. *By an Officer Resisted.*
- § 151. *By Lawful Sentence.*
- § 152. *By Misadventure.*
- § 153. *Other Instances.*
- § 154. *Justified and Excused.*
- § 155. *Burden of Proof.*
- Incest.
- § 156. *Father with Daughter.*
- § 157. *Of Relatives.*
- Intimidation.
- § 158. *By Combinations.*
- § 159. *By Workmen.*
- § 160. *By Entering Premises.*
- § 161. *Compelling Confession.*
- § 162. *Compelling to Leave.*
- § 163. *Mock Trial.*
- § 164. *Jurors and Others.*
- § 165. *By Threats.*

I. Crimes and Penalties.

- Kidnaping.
 § 166. *Punishment.*
 Larceny.
 § 167. *Definition.*
 § 168. *Punishment.*
 § 169. *Second Offense.*
 § 170. *By Bailee.*
 § 171. *Animals Ferae Naturæ.*
 § 172. *Horse Stealing.*
 § 173. *Lead Pipe.*
 § 174. *Newspapers.*
 § 175. *Attached to Realty.*
 § 176. *Public Records, Falsifying.*
 Libel.
 § 177. *Definition.*
 § 178. *Punishment.*
 § 179. *Justification.*
 Lotteries.
 § 180. *Setting Up.*
 § 181. *Permitting.*
 § 182. *Selling Tickets.*
 § 183. *Advertising.*
 § 184. *Second Conviction.*
 § 185. *Prizes Forfeited.*
 Malicious Mischief.
 § 186. *To Railroads.*
 § 187. *Combining to Injure.*
 § 188. *Obstructing War Trains.*
 § 189. *Attempting to Injure R. R.*
 § 190. *Influencing Others.*
 § 191. *Railroad Engineers.*
 § 192. *To Buildings.*
 § 193. *Baggage Smashing.*
 § 194. *To Papers.*
 § 195. *To Jails.*
 § 196. *To Public Buildings.*
 § 197. *To Canals.*
 § 198. *Rafts and Vessels.*
 § 199. *Obstructing Water Course.*
 § 200. *To Monuments.*
 § 201. *Fences and Shrubs.*
 § 202. *To Water.*
 § 203. *To Domestic Animals.*
 § 204. *Taking Horses, Vehicles, Boats.*
 § 205. *To Advertisements.*
 Marks and Brands.
 § 206. *Altering or Defacing.*
 Mayhem.
 § 207. *Punishment.*
 Misconduct of Officers.
 § 208. *Omission and Malfeasance.*
 § 209. *Intoxication of Officers.*
 § 210. *Liquors Furnished Prisoner.*
 § 211. *Extortion.*
 § 212. *Shaving Warrants.*
 § 213. *Illegal Fees.*
 § 214. *Private Remedy.*
 § 215. *Withholding Funds.*
 § 216. *Records from Successor.*
 § 217. *Search Warrant for Records.*
 § 218. *Execution of Warrant.*
 § 219. *Defense.*
 Name.
 § 220. *Assuming Corporate.*
 Nuisances.
 § 221. *Enumeration.*
 § 222. *Punishment.*
 Obscene Books.
 § 223. *Circulating.*
 § 224. *Depositing with Carrier.*
 Perjury.
 § 225. *Punishment.*
 § 226. *May be Murder.*
 § 227. *Indictment.*
 § 228. *Attempt to Suborn.*
 Personal Liberty.
 § 229. *Restrained.*
 Poisoning.
 § 230. *Punishment.*
 Prize Fighting.
 § 231. *Challenging, Training.*
 § 232. *Engaging in.*
 § 233. *Aids and Seconds.*
 § 234. *Beyond the State.*
 § 235. *Sparring and Boxing Exhibitions.*
 § 236. *Preventing.*
 Rape.
 § 237. *Punishment.*
 § 238. *Emission.*
 Receiving and Restoring Stolen Property.
 § 239. *Receiving.*
 § 240. *Second Offense.*
 § 241. *Procedure.*
 § 242. *Railroad Property.*
 § 243. *Stolen Goods Restored.*
 Resistance to Officers.
 § 244. *Executing Process.*
 § 245. *Refusing to Join Posse.*
 Robbery.
 § 246. *Definition and Punishment.*
 Racing, Routs, Riots, Unlawful Assemblies.
 § 247. *Racing.*
 § 248. *Rout.*
 § 249. *Riot.*
 § 250. *Affray.*
 § 251. *Unlawful Assembly.*
 § 252. *Same.*
 § 253. *Suppression.*
 § 254. *Refusal to Disperse.*
 § 255. *Killing Justified.*
 § 256. *Injuries to Property.*
 Saltpeter Caves.
 § 257. *Failure to Protect.*
 Sheep.
 § 258. *Diseased.*
 Sunday.
 § 259. *Tippling House Open.*
 § 260. *Definition.*
 § 261. *Disturbing Public Peace.*
 § 262. *Of Family.*
 Treason.
 § 263. *Who can Commit.*
 § 264. *Punishment.*
 § 265. *Misprision of.*
 Trespass.
 § 266. *Upon Gardens.*
 § 267. *Orchards.*
 § 268. *Coal Mines, Manufactures.*
 § 269. *Cutting Trees.*
 Vagabonds.
 § 270. *Enumeration, Punishment.*
 § 271. *Conviction before Justice.*
 § 272. *Witnesses.*

I. Crimes and Penalties.

REVISED ACT.

*An act to Revise the law in relation to Criminal Jurisprudence. Approved 27th March 1874.
In force 1 July 1874.*

ABDUCTION.

§ 1. OF FEMALE. Whoever entices or takes away any unmarried female of a chaste life and conversation from the parents' house, or wherever she may be found, for the purpose of prostitution or concubinage, and whoever aids and assists in such abduction for such purpose, shall be imprisoned in the penitentiary not less than one nor more than 10 years.

§ 2. OF CHILD. Whoever unlawfully takes or decoys away any child under the age of 12 years, with intent to detain or conceal such child from its parents, guardian or other person having the lawful charge of such child, shall be confined in the county jail not exceeding one year, or fined not exceeding \$2,000., or both in the discretion of the court: *Provided*, this section shall not apply to any one who, in good faith, interferes to protect the child from abuse or cruel treatment.

ABORTION.

§ 3. PRODUCING. Whoever, by means of any instrument, medicine, drug or other means whatever, causes any woman pregnant with child, to abort or miscarry, or attempts to procure or produce an abortion or miscarriage, unless the same were done as necessary for the preservation of the mother's life, shall be imprisoned in the penitentiary not less than one year nor more than 10 years; or if the death of the mother results therefrom, the person procuring or causing the abortion or miscarriage shall be guilty of murder.

§ 4. ECBO LIC, OR ABORTIFACIENT DRUGS. If any druggist, dealer in medicine, or other person, sells to any person any drug or medicine, known or presumed to be ecbo lic or abortifacient, except upon the written prescription of some well known and respectable practicing physician, or keeps on hand, or advertises or exposes for sale, or sells any pills, powders, drugs or combination of drugs designed especially for the use of females, without keeping the certificate as required in the next succeeding section, he shall for each offense be fined not less than \$50. nor more than \$500., or be confined in the county jail not less than 30 days nor more than six months, or both: *Provided*, this section shall not be construed to apply to compounds known as "Official."

§ 5. CERTIFICATE REQUIRED. Before any pills, powders, drugs or combination of drugs designed expressly for the use of females, shall be kept or exposed for sale or sold, the proprietor thereof shall submit under oath a true statement of the formula by which the same is compounded, to five well known and respectable practicing physicians, in the county where the same is proposed to be sold, and shall procure their certificate, signed and verified by the affidavit of each of them, that such combination is not abortifacient; and every person keeping on hand, or in any manner advertising or exposing for sale or selling such combination, shall keep such certificate, or a sworn copy thereof, with the formula attached, for the inspection of any person desiring to see the same.

§ 6. ADVERTISING ABORTIFACIENT DRUGS. Whoever advertises, prints, publishes, distributes or circulates, or causes to be advertised, printed, published, distributed or circulated any pamphlet, printed paper, book, newspaper, notice, advertisement or reference, containing words or language giving or conveying any notice, hint or reference to any person, or to the name of any person, real or fictitious, from whom, or to any place, house shop or office where any poison, drug, mixture, preparation, medicine or noxious thing, or any instrument or means whatever, or any advice, information, direction or knowledge may be obtained for the purpose of causing or procuring the miscarriage of any woman pregnant with child, shall be punished by imprisonment not exceeding three years, or fine not exceeding \$1,000.

ADULTERATION.

§ 7. OF FOOD, CANDIES, ETC. Whoever fraudulently adulterates, for the purpose of

I. Crimes and Penalties.

sale, bread or any other substance intended for food, or any candy or confection, with any substance which is poisonous or injurious to health, and whoever sells or offers or keeps for sale any adulterated bread or other substance intended for food, or candy or confection, knowing the same to be so adulterated, or shall sell, or offer to sell, or keep for sale any flesh of any diseased animal, or other corrupt or unwholesome provision, shall be confined in the county jail not exceeding one year, or be fined not exceeding \$1,000., or both, in the discretion of the court.

§ 8. OF LIQUOR. Whoever adulterates, for the purpose of sale, any liquor used or intended for drink, with cocculus-indicus, vitriol, grains of paradise, opium, alum, capsicum, copperas, laurel water, logwood, Brazil wood, cochineal, sugar of lead, or any other substance which is poisonous or injurious to health; and whoever sells or offers or keeps for sale any such liquor so adulterated, shall be confined in the county jail not exceeding one year, or fined not exceeding \$1,000., or both.

§ 9. OF MILK. Whoever adulterates, for the purpose of sale, any milk with water, chalk or other substance, or knowingly sells any such adulterated milk, shall be confined in the county jail not exceeding one year, or fined not exceeding \$500.

§ 10. OF MEDICINE. Whoever fraudulently adulterates, for the purpose of sale, any drug or medicine, or sells or offers or keeps for sale any fraudulently adulterated drug or medicine, knowing the same to be adulterated, shall be confined in the county jail not exceeding one year, or fined not exceeding \$1,000., and such adulterated drugs and medicines shall be forfeited and destroyed.

ADULTERY.

§ 11. ADULTERY. If any man and woman shall live together in an open state of adultery, or fornication, or adultery and fornication, every such person shall be fined not exceeding \$500., or confined in the county jail not exceeding one year. For a second offense, such man or woman shall be severally punished twice as much as the former punishment, and for a third offense, treble, and thus increasing the punishment for each succeeding offense: *Provided however*, that it shall be in the power of the party or parties offending, to prevent or suspend the prosecution by their intermarriage, if such marriage can be legally solemnized, and upon the payment of the costs of such prosecution.

§ 12. PROOF. The offense of adultery shall be sufficiently proved by circumstances which raise the presumption of cohabitation, and unlawful intimacy.

ARSON AND BURNING.

§ 13. ARSON. Every person who shall wilfully and maliciously burn or cause to be burned any dwelling-house, kitchen, office, shop, barn, stable, storehouse, warehouse, malt-house, stilling-house, factory, mill, pottery or other building, the property of any other person, or any church, meeting-house, school house, state house, court house, workhouse, jail or other public building, or any boat or other water craft, or any bridge of the value of \$50. erected across any of the waters of this state, such person so offending shall be deemed guilty of arson, and upon conviction thereof shall be punished by imprisonment in the penitentiary for a term not less than one year nor more than twenty years; and should the life of any person be lost in consequence of any such burning, such offender shall be deemed guilty of murder, and punished accordingly.

§ 14. TO DEFRAUD INSURER. Whoever wilfully and maliciously burns or sets fire to, or causes to be burned or set on fire any building, or any goods, wares, merchandise or other chattels which are at the time insured against loss by fire, with intent to injure the insurer whether such person is the owner of the property burned or not, shall be imprisoned in the penitentiary not less than one nor more than 10 years.

§ 15. OF OTHER PROPERTY. Whoever wilfully and maliciously burns or causes to be burned any barrack, cock, crib, rick, or stack of hay, corn, wheat, oats, barley or other grain or vegetable product of any kind, or any pile of coal, wood or other fuel, or any pile of boards, plank, posts, rails or other lumber, or any personal property whatever, of another, shall be imprisoned in the penitentiary not less than one nor more than six years.

§ 16. ATTEMPT TO COMMIT. Whoever wilfully or maliciously sets fire to, or attempts to set fire to any of the buildings or other property mentioned in §§ 13 and 15

I. Crimes and Penalties.

above, with intent to burn or destroy the same, shall be imprisoned in the penitentiary not exceeding two years, and fined not exceeding \$5,000.

§ 17. OF ONE'S OWN PROPERTY. If the owner, lessee or occupant of any of the buildings or property mentioned in §§ 13 and 15 of this act, sets fire or attempts to set fire to or burn the same with intent to set on fire or burn the building or property of another, he shall be deemed guilty as if the property so set on fire, or attempted to be set on fire to or burned, were owned or occupied by another.

§ 18. OF WOODS, PRAIRIES AND OTHER GROUNDS. If any person shall at any time hereafter, wilfully and intentionally or negligently and carelessly set on fire, or cause to be set on fire any woods, prairies or other grounds whatsoever, he shall be fined not less than \$5., nor more than \$100.: *Provided*, this section shall not extend to any person who shall set on fire or cause to be set on fire any woods or prairies adjoining his own farm, plantation or inclosure for the necessary preservation thereof, from accident by fire, between the last day of November and the first day of March, by giving to his neighbors and the owner or occupant of such land, and any person likely to be affected thereby, two days' notice of such intention: *Provided also*, this section shall not be construed to take away any civil remedy which any person may be entitled to for any injury which may be done or received in consequence of any such firing.

§ 19. INDICTMENT. In any indictment for the setting fire to or burning, or attempting to set fire to or burn any building, if the building was occupied, it shall be sufficient to allege the building to be the property of the owner, lessee or occupant thereof; if unoccupied, to allege simply that such building was at such time unoccupied, giving a description thereof in general terms.

ASSAULT, AND ASSAULT AND BATTERY.

§ 20. ASSAULT. An assault is an unlawful attempt, coupled with a present ability, to commit a violent injury on the person of another.

§ 21. ASSAULT AND BATTERY. Assault and battery is the unlawful beating of another.

§ 22. PUNISHMENT. Whoever shall be guilty of an assault, or an assault and battery, shall be fined not less than \$3. nor more than \$100.

§ 23. ASSAULT WITH INTENT. An assault with an intent to commit murder, rape, mayhem, robbery, larceny, or other felony, shall subject the offender to imprisonment in the penitentiary for a term not less than one year nor more than 14 years.

§ 24. WITH INTENT TO MURDER. Whoever attempts to commit murder by poisoning, drowning, strangling or suffocating another, or by any means, shall be guilty of the crime of assault with intent to murder, and punished accordingly.

§ 25. WITH DEADLY WEAPON. An assault with a deadly weapon, instrument or other thing, with an intent to inflict upon the person of another, a bodily injury, where no considerable provocation appears, or where the circumstances of the assault show an abandoned and malignant heart, shall subject the offender to a fine not exceeding \$1,000. nor less than \$25., or imprisonment in the county jail for a period not exceeding one year, or both, in the discretion of the court.

BARRATRY AND MAINTENANCE.

§ 26. BARRATRY. If any person shall wickedly and wilfully excite and stir up any suits or quarrels between the people of this state, either at law or otherwise, with a view to promote strife and contention, he shall be deemed guilty of common barratry, and shall be fined not exceeding \$100.; and if he be an attorney or counselor at law, he shall be suspended from the practice of his profession, for any time not exceeding six months.

§ 27. MAINTENANCE. If any person shall officiously intermeddle in any suit at common law or in chancery, that in nowise belongs to or concerns such person, by maintaining or assisting either party, with money or otherwise, to prosecute or defend such suit, with a view to promote litigation, he shall be deemed guilty of maintenance, and upon conviction thereof, shall be fined and punished as in cases of common barratry: *Provided*, that it shall not be considered maintenance for a man to maintain the suit of his kinsman or servant, or any poor person, out of charity.

I. Crimes and Penalties.

BIGAMY.

§ 28. PUNISHMENT. Whoever, having a former husband or wife living, marries another person, or continues to cohabit with such second husband or wife in this state, shall be deemed guilty of bigamy, and be imprisoned in the penitentiary not less than one nor more than five years, and fined not exceeding \$1,000.: *Provided*, nothing herein contained shall extend to any person whose husband or wife shall have been continually absent from such person for the space of five years together, prior to the said second marriage, and he or she not knowing such husband or wife to be living within that time. Also, nothing herein contained shall extend to any person that is, or shall be at the time of such second marriage, divorced by lawful authority from the bands of such former marriage, or to any person where the former marriage hath been, by lawful authority, declared void.

§ 29. PROOF AND VENUE. It shall not be necessary to prove either of the marriages by the register or certificate thereof, or other record evidence; but the same may be proved by such evidence as is admissible to prove a marriage in other cases; the offense may be alleged to have been committed, and the trial may take place in the county where cohabitation shall have occurred.

§ 30. MARRYING A BIGAMIST. If any man or woman being unmarried, shall knowingly marry the husband or wife of another, or continue to cohabit with such husband or wife in this state, such man or woman shall be fined not more than \$500., or confined in the county jail not exceeding one year, or both in the discretion of the court.

BRIBERY.

§ 31. PUNISHMENT. Whoever corruptly, directly or indirectly, gives any money or other bribe, present, reward, promise, contract, obligation or security for the payment of any money, present, reward or any other thing, to any judge, justice of the peace, sheriff, coroner, clerk, constable, jailer, attorney-general, state's attorney, county attorney, member of the general assembly, or other officer, ministerial or judicial, or to any legislative, executive or other officer of any incorporated city, town or village, or any officer elected or appointed by virtue of any law of this state, after his election or appointment, either before or after he is qualified, with intent to influence his act, vote, opinion, decision or judgment on any matter, question, cause or proceeding which may be then pending, or may by law come or be brought before him, in his official capacity, or to cause him to execute any of the powers in him vested, or to perform any duty of him required, with partiality or favor, or otherwise than is required by law, or in consideration that such officer being authorized in the line of his duty to contract for any advertising, or for the furnishing of any labor or material, shall directly or indirectly arrange to receive, or shall receive, or shall withhold from the parties so contracted with, any portion of the contract price, whether that price be fixed by law or by agreement, or in consideration that such officer hath nominated or appointed any person to any office, or exercised any power in him vested, or performed any duty of him required, with partiality or favor, or otherwise contrary to law, the person so giving, and the officer so receiving any money, bribe, present, reward, promise, contract, obligation or security, with intent or for the purpose or consideration aforesaid, shall be deemed guilty of bribery, and shall be punished by confinement in the penitentiary for a term not less than one year nor more than five years.

§ 32. OFFERING TO GIVE OR RECEIVE. Every person who shall offer or attempt to bribe any member of the general assembly, judge, justice of the peace, sheriff, coroner, clerk, constable, jailer, attorney-general, state's attorney, or other officer, ministerial or judicial, or any legislative, executive, or other officer of any incorporated city, town or village, or any officer elected or appointed by virtue of any law of this state, in any of the cases mentioned in the preceding section, and every such officer who shall propose or agree to receive a bribe in any of such cases, shall be fined not exceeding \$5,000.

§ 33. OF JUDICIAL OFFICERS. Whoever corrupts, or attempts, directly or indirectly to corrupt any master in chancery, auditor, juror, arbitrator, umpire or referee, by giving, offering or promising any gift or gratuity whatever, with intent to bias the opinion, or influence the decision of such master in chancery, auditor, juror, arbitrator, umpire or ref-

I. Crimes and Penalties.

eree, in relation to any matter pending in the court, or before an inquest, or for the decision of which such arbitrator, umpire or referee has been chosen or appointed, and every such official who receives, or offers, or agrees to receive a bribe in any of the cases above mentioned, shall be imprisoned in the penitentiary not exceeding five years, or fined not exceeding \$1,000., and confined in the county jail not exceeding one year.

§ 34. OF SHERIFF, CONSTABLE, ETC. If a sheriff, constable, or other officer authorized to serve legal process, receives from a defendant, or from any other person, any money or other valuable thing as a consideration, reward or inducement, for omitting or delaying to arrest a defendant, or to carry him before a magistrate, or for delaying to take a person to prison, or for postponing the sale of property under an execution, or for omitting or delaying to perform any duty pertaining to his office, he shall be fined not exceeding \$300., or confined in the county jail not exceeding three months.

§ 35. WITNESS. Whenever, in any investigation before a grand jury, or the trial of any person charged with any offense mentioned in either of the four preceding sections, it shall appear to the court that another person than the one charged is a material and necessary witness in the case and that his testimony would tend to criminate himself, the court may cause an order to be entered of record that such witness be released from all liability to be prosecuted or punished on account of any matter to which he shall be required to testify, and upon such order being entered, such witness shall be compelled to testify; and if he shall testify, such order shall forever after be a bar to any indictment, information or prosecution against him for such matter. And when any such witness is admitted to testify on the trial, and does so testify, the defendant shall also at his own request be deemed a competent witness, but his neglect or refusal to testify shall not create any presumption against him nor shall the court permit any reference or comment to be made to or upon such neglect or refusal.

BURGLARY.

§ 36. PUNISHMENT. Whoever in the night time wilfully and maliciously and forcibly breaks and enters or wilfully and maliciously without force (the doors or windows being open) enters into any dwelling-house, kitchen, office, shop, store, house, warehouse, malt-house, stilling-house, mill, pottery, factory, water craft, freight or passenger railroad car, church, meeting-house, or any other building, with the intent to commit murder, robbery, rape, mayhem, larceny or other felony, shall be deemed guilty of burglary, and be imprisoned in the penitentiary for a term not less than one year nor more than 20 years.

§ 37. ATTEMPT TO COMMIT. Whoever shall attempt to break and enter in the night time any building, ship or vessel, with intent to commit the crime of murder, rape, robbery, larceny or other felony, shall be imprisoned in the penitentiary not less than one nor more than five years.

§ 38. BURGLAR FOUND IN BUILDING. Whoever is found in any building, ship or vessel, with intent to commit the crime of murder, rape, robbery, larceny or other felony, shall be imprisoned in the penitentiary not less than one year nor more than five years.

§ 39. HAVING BURGLAR'S TOOLS. Whoever is found having any pick-lock, crow, key, bit or other instrument or tool, with intent to break and enter any building, ship or vessel, with intent to commit the crime of murder, rape, robbery, larceny or other felony, shall be imprisoned in the penitentiary not less than one nor more than two years.

CANADA THISTLES.

§ 40. BRINGING INTO THE STATE, OR ALLOWING TO SEED. Whoever shall bring into this state, whether in the packing of goods, or in grain or grass seed, or otherwise, any seed of the Canada thistle, and permit the same to be disseminated so as to vegetate on any land in this state, and whoever shall permit any Canada thistle to mature its seed on any land owned or occupied by him, so that the same is or may be disseminated, shall be fined not less than \$10. nor more than \$100.; the fine to be paid to the commissioner of Canada thistles if any is appointed in the town, precinct, city or village, or otherwise as directed by law.

§ 41. RAILROADS TO DESTROY. If any company, association or person, owning, controlling or operating, a railroad shall refuse or neglect to dig up and destroy, or take other certain means of exterminating Canada thistles, and other noxious weeds that may

I. Crimes and Penalties.

at any time be growing upon the right of way, or other lands of such roads, or appertaining thereto, they shall be fined for each offense not less than \$50. nor more than \$200.; the fine to be paid as in the preceding section.

CASTOR BEANS.

§ 42. FAILURE TO PROTECT. Whoever plants or raises castor beans without protecting them from the approach of cattle or other stock, by a good and lawful fence, shall be fined not less than \$3. nor more than \$100., and in a like sum for each day he shall allow the same to remain so unprotected after having been once fined: *Provided*, the provisions of this section shall not apply to any county where domestic animals are by law, prohibited from running at large.

COMPOUNDING A CRIME.

§ 43. PUNISHMENT. Whoever takes money, goods, chattels, lands or other reward, or promise thereof, to compound any criminal offense, shall be fined in double the sum or value of the thing agreed for or taken; but no person shall be debarred from taking his goods or property from the thief or felon, or receiving compensation for the private injury occasioned by the commission of any such criminal offense.

CONCEALING DEATH OF BASTARD.

§ 44. PUNISHMENT. If any woman shall endeavor, privately, either by herself or by the procurement of others, to conceal the death of any issue of her body, which if born alive would be a bastard, so that it may not come to light, whether it shall have been murdered or not, she shall suffer confinement in the county jail for a term not exceeding one year: *Provided, however*, that nothing herein contained shall be so construed as to prevent such mother from being indicted and punished for the murder of such bastard child.

CONSPIRACY.

§ 45. TO INDICT. If any two or more persons shall conspire or agree, falsely and maliciously, to charge or indict, or cause or procure to be charged or indicted any person for any criminal offense, each of the persons so offending shall be fined not exceeding \$1,000., and confined in the county jail not exceeding one year.

§ 46. TO DO ILLEGAL ACT. If any two or more persons conspire and agree together, with the fraudulent or malicious intent wrongfully and wickedly to injure the person, character, business or property of another, or to obtain money or other property by false pretenses, or to do any illegal act, injurious to the public trade, health, morals, police, or administration of public justice, or to prevent competition in the letting of any contract by the state or the authorities of any county, city, town or village, or to induce any person not to enter into such competition, or to commit any felony, they shall be deemed guilty of a conspiracy; and every such offender, and every person convicted of conspiracy at common law, shall be imprisoned in the penitentiary not exceeding three years, or fined not exceeding \$1,000.

CRIME AGAINST NATURE.

§ 47. PUNISHMENT. The infamous crime against nature, either with man or beast, shall subject the offender to be punished by imprisonment in the penitentiary for a term not more than 10 years.

§ 48. EMISSION. It shall not be necessary to prove emission, to convict any person of the crime against nature.

CRIMINAL CARELESSNESS.

§ 49. OF COMMON CARRIER. Whoever, having personal management or control of or over any steamboat, or other public conveyance used for the common carriage of persons, is guilty of gross carelessness or neglect in or in relation to, the conduct, management or control of such steamboat, or other public conveyance, while being so used for

I. Crimes and Penalties.

the common carriage of persons, whereby the safety of any person shall be endangered, shall be imprisoned in the penitentiary not exceeding three years, or fined not exceeding \$5,000.

CRUELTY.

§ 50. CRUELTY TO ANIMALS. Whoever shall be guilty of cruelty to any animal in any of the ways mentioned in this section, shall be fined not less than \$3., nor more than \$200., viz:

1. By overloading, overdriving, overworking, cruelly beating, torturing, tormenting, mutilating, or killing any animal, or causing, or knowingly allowing the same to be done.

2. By cruelly working any old, maimed, infirm, sick or disabled animal, or causing, or knowingly allowing the same to be done.

3. By unnecessarily failing to provide any animal in his charge or custody, as owner or otherwise, with proper food, drink and shelter.

4. By abandoning any old, maimed, infirm, sick or disabled animal.

5. By carrying or driving, or causing to be carried or driven or kept, any animal in an unnecessarily cruel manner.

§ 51. BY RAILROADS AND CARRIERS. No railroad company or other common carrier in the carrying or transportation of any cattle, sheep, swine or other animals, shall allow the same to be confined in any car more than twenty-eight consecutive hours (including the time they shall have been upon any other road), without unloading for rest, water and feeding, for at least five consecutive hours, unless delayed by storm or accident, when they shall be so fed and watered as soon after the expiration of such time as may reasonably be done. When so unloaded they shall be properly fed, watered and sheltered during such rest by the owner, consignee or person in custody thereof, and in case of their default, then by the railroad company transporting them, at the expense of said owner, consignee, or person in custody of the same; and such company shall have a lien upon the animals until the same is paid. A violation of this section shall subject the offender to a fine of not less than \$3. nor more [than] \$200.

§ 52. BULL BAITING, COCK-FIGHTING, ETC. Whoever shall keep or use, or in any way be connected with or interested in the management of, or shall receive money for the admission of any person to any place kept or used for the purpose of fighting or baiting any bull, bear, dog, cock or other creature, and every person who shall engage, encourage, aid or assist therein, or who shall permit or suffer any place to be so kept or used, and every person who shall visit such place so kept or used, or who shall be found therein, shall be fined not less than \$3. nor more than \$200.

§ 53. CRUELTY TO CHILDREN AND OTHERS. Any person who shall wilfully and unnecessarily expose to the inclemency of the weather, or shall, in any other manner, injure in health or limb, any child, apprentice, or other person under his legal control, shall be fined not exceeding \$500., or imprisonment in the penitentiary not exceeding five years.

CURRENCY UNAUTHORIZED.

§ 54. ISSUING OR UTTERING. Whoever issues or passes any note, bill, order or check, other than foreign bills of exchange, the notes or bills of the United States, or of some bank incorporated by the laws of this state, or of the United States, or of some one of the United States, or by the laws of either of the British provinces in North America, with intent that the same shall be circulated as currency, shall be fined not less than \$100. nor more than \$1,000. for each offense, and shall not be permitted to collect any demand arising therefrom.

DISORDERLY CONDUCT.

§ 55. PUNISHMENT. Whoever shall be guilty of open lewdness, disorderly conduct, or other notorious act of public indecency, tending to debauch the public morals, shall be fined not exceeding \$200.

§ 56. DISTURBING THE PEACE. Whoever, at a late and unusual hour of the night time, wilfully and maliciously disturbs the peace and quiet of any neighborhood or family, by loud or unusual noises, or by tumultuous and offensive carriage, threatening, traducing, quarreling, challenging to fight or fighting, or whoever shall carry concealed weapons, or

I. Crimes and Penalties.

in a threatening manner display any pistol knife, slungshot, brass, steel or iron knuckles, or other deadly weapon, day or night, shall be fined not exceeding \$100.

§ 57. DISORDERLY HOUSE: ILL FAME. Whoever keeps or maintains a house of ill fame or place for the practice of prostitution or lewdness, or whoever patronizes the same, or lets any house, room or other premises for any such purpose, or shall keep a common, ill governed and disorderly house, to the encouragement of idleness, gaming, drinking, fornication or other misbehavior, shall be fined not exceeding \$200. When the lessee or keeper of a dwelling-house or other building is convicted under this section, the lease or contract for letting the premises shall, at the option of the lessor, become void, and the lessor may have the like remedy to recover the possession as against a tenant holding over after the expiration of his term, and whoever shall lease to another any house, room or other premises in whole or in part for any of the uses or purposes finable under this section, or knowingly permits the same to be so used or occupied, shall be fined not exceeding \$200., and the house or premises so leased, occupied or used, shall be held liable for and may be sold for any judgment obtained under this section, but if such building or premises belongs to a minor or other person under guardianship, then the guardian or conservator and his property shall be liable instead of such ward, and his property shall be subject to be sold for the payment of said judgment.

§ 58. DISTURBING RELIGIOUS MEETING. Whoever by menace, profane swearing, vulgar language, or any disorderly or unusual conduct, interrupts or disturbs any assembly of people met for the worship of God, shall be fined not exceeding \$100.

§ 59. DISTURBING CAMP AND FIELD MEETING. Whoever during the time of holding any camp or field meeting for religious purposes, and within one mile of the place of holding such meeting, hawks or peddles goods, wares or merchandise, or, without permission of the authorities having charge of such meeting, establishes any tent, booth or other place for vending provisions or refreshments, or sells or gives away, or offers to sell or give away, any spirituous liquor, wine, cider or beer, or practices or engages in gaming or horse-racing, or exhibits or offers to exhibit any show or play, shall be fined not exceeding \$100. for each offense: *Provided*, that whoever has his regular place of business within such limits is not hereby required to suspend his business.

§ 60. DISTURBING ANY SCHOOL, ETC. Whoever wilfully interrupts or disturbs any school or other assembly of people, met for a lawful purpose, shall be fined not exceeding \$100.

§ 61. DISTURBING FUNERAL. Whoever wilfully interrupts or disturbs a funeral assembly or procession, shall be fined not exceeding \$100.

DRUGS.

§ 62. TO BE LABELED. Every druggist, or other person who shall sell and deliver any arsenic, strychnine, corrosive sublimate, prussic acid or any other substance or liquid usually denominated as poisonous, without having the word "poison" written or printed upon a label attached to the phial or parcel in which such drug is contained, or shall sell and deliver any drug or medicine other than upon the prescription of a physician, without having the name of such drug or medicine printed or written upon a label attached to the phial or parcel containing the same, shall be fined not exceeding \$25.

§ 63. SELLING POISONOUS. If any druggist or other person sells, or gives away any arsenic, strychnine, corrosive sublimate or prussic acid without the written prescription of a physician, and fails to keep a record of the date of such sale or gift, the article and amount thereof sold or given away, and the person to whom delivered, he shall be fined not exceeding \$50. for each neglect. Whoever purchases any such poison and gives a false or fictitious name, shall be punished in the same manner.

DRUNKENNESS.

§ 64. PUNISHMENT. Any intoxicated person found in any street, highway, or other public place, or so found disturbing the peace of the public, or of his own or any other family in any private building or place, shall for the first offense be fined not more than \$5., and upon any subsequent conviction shall be fined not exceeding \$25. Prosecutions under this section shall be commenced within 30 days after the offense is committed, and the justice of the peace may remit the punishment, in whole or in part, when he is satisfied the public welfare and the good of the offender require it.

I. Crimes and Penalties.

DUELING.

§ 65. PUNISHMENT. Whoever fights a duel with any deadly weapon, although no death ensues, and every second, and whoever aids and abets in such duel, shall be imprisoned in the penitentiary not less than one nor more than five years, or be fined not exceeding \$3,000.

§ 66. SENDING, ACCEPTING OR CARRYING CHALLENGE. Whoever challenges another to fight a duel with any deadly weapon, or sends or delivers any written or verbal message, purporting or intended to be such challenge, or accepts any such challenge or message, and whoever knowingly carries or delivers any such challenge or message, shall be imprisoned in the penitentiary not less than one, nor more than five years, or fined not exceeding \$3,000.

§ 67. DISABILITIES. Whoever shall be convicted under either of the two preceding sections shall be incapable of holding or being elected to any office of profit, trust or emolument, either civil or military, under the constitution or laws of this state.

§ 68. BY APPOINTMENT MADE WITHIN THE STATE. Whoever, being an inhabitant or resident of this state, by previous appointment or engagement made within the same, fights a duel without the jurisdiction of the state, and in so doing inflicts a mortal wound upon any person, whereof such person afterwards dies within this state, and every second engaged in such duel, shall be deemed guilty of murder within this state, and may be indicted, tried and convicted in the county where such death shall happen.

§ 69. LEAVING THE STATE TO ENGAGE IN. If any inhabitant of this state shall leave the same for the purpose of eluding the operation of the provisions herein contained respecting dueling or challenges to fight, with intent of giving or receiving any challenge herein prohibited, or of aiding or abetting in giving or receiving such challenge, and shall give or receive any such challenge, or shall aid or abet in giving or receiving the same, without this state, he shall be deemed as guilty, and shall be subject to the like punishment and disabilities as if the offense had been committed within this state.

§ 70. FORMER RECOVERY. Every person indicted under either of the two preceding sections may plead a former conviction or acquittal of the same offense in another state or country, and if such plea be admitted or established, it shall be a bar to any further proceedings against such person for the same offense.

§ 71. INDICTMENT. It shall not be necessary in an indictment against any person for fighting a duel, or against his seconds, aiders, abettors or counselors, or against any person for sending or accepting a challenge, or for carrying any challenge, or delivering any message intended as or purporting to be a challenge, or for being present at the fighting of any duel as a second, or for aiding or giving countenance to any duel, or the sending or accepting any challenge, to specify the nature or kind of the engine, instrument or weapon with which the duel shall be fought or intended to be fought, so that it be alleged in the indictment that the engine, weapon, or instrument was deadly, the probable consequence of fighting with which might be the death of the parties.

§ 72. OFFICER TO PREVENT. If any judge, justice of the peace, sheriff, or other officer, bound to preserve the public peace, shall have knowledge of an intention on the part of any two persons to fight with any deadly weapon or weapons, and such officer shall not use and exert his official authority to arrest the parties and prevent the duel, every such officer shall be fined not exceeding \$100.

§ 73. PUBLISHING AS COWARD. If any person shall, in any newspaper or handbill, written or printed, publish or proclaim any other person as a coward, or use any other opprobrious or abusive language, for not accepting a challenge to fight a duel, or for not fighting a duel, such person so offending, on conviction, shall be fined not exceeding \$500., or imprisoned not exceeding three months. The publisher or printer of any such newspaper, handbill, or other publication, may be summoned as a witness, and shall be required to testify against the writer of such handbill or publication; and if any such printer shall refuse to testify in relation to the premises, either before the grand or petit jury, he shall be deemed guilty of a flagrant contempt of the court, and may be punished by fine and imprisonment, or either: *Provided*, that the testimony given by any such witness shall, in no case, be used in any prosecution against such witness.

I. Crimes and Penalties.

EMBEZZLEMENT.

§ 74. EMBEZZLEMENT IS LARCENY. Whoever embezzles or fraudulently converts to his own use, or secretes, with intent to embezzle or fraudulently convert to his own use, money, goods or property delivered to him, which may be the subject of larceny, or any part thereof, shall be deemed guilty of larceny.

§ 75. BY OFFICERS OF CORPORATIONS, ETC. If any officer, agent, clerk, or servant of any incorporated company, or if a clerk, agent, servant or apprentice of any person or copartnership, or society, embezzles or fraudulently converts to his own use, or takes and secretes with intent so to do, without the consent of his company, employer or master, any property of such company, employer, master, or another, which has come to his possession, or is under his care by virtue of such office or employment, he shall be deemed guilty of larceny.

§ 76. BY BANKER, BANK OFFICER OR AGENT. If any banker or broker, or his agent or servant, or any officer, agent or servant of any banking company, or incorporated bank, fraudulently converts to his own use, or fraudulently takes and secretes, with intent so to do, any bullion, money, note, bill, bond, or other property belonging to and in possession of such bank, banker, broker or banking company, or belonging to any person and deposited therein or therewith, he shall, whether intrusted with the custody thereof or not, be deemed guilty of larceny.

§ 77. OF RAILROAD TICKET. Whenever any person in the employ of any railroad company, whether such company is incorporated by this or any other state, shall fraudulently neglect to cancel or return to the proper officer, company or agent, any coupon or other railroad ticket or pass, with the intent to permit the same to be used in fraud or injury of any such company; or if any person shall steal or embezzle any such coupon or other railroad ticket or pass, or shall fraudulently stamp, or print, or sign any such ticket, coupon or pass, or shall fraudulently sell or put in circulation any such ticket, coupon or pass, the person so offending shall be punished by imprisonment in the penitentiary for the term of one year.

§ 78. BY COMMISSION MERCHANTS AND OTHERS. If any warehouse-man, storage, forwarding or commission merchant, or other person selling on commission, or his agent, clerk or servant, shall convert to his own use any fruit, grain, flour, beef, pork or other property, or the proceeds or avails thereof, without the consent of the owner thereof, or shall fail to pay over the avails or proceeds thereof, less his proper charges, on demand by the person entitled to receive the same, or his duly authorized agent, he shall be fined not exceeding \$1,000., or confined in the county jail not exceeding one year, or both; and shall be liable to the person injured in double the value of the property or amount of the money so converted.

§ 79. BY ATTORNEYS AND OTHER OFFICERS. If any attorney at law, justice of the peace, constable, clerk of a court, or other person authorized by law to collect money, shall fail or refuse to pay over any money collected by him, less his proper charges, on demand by the person entitled to receive the same, or his agent duly authorized, he shall be fined not exceeding double the amount retained by him, or confined in the county jail not exceeding one year, or both, and be removed from office, and thereafter he shall be ineligible to be elected or appointed to, or hold any office under the constitution or laws of this state. And if such offender is an attorney at law, he shall thereafter be forever prohibited from practicing his profession in this state.

§ 80. BY PUBLIC OFFICER OR HIS SERVANT. If any state, county, township, city, town, village or other officer elected or appointed under the constitution or laws of this state, or any clerk, agent, servant or employee of any such officer, embezzles or fraudulently converts to his own use, or fraudulently takes or secretes with intent so to do, any money, bonds, mortgages, coupons, bank bills, notes, warrants, orders, funds or securities, books of record, or of accounts, or other property belonging to, or in the possession of the state or such county, township, city, town or village, or in possession of such officer by virtue of his office, he shall be imprisoned in the penitentiary not less than one nor more than 15 years.

§ 81. BY PUBLIC OFFICER IN LOANING OR USING PUBLIC FUNDS. If any state, county, township, city, town, village or other officer, elected or appointed under the con-

I. Crimes and Penalties.

stitution or laws of this state; master in chancery, commissioner or other officer of any court, or any clerk, agent, servant or employee of any such officer, shall use by way of investment or loan for his own use, except as authorized by law, with or without interest, any portion of the money, bonds, mortgages, coupons, bank bills, notes, warrants, orders or other funds, or securities intrusted to him for safe keeping, disbursement, transfer or other purpose, if the sum or value of the property so used does not exceed \$100., he shall be fined not exceeding \$200., or confined in the county jail not exceeding three months, or both; or if the sum or value of the property so used or loaned exceeds \$100., he shall be fined in double the amount so used or loaned, or confined in the county jail not exceeding one year, or both.

§ 82. **INDICTMENT.** In prosecutions for the offense of embezzling, fraudulently converting to one's own use, or fraudulently taking or secreting with intent so to embezzle and convert the bullion, money, notes, bank notes, checks, drafts, bills of exchange, obligations or other securities for money, of any person, bank, incorporated company or copartnership, by a cashier or other officer, clerk, agent or servant of such person, bank, incorporated company or copartnership, it shall be sufficient to allege generally in the indictment an embezzlement, fraudulent conversion, or taking with such intent, of funds of such person, bank, incorporated company or copartnership to a certain value or amount, without specifying any particulars of such embezzlement, and on the trial, evidence may be given of any such embezzlement, fraudulent conversion, or taking with such intent, and it shall be sufficient to maintain the charge in the indictment, if it is proved that any bullion, money, note, bank note, check, draft, bill of exchange, or other security for money of such person, bank, incorporated company or copartnership, of whatever value or amount, was fraudulently embezzled, converted or taken with such intent, by such cashier or other officer, clerk, agent or servant.

ESCAPE.

§ 83. **BY REFUSAL OF OFFICER TO ARREST.** Every sheriff, jailer, coroner, policeman, or other officer authorized to make arrests, or to have the custody of prisoners, who wilfully and corruptly refuses to arrest or confine any person charged with or convicted of any offense, or wilfully and corruptly omits or delays to execute any process to him directed, whereby the offender escapes, shall be confined in the county jail not exceeding one year, or fined not exceeding \$1,000., or both, and may be removed from his office.

§ 84. **AIDING A PRISONER.** Whoever aids or assists a prisoner in escaping or attempting to escape, from an officer or person who has the lawful custody of such prisoner, shall be confined in the county jail not exceeding one year, or fined not exceeding \$500.

§ 85. **RESCUE.** Whoever rescues or attempts to rescue a prisoner from an officer or person who has the lawful custody of such prisoner, shall be confined in the county jail not exceeding one year, or fined not exceeding \$1,000., or both.

§ 86. **THE PRECEDING EXTEND TO CIVIL PROCESS.** The two preceding sections shall extend to civil as well as criminal process, but in no case shall the fine exceed the sum for which the civil process issued.

§ 87. **RESCUE OF PRISONER CHARGED WITH HIGH CRIME BEFORE CONVICTION.** Whoever sets at liberty or rescues, or attempts to set at liberty or rescue, a person charged with the commission of any capital offense or crime punishable by imprisonment in the penitentiary, before the conviction of such person, shall be imprisoned in the penitentiary not exceeding five years, and fined not exceeding \$1,000.

§ 88. **RESCUE OF PRISONER CONVICTED OF HIGH CRIME.** Whoever sets at liberty or rescues, or attempts to set at liberty or rescue, any person found guilty or convicted of a crime the punishment of which is death, shall be imprisoned in the penitentiary not less than one nor more than 14 years. Whoever shall set at liberty or rescue, or attempt to set at liberty or rescue, any prisoner found guilty or convicted of a crime the punishment of which is imprisonment in the penitentiary, shall be imprisoned in the penitentiary not less than one nor more than 10 years.

§ 89. **OFFICER ALLOWING BEFORE CONVICTION.** If any sheriff, coroner, jailer, keeper of a prison, constable or other officer or person having any prisoner in his legal custody, before conviction, shall voluntarily suffer or permit such prisoner to escape or go at large, such officer or person so offending shall be fined not exceeding \$1,000., and confined in

I. Crimes and Penalties.

the county jail not exceeding six months : *Provided*, that if such prisoner be in custody charged with murder or other capital offense, then such officer or person suffering or permitting such escape, shall be punished by confinement in the penitentiary for any term not less than one year, nor more than 10 years. A negligent escape of a person charged with a criminal offense, before conviction, from the custody of any of the aforesaid officers, shall be punished by fine not exceeding \$1,000.

§ 90. OFFICER ALLOWING AFTER CONVICTION. If any sheriff, deputy sheriff, coroner, jailer, or other officer, shall fraudulently contrive, procure, conceal, aid, connive at or otherwise voluntarily suffer the escape of any convict in his custody, or conceal or assist any convict, after he has escaped, he shall be imprisoned in the penitentiary not less than one nor more than 10 years.

§ 91. OFFICER OF PENITENTIARY ALLOWING. If the warden or any officer, guard, agent, servant of, or person employing convicts in or about the penitentiary, shall contrive, procure, aid, connive at, conceal or assist the escape of any convict from the penitentiary, or conceal or assist any convict after he has escaped, he shall be imprisoned in the penitentiary not less than one nor more than 10 years.

§ 92. AIDING ESCAPE. Whoever conveys into the penitentiary, or into any jail or other place of confinement, any disguise, instrument, tool, weapon or other thing adapted or useful to aid a prisoner in making his escape, with intent to facilitate the escape of any prisoner there lawfully committed or detained, or by any means whatever aids or assists such prisoner to escape therefrom, whether such escape is effected or attempted or not, or conceals or assists any convict after he has escaped, shall be confined in the county jail not exceeding one year, or fined not exceeding \$1,000., or both.

EXTORTION BY THREATS.

§ 93. PUNISHMENT. Whoever, either verbally, or by written or printed communication, maliciously threatens to accuse another of a crime or misdemeanor, or to expose or publish any of his infirmities or failings, with intent to extort money, goods, chattels or other valuable thing, or threatens to maim, wound, kill or murder, or to burn or destroy his house or other property, or to accuse another of a crime or misdemeanor, or expose or publish any of his infirmities or failings, though no money, goods, chattels or valuable thing be demanded, shall be fined in a sum not exceeding \$500., and imprisoned not exceeding six months.

FALSE HEIR.

§ 94. Every person who shall fraudulently produce an infant, falsely pretending it to have been born of parents whose child would be entitled to a share of any personal estate, or to inherit any real estate, with the intent of intercepting the inheritance of any such real estate, or the distribution of any such personal property from any person lawfully entitled thereto, shall be imprisoned in the penitentiary not exceeding 10 years.

FALSE IMPRISONMENT.

§ 95. DEFINITION — PUNISHMENT. False imprisonment is an unlawful violation of the personal liberty of another, and consists in confinement or detention without sufficient legal authority. Any person convicted of false imprisonment shall be fined in any sum not exceeding \$500., or imprisoned not exceeding one year in the county jail.

FALSE PRETENSES.

§ 96. OBTAINING SIGNATURE OR GOODS. Whoever, with intent to cheat or defraud another, designedly by color of any false token or writing, or by any false pretense, obtains the signature of any person to any written instrument, or obtains from any person any money, personal property or other valuable thing, shall be fined in any sum not exceeding \$2,000., and imprisoned not exceeding one year, and shall be sentenced to restore the property so fraudulently obtained, if it can be restored. No indictment for the obtaining of any property or thing by any false pretense or pretenses, shall be quashed, nor shall any person indicted for such offense be acquitted, for the reason that the facts set forth in the indictment, or appearing in evidence, may amount to a larceny or other felony ; nor shall it be deemed essential to a conviction, that the property in the goods or things so obtained shall pass with the possession to the person so obtaining it.

I. Crimes and Penalties.

§ 97. OBTAINING CREDIT BY. Whoever, by any false representation in writing, signed by him, of his own respectability, wealth, or mercantile correspondence or connections, obtains credit, and thereby defrauds any person of money, goods, chattels or any valuable thing, or whoever procures another to make a false report in writing, signed by the person making the same, of his honesty, wealth, mercantile correspondence or connections, and thus obtains credit, and thereby defrauds any person of any money, goods, chattels or other valuable thing, shall be sentenced to return the money, or property so fraudulently obtained, if it can be done, and shall be fined not exceeding \$2,000. and confined in the county jail not exceeding one year.

§ 98. CONFIDENCE GAME. Every person who shall obtain, or attempt to obtain from any other person or persons, any money or property, by means or by use of any false or bogus checks, or by any other means, instrument or device, commonly called the confidence game, shall be imprisoned in the penitentiary not less than one year nor more than 10 years.

§ 99. CONFIDENCE GAME — INDICTMENT. In every indictment under the preceding section, it shall be deemed and held a sufficient description of the offense, to charge that the accused did, on etc., unlawfully and feloniously obtain, or attempt to obtain (as the case may be), from A. B. (here insert the name of the person defrauded, or attempted to be defrauded), his money (or property, in case it be not money) by means and by use of the confidence game.

§ 100. SWINDLING BY CARDS, SLEIGHT OF HAND, ETC. Whoever, by the game of "three card monte," so called, or any other game, device, sleight of hand, pretensions to fortune telling, trick, or other means whatever, by use of cards or other implements or instruments, fraudulently obtains from another person property of any description, shall be punished as in case of larceny of property of like value.

§ 101. FALSE WEIGHTS AND MEASURES. If any person shall knowingly sell by false weights or measures, or shall knowingly use false measures at any mill, in taking toll for grinding corn, wheat, rye or other grain, he shall be deemed a common cheat, and on conviction, shall be fined not less than \$200., and imprisoned not exceeding three months.

§ 102. FALSELY ASSUMING AN OFFICE. Whoever falsely assumes or pretends to be a justice of the peace, sheriff, deputy sheriff, coroner, constable, police officer, watchman or other officer, and takes upon himself to act as such, or to require any person to aid or assist him in a matter pertaining to the duty of any such officer, shall be confined in the county jail not exceeding one year, or fined not exceeding \$500.

FALSELY PERSONATING ANOTHER.

§ 103. RECEIVING MONEY OR PROPERTY. Whoever falsely personates or represents another, and in such assumed character, receives any money or property intended to be delivered to the party so personated, with intent to convert the same to his own use, shall be deemed to have committed larceny of the money or property so obtained.

§ 104. PERFORMING VARIOUS ACTS. Every person who shall falsely represent or personate another, and in such assumed character shall:

1. Marry another; or
2. Become bail or surety for any party in any proceeding, civil or criminal, before any court or officer authorized to take such bail or surety; or,
3. Confess any judgment; or,
4. Acknowledge the execution of any conveyance of real estate, or of any other instrument which by law may be recorded; or,
5. Do any act in the course of any suit, proceeding or prosecution, whereby any person, or body politic, may be injured, in any event, or his rights or interests may in any manner be effected, shall be imprisoned in the penitentiary not less than one nor more than 10 years.

FORGERY AND COUNTERFEITING.

§ 105. OF RECORDS, WRITINGS, ETC. Every person who shall falsely make, alter, forge or counterfeit any record or other authentic matter of a public nature, or any charter, letters patent, deed, lease, indenture, writing obligatory, will, testament, codicil, annuity, bond, covenant, post note, check, draft, bill of exchange, contract, promissory note, due bill for the payment of money or property, receipt for money or property, power of

I. Crimes and Penalties.

attorney, any auditor's warrant for the payment of money at the treasury, county order or any accountable receipt, or any order or warrant or request for the payment of money or the delivery of goods or chattels of any kind, or for the delivery of any instrument of writing or acquittance, release or receipt for money or goods, or any acquittance, release or discharge for any debt, account, action, suit, demand or other thing, real or personal, or any transfer or assurance of money, stock, goods, chattels or other property, whatever, or any letter of attorney or other power to receive money, or to receive or transfer stock or annuities, or to let, lease, dispose of, alien or convey any goods or chattels, lands or tenements, or other estate, real or personal, or any acceptance or indorsement of any bill of exchange, promissory note, draft or order, or assignment of any bond, writing obligatory, or promissory note for money or other property; or any ticket or pass for the passage of any persons upon any railroad or other conveyance, or for the admission of any person to any entertainment for which a consideration is required, or any other written instrument of another, or purporting to be such, by which any pecuniary demand or obligation, or any right in any property is, or purports to be created, increased, conveyed, transferred, diminished, or destroyed; or shall counterfeit or forge the seal or handwriting of another, with intent to damage or defraud any person, body politic or corporate, whether the said person, body politic or corporate reside in, or belong to this state or not; or shall utter, publish, pass or attempt to pass as true and genuine, or cause to be uttered, published, passed, or attempted to be passed as true and genuine, any of the above named false, altered, forged or counterfeited matters, as above specified and described, knowing the same to be false, altered, forged or counterfeited, with intent to prejudice, damage or defraud any person, body politic or corporate, whether the said person, body corporate or politic reside in this state or not; every person so offending shall be deemed guilty of forgery, and shall be imprisoned in the penitentiary not less than one year nor more than 14 years.

§ 106. OF PUBLIC SECURITIES, BANK BILLS, ETC. Whoever, with intent to defraud, falsely makes, alters, forges or counterfeits any public security, issued in any form, or purporting to be by authority of the United States, or of any state or territory thereof, or any indorsement or writing purporting to be a transfer thereof, or any bank bill or promissory note, issued or purporting to be by any bank or banking company in this state, or within the United States, or any of the territories thereof, or any foreign province, state or government; and whoever has in his possession or receives from another, with intent to utter or pass, or utters or passes, or tenders in payment, as true, any such false, altered, forged or counterfeited bill or note, with intent to injure or defraud any person, shall be imprisoned in the penitentiary not less than one nor more than 20 years.

§ 107. FICTITIOUS BILLS, NOTES, ETC. Whoever shall make, pass, utter or publish with an intention to defraud any other person, or with like intention shall attempt to pass, utter or publish, or shall have in his possession, with like intent to pass, utter or publish, any fictitious bill, note or check purporting to be the bill, note or check, or other instrument of writing for the payment of money or property of some bank, corporation, copartnership, or individual, when in fact there shall be no such bank, corporation, copartnership or individual in existence, the said person knowing the said bill, note, check or instrument of writing for the payment of money or property to be fictitious, shall be imprisoned in the penitentiary not less than one nor more than 20 years.

§ 108. CONNECTING PARTS OF SEVERAL BILLS. Whoever fraudulently connects together different parts of several bank notes or other genuine instruments, in such a manner as to produce one additional note or instrument, with intent to pass all of them as genuine, shall be deemed guilty of forgery in like manner as if each of them had been falsely made or forged, and punished accordingly.

§ 109. PROOF BY EXPERTS. Persons of skill shall be competent to testify as to the genuineness of any bill, note or other instrument alleged to be forged or counterfeited.

§ 110. PROOF OF CORPORATION. On the trial of any person for forging any bill or note, purporting to be the bill or note of some incorporated company or bank, or for passing or attempting to pass, or having in possession with intent to pass any such forged bill or note, it shall not be necessary to prove the incorporation of such bank or company by the charter or act of incorporation, but the same may be proved by general reputation.

§ 111. COIN. Every person who shall counterfeit any of the species of gold or silver coin current by law or usage in this state, or any foreign state or country, or shall pass

I. Crimes and Penalties.

or give in payment or offer to pass or give in payment such counterfeited coin, or permit, cause or procure the same to be altered or passed with intention to defraud any person, body politic or corporate, knowing the same to be counterfeited, shall be deemed guilty of counterfeiting, and imprisoned in the penitentiary for a term not less than one year, nor more than 14 years.

§ 112. POSSESSION OF COUNTERFEIT COIN. Every person who shall have in his possession, or receive for any other person any counterfeit gold or silver coin or coins of the species current by law or usage in this state, with intention to utter or pass the same, or to permit, cause or procure the same to be uttered or passed, with intention to defraud any person or body politic or corporate, knowing the same to be counterfeit, shall be imprisoned in the penitentiary not less than one nor more than 14 years.

§ 113. COUNTERFEITING TOOLS. Every person who shall make, mend, or knowingly have in his possession, any die or dies, plate or plates, or any apparatus, paper, metal, machine or other thing whatever made use of in counterfeiting the coin current by law or usage in this state, or in counterfeiting public securities, bank notes or bills, whether such bank be situate in this state or not shall be imprisoned in the penitentiary not less than one year nor more than 14 years; and all such dies, plates, apparatus, paper, metal or machine intended for the purposes aforesaid shall be destroyed or sold, if in the opinion of the court the same may properly be sold, and the proceeds, after payment of costs, shall be paid into the county treasury for the use of the county.

§ 114. COUNTERFEITING SEALS. Every person who shall fraudulently forge, deface, corrupt or counterfeit the seal of this state, or the seal of any court or public officer by law entitled to have and use a seal, or the seal of any public, municipal or private corporation, or shall make use of the same, or shall forge or counterfeit the signature of any public officer, or shall unlawfully and corruptly, or with evil intent, affix any of the said true seals to any commission, deed, warrant, pardon, certificate or other writing, or who shall have in his possession or custody any such counterfeit seal, and shall wilfully conceal the same, knowing it to be falsely made and counterfeited, shall be imprisoned in the penitentiary not less than one nor more than 20 years.

§ 115. COUNTERFEITING TRADE MARKS. Whoever knowingly and wilfully counterfeits or causes to be counterfeited any private stamp, label or trade mark, used by a merchant or manufacturer about the sale of his goods, with intent to defraud the purchaser or manufacturer, or sells such goods with such counterfeit stamps, labels or trade marks thereon knowing them to be counterfeit, shall for each offense be fined not exceeding \$200.

§ 116. SIMULATING TRADE MARKS. When a person uses any peculiar name, letters, mark, device or figures, cut, stamped, cast or engraved upon, or in any way attached to or connected with any article manufactured or sold by him, to designate it as an article of peculiar kind, character or quality, or as manufactured by him; whoever shall, without his consent, use the same or any similar names, letters, marks, devices or figures for the purpose of falsely representing any articles to have been manufactured by him, or to be of the same kind, character or quality as that manufactured or sold by the party rightfully using the same, shall for each offense be fined not exceeding \$200.

FRAUDS.

§ 117. ON GAS COMPANIES. Any person who, with intent to injure or defraud any gas company, body corporate or individual, shall injure, alter, obstruct or prevent the action of any meter provided for the purpose of measuring and registering the quantity of gas consumed by or at any burner, orifice or place, or cause or procure any such meter to be injured or altered, or the action thereof to be obstructed or prevented, or who shall make or cause to be made any connection with any gas pipe so as to conduct or supply illuminating or inflammable gas to any burner or orifice, from which such gas may be consumed, without passing through or being registered by a meter, shall be punished by imprisonment not exceeding three months, or by fine not exceeding \$250., or both.

§ 118. ON LIFE AND ACCIDENT INSURANCE COMPANIES. If any person shall obtain or cause to be obtained, or attempt to obtain from any life or accident insurance company, any sum of money on any policy of life or accident insurance issued by any company doing business in this state, by falsely or fraudulently representing the person insured as dead, or shall cause any person to be insured under an assumed name, and shall falsely represent the fictitious person so insured as dead, and shall thereby obtain, cause to be

I. Crimes and Penalties.

obtained, or attempt to obtain from such company the amount of such insurance, or shall falsely obtain, cause to be obtained, or attempt to obtain from such life or accident insurance company any sum of money upon any life or accident policy of such company by means of false and fraudulent written representations or affidavits, falsely representing that the person whose life was insured was dead, or that the person insured against accident was injured, every person so offending shall be deemed guilty of a misdemeanor, and on conviction thereof, if the sum so obtained, attempted or caused to be obtained shall be equal to or exceed the sum of \$25., shall be imprisoned in the penitentiary not exceeding five years; and if the sum so obtained, attempted or caused to be obtained shall be less than \$25., shall be fined not more than \$100., or be confined in the county jail not exceeding six months, or both, at the discretion of the court.

FRAUDULENT STOCK.

§ 119. ISSUING. Every president, cashier, treasurer, secretary or other officer, and every agent, attorney, servant or employee of any bank, railroad, manufacturing or other corporation, and every other person who shall knowingly and designedly, and with intent to defraud any person, bank, railroad, manufacturing or other corporation, issue, sell, transfer, assign or pledge, or cause or procure to be issued, sold, transferred, assigned or pledged, any false, fraudulent or simulated certificate or other evidence of ownership of any share or shares of the capital stock of any bank, railroad, manufacturing or other corporation, shall be punished by fine not exceeding \$2,000., and by imprisonment in the penitentiary not more than 10 years, as the jury shall determine.

§ 120. SIGNING WITH INTENT TO ISSUE. Every president, cashier, treasurer, secretary or other officer, and every agent of any bank, railroad, manufacturing or other corporation, who shall wilfully and designedly sign, with intent to issue, sell, pledge, or cause to be issued sold or pledged, any false, fraudulent or simulated certificate or other evidence of the ownership or transfer of any share or shares of the capital stock of such corporation, or any instrument purporting to be a certificate or other evidence of such ownership or transfer, the signing, issuing, selling or pledging of which by such president, cashier, treasurer or other officer or agent, shall not be authorized by the charter and by-laws of such corporation, or by some amendment thereof, shall be punished by fine not exceeding \$2,000., and by imprisonment in the penitentiary not more than 10 years as the jury shall determine.

FRAUDULENT SALE.

§ 121. OF LANDS. Any person, after once selling, bartering or disposing of any tract or tracts of land, town lot or lots, or executing any bond or agreement for the sale of any lands, or town lot or lots, who shall again knowingly and fraudulently sell, barter or dispose of the same tract or tracts of land, or town lot or lots, or any parts thereof, or shall knowingly and fraudulently execute any bond or agreement to sell or barter, or dispose of the same land, or lot or lots, or any part thereof, to any other person for a valuable consideration, shall be imprisoned in the penitentiary not less than one year nor more than 10 years.

FRAUDULENT CONVEYANCE.

§ 122. OF REAL OR PERSONAL PROPERTY. Every person who shall be a party to any fraudulent conveyance of any lands, tenements, or hereditaments, goods or chattels, or any right or interest issuing out of the same, or to any bond, suit, judgment or execution, contract or conveyance had, made or contrived, with intent to deceive and defraud others, or to defeat, hinder or delay creditors or others of their just debts, damages or demands; or who, being a party as aforesaid, at any time shall wittingly and willingly put in use, avow, maintain, justify or defend the same or any of them as true, and done, had or made in good faith or upon good consideration, or shall sell, alien or assign any of the lands, tenements, hereditaments, goods, chattels or other things before mentioned, to him conveyed as aforesaid, or any part thereof shall be fined not exceeding \$1,000.

FRAUDULENT ACKNOWLEDGMENT.

§ 123. PUNISHMENT. If any officer authorized to take the proof and acknowledgment of any conveyance of real or personal property, or other instrument wilfully certifies

I. Crimes and Penalties.

that such conveyance or other instrument was duly proven or acknowledged by any party thereto, when no such acknowledgment or proof was made, or was not made at the time it was certified to have been made, with intent to injure or defraud, or to enable any other person to injure or defraud, he shall be imprisoned in the penitentiary not less than one nor more than five years, or confined in the county jail not exceeding one year, and fined not exceeding \$1,000.

FRAUDULENT RECEIPTS.

§ 124. ISSUING BY WAREHOUSE-MEN AND OTHERS. Whoever fraudulently makes or utters any receipt, or other written evidence of the delivery or deposit of any grain, flour, pork, wool, salt, or other goods, wares or merchandise, upon any wharf or place of storage, or in any warehouse, mill, store or other building when the quantity specified therein has not in fact been delivered or deposited as stated in such receipt or other evidence of the delivery or deposit thereof, and is not, at the time of issuing the same, still in store, and the property of the person to whom or to whose agent the receipt is issued, or for the whole or any part of which any other receipt is outstanding, or uncancelled, shall be imprisoned in the penitentiary not less than one nor more than 10 years.

§ 125. REMOVAL OF WAREHOUSE GOODS. Whoever, having given any such receipt or written evidence of deposit or storage as is specified in the preceding section, or being in the possession or control of such property, shall sell, incumber, ship, transfer, or in any manner remove from the place of storage, or allow the same to be done, any such grain, flour, pork, wool, salt, or other goods, wares and merchandise, without the written consent of the holder of such receipt or other evidence of deposit or storage, except in cases of necessity for the purpose of saving such property from loss or damage by fire, flood or other accident, shall be imprisoned in the penitentiary not less than one nor more than 10 years.

GAMBLING, AND GAMBLING CONTRACTS.

§ 126. GAMING. Whoever shall play for money, or other valuable thing, at any game with cards, dice, checks, or at billiards, or with any other article, instrument, or thing whatsoever, which may be used for the purpose of playing or betting upon, or winning or losing money, or any other thing or article of value, or shall bet on any game others may be playing, shall be fined not exceeding \$100. and not less than \$10.

§ 127. GAMING HOUSE. Whoever keeps a common gaming house, or in any building, booth, yard, garden, boat or float, by him or his agent used and occupied, procures or permits any persons to frequent, or to come together to play for money or other valuable thing, at any game, or keeps or suffers to be kept any tables or other apparatus, for the purpose of playing at any game or sport, for money or any other valuable thing, or knowingly rent any such place for such purposes shall, upon conviction, for the first offense be fined not less than \$100., and for the second offense be fined not less than \$500., and be confined in the county jail not less than six months, and for the third offense shall be fined not less than \$500., and be imprisoned in the penitentiary not less than two years nor more than five years.

§ 128. GAMING IN TAVERN. Every tavern keeper, common victualer or other person, keeping or suffering to be kept, in any place occupied by him, any implements such as are used in gaming, in order that the same may for hire, gain or reward, be used for the purpose of amusement, who suffers any implement of that kind to be used upon any part of his premises for the purpose of gaming for money or other property, or who suffers any person to play at an unlawful game or sport therein, shall, for the first offense, be fined \$100., and for the second offense be fined not less than \$500., and be confined in the county jail not less than six months and for the third offense, shall be fined not less than \$500. and be imprisoned in the penitentiary not less than two nor more than five years, and in either case he shall forfeit his license, and shall not again be licensed as a tavern keeper for one year from his conviction.

§ 129. DECOYS. If any one shall, through invitation or device, prevail on any person to visit any room, building, booth, yard, garden, boat or float kept for the purpose of gambling, or prostitution or fornication, he shall, on conviction thereof, for the first offense be fined not less than \$10. nor more than \$100., and for the second offense he may be fined not less than \$100. nor more than \$300. or may be confined in the county jail not exceeding six months, or both, in the discretion of the court.

I. Crimes and Penalties.

§ 130. GAMBLING IN GRAIN, ETC. Whoever contracts to have or give to himself or another, the option to sell or buy at a future time any grain, or other commodity, stock of any railroad or other company, or gold or forestalls the market by spreading false rumors to influence the price of commodities therein or corners the market or attempts to do so in relation to any of such commodities, shall be fined not less than \$10. nor more than \$1,000., or confined in the county jail not exceeding one year or both and all contracts made in violation of this section shall be considered gambling contracts, and shall be void.

§ 131. GAMING CONTRACTS. All promises, notes, bills, bonds, covenants, contracts, agreements, judgments, mortgages, or other securities or conveyances, made, given, granted, drawn or entered into, or executed by any person whatsoever, where the whole, or any part of the consideration thereof, shall be for any money, property or other valuable thing, won by any gaming or playing at cards, dice, or any other game or games, or by betting on the side or hands of any person gaming, or by wager or bet upon any race, fight, pastime, sport, lot, chance, casualty, election or unknown or contingent event whatever, or for the reimbursing or paying any money or property knowingly lent or advanced at the time and place of such play or bet, to any person or persons so gaming or betting, or that shall during such play or betting, so play or bet, shall be void and of no effect.

§ 132. LOSSES BY GAMING. Any person who shall, at any time or sitting, by playing at cards, dice or any other game or games, or by betting on the side or hands of such as do game, or by any wager or bet upon any race, fight, pastime, sport, lot, chance, casualty, election or unknown or contingent event whatever, lose to any person, so playing or betting, any sum of money, or other valuable thing amounting in the whole to the sum of \$10., and shall pay or deliver the same or any part thereof, the person so losing and paying or delivering the same, shall be at liberty to sue for and recover the money, goods or other valuable thing so lost and paid or delivered or any part thereof, or the full value of the same, by action of debt, replevin, assumpsit or trover, or proceeding in chancery, from the winner thereof, with costs, in any court of competent jurisdiction; in any such action at law it shall be sufficient for the plaintiff to declare generally, as in actions of debt or assumpsit, for money had and received by the defendant to the plaintiff's use; or as in actions of replevin or trover upon a supposed finding, and the detaining or converting the property of the plaintiff to the use of the defendant, whereby an action hath accrued to the plaintiff according to the form of this act, without setting forth the special matter. In case the person who shall lose such money or other thing as aforesaid, shall not, within six months, really and bona fide, and without covin or collusion, sue, and with effect prosecute, for such money or other thing, by him lost and paid or delivered as aforesaid, it shall be lawful for any person to sue for and recover treble the value of the money, goods, chattels and other things with costs of suit, by special action on the case against such winner aforesaid; one half to use of the county, and the other to the person suing.

§ 133. PREMISES LIABLE FOR LOSSES. If any person shall rent or lease to another any building or premises to be used or occupied in whole or in part as a common gaming house or place for persons to come together to play for money or other valuable thing, or bet upon any game or chance or shall knowingly permit the same, to be so used or occupied, such building or premises so used or occupied, shall be held liable for and may be sold to pay any judgment that may be recovered under the preceding section. Proceedings may be had to subject the same to the payment of any such judgment recovered which remain unpaid or any part thereof, either before or after execution shall issue against the property of the person against whom such judgment shall have been recovered; and when execution shall issue against the property so leased or rented, the officer shall proceed to satisfy said execution out of the building or premises so leased or occupied as aforesaid: *Provided*, that if such building or premises belong to a minor or other person under guardianship the guardian or conservator of such person, and his real and personal property, shall be held liable instead of such ward, and his property shall be subject to all the provisions of this section relating to the collection of said judgment.

§ 134. INSURANCE CONTRACTS EXCEPTED. Nothing contained in §§ 131 and 132 above shall be construed as to prohibit or in any way affect any insurance made in good

I. Crimes and Penalties.

faith for the security or indemnity of the party insured and which is not otherwise prohibited by law, nor to any contract on bottomry or respondentia.

§ 135. PROCEEDINGS TO VACATE GAMING CONTRACTS. All judgments, mortgages, assurances, bonds, notes, bills, specialties, promises, covenants, agreements, and other acts, deeds, securities, or conveyances, given, granted, drawn or executed, contrary to the provisions of this act, may be set aside and vacated by any court of equity, upon bill filed for that purpose, by the person so granting, giving, entering into, or executing the same, or by his executors or administrators; or by any creditors, heir, devisee, purchaser or other person interested therein; or if a judgment, the same may be set aside on motion of any person aforesaid, on due notice thereof given.

§ 136. PROCEEDINGS NOT AFFECTED BY ASSIGNMENT OF CONTRACT. No assignment of any bill, note, bond, covenant, agreement, judgment, mortgage, or other security or conveyance as aforesaid, shall, in any manner, affect the defense of the person giving, granting, drawing, entering into or executing the same, or the remedies of any person interested therein.

§ 137. DISCOVERY. In all actions or other proceedings commenced or prosecuted under the provisions of §§ 126 to 135 inclusive of this division, the party shall be entitled to discovery as in other actions, and all persons shall be obliged and compelled to answer, upon oath, such bills as shall be preferred against them for discovering the sum of money or other thing so won as aforesaid. Upon the discovery and repayment of the money, or other thing, so to be discovered and repaid, the person who shall discover and repay the same, as aforesaid, shall be acquitted, indemnified and discharged from any other or further punishment, forfeiture or penalty, which he might have incurred, by the playing for, or winning such money, or other thing so discovered or repaid as aforesaid.

GRAVES, GRAVEYARDS AND CEMETERIES.

§ 138. ROBBERING GRAVES. Whoever wilfully and without authority, digs up, disinters removes or conveys away from the place of sepulture or interment thereof any human body or the remains thereof, or knowingly aids in such disinterment, removal, or conveying away, and whoever is accessory thereto, either before or after the fact, shall be fined not less than \$100. nor more than \$1,000., or be confined in the county jail not exceeding one year or both.

§ 139. INJURING MONUMENTS. Whoever wilfully and maliciously injures defaces, removes or destroys, any vault, tomb, monument, gravestone or other memorial of the dead, or any fence or inclosure about the same, or about any cemetery or place of burial of the dead, or wilfully cuts breaks, removes or injures any tree, shrub or plant within any such inclosure, or about or upon any grave or tomb or wantonly or maliciously disturbs the contents of any vault, tomb or grave, shall be fined not exceeding \$500., or confined in the county jail not exceeding one year, or both.

HOMICIDE.

§ 140. MURDER. Murder is the unlawful killing of a human being, in the peace of the people, with malice aforethought, either expressed or implied. The unlawful killing may be perpetrated by poisoning, striking, starving, drowning, stabbing, shooting, or by any other of the various forms or means by which human nature may be overcome, and death thereby occasioned. Express malice is that deliberate intention unlawfully to take away the life of a fellow creature, which is manifested by external circumstances capable of proof. Malice shall be implied when no considerable provocation appears, or when all the circumstances of the killing show an abandoned and malignant heart.

§ 141. PETIT TREASON — MURDER. The distinction between petit treason and murder is abolished. Any person who might have been indicted for petit treason, shall hereafter be indicted for murder, and if convicted, be punished accordingly.

§ 142. MURDER — PUNISHMENT. Whoever is guilty of murder, shall suffer the punishment of death, or imprisonment in the penitentiary for his natural life, or for a term not less than 14 years. If the accused is found guilty by a jury, they shall fix the punishment by their verdict; upon a plea of guilty, the punishment shall be fixed by the court.

§ 143. MANSLAUGHTER DEFINED. Manslaughter is the unlawful killing of a human being without malice, express or implied and without any mixture of deliberation whatever. It must be voluntary upon a sudden heat of passion, caused by a provocation,

I. Crimes and Penalties.

apparently sufficient to make the passion irresistible, or involuntary in the commission, of an unlawful act or a lawful act without due caution or circumspection.

§ 144. **MANSLAUGHTER VOLUNTARY.** In cases of voluntary manslaughter, there must be a serious, and highly provoking injury inflicted upon the person killing sufficient to excite an irresistible passion in a reasonable person, or an attempt by the person killed to commit a serious personal injury on the person killing. The killing must be the result of that sudden, violent impulse of passion, supposed to be irresistible; for if there should appear to have been an interval between the assault or provocation given, and the killing, sufficient for the voice of reason and humanity to be heard, the killing shall be attributed to deliberate revenge, and punished as murder.

§ 145. **MANSLAUGHTER INVOLUNTARY.** Involuntary manslaughter shall consist in the killing of a human being without any intent to do so, in the commission of an unlawful act, or a lawful act, which probably might produce such a consequence, in an unlawful manner: *Provided always*, that where such involuntary killing shall happen in the commission of an unlawful act, which in its consequences naturally tends to destroy the life of a human being, or is committed in the prosecution of a felonious intent, the offense shall be deemed and adjudged to be murder.

§ 146. **MANSLAUGHTER — PUNISHMENT.** Whoever is guilty of manslaughter shall be imprisoned in the penitentiary for his natural life, or for any number of years. If the accused is found guilty by a jury, they shall fix the punishment by their verdict; upon a plea of guilty, the punishment shall be fixed by the court.

§ 147. **TIME OF DEATH.** In order to make the killing either murder or manslaughter, it is requisite that the party die within a year and a day after the stroke received, or the cause of death administered, in the computation of which the whole of the day on which the hurt was done shall be reckoned the first.

§ 148. **JUSTIFIABLE HOMICIDE.** Justifiable homicide is the killing of a human being in necessary self-defense, or in the defense of habitation, property or person, against one who manifestly intends or endeavors by violence or surprise to commit a known felony, such as murder, rape, robbery, burglary and the like, upon either person or property, or against any person or persons who manifestly intend and endeavor in a violent, riotous or tumultuous manner, to enter the habitation of another for the purpose of assaulting or offering personal violence to any person dwelling or being therein. A bare fear of any of these offenses, to prevent which the homicide is alleged to have been committed shall not be sufficient to justify the killing. It must appear that the circumstances were sufficient to excite the fears of a reasonable person, and that the party killing really acted under the influence of those fears, and not in a spirit of revenge.

§ 149. **SELF-DEFENSE.** If a person kill another in self-defense, it must appear that the danger was so urgent and pressing that in order to save his own life, or to prevent his receiving great bodily harm, the killing of the other was absolutely necessary; and it must appear also, that the person killed was the assailant, or that the slayer had really, and in good faith, endeavored to decline any further struggle before the mortal blow was given.

§ 150. **BY AN OFFICER RESISTED.** If any officer in the execution of his office, in a criminal case, having legal process, be resisted and assaulted, he shall be justified if he kill the assailant. If an officer or private person, attempt to take a person charged with treason, murder, rape, burglary, robbery, arson, perjury, forgery, counterfeiting or other felony, and he be resisted in the endeavor to take the person accused, and to prevent the escape of the accused by reason of such resistance, he be killed, the officer or private person so killing shall be justified: *Provided*, that such officer or private person, previous to such killing, shall have used all reasonable efforts to take the accused without success, and that from all probability there was no prospect of being able to prevent injury from such resistance, and the consequent escape of such accused person.

§ 151. **ACCORDING TO LAWFUL SENTENCE.** Justifiable homicide may also consist in unavoidable necessity, without any will or desire, and without any inadvertence or negligence in the party killing. An officer who in the execution of public justice puts a person to death, in virtue of a judgment of a competent court of justice shall be justified. The officer must however, in the performance of his duty, proceed according to the sentence and the law of the land.

§ 152. **BY MISADVENTURE.** Excusable homicide, by misadventure, is when a person in doing a lawful act, without any intention of killing, yet unfortunately kills another; as where a man is at work with an axe, and the head flies off and kills a by-stander, or where

I. Crimes and Penalties.

a parent is moderately correcting his child, or master his servant or scholar, or an officer punishing a criminal, and happens to occasion death, it is only a misadventure, for the act of correction was lawful; but if a parent or master exceed the bounds of moderation, or the officer the sentence under which he acts, either in the manner, the instrument, or quantity of punishment, and death ensue, it will be manslaughter or murder, according to the circumstances of the case.

§ 153. OTHER INSTANCES. All other instances which stand upon the same footing of reason and justice as those enumerated shall be considered justifiable or excusable homicide.

§ 154. JUSTIFIABLE OR EXCUSABLE — DEFENDANT DISCHARGED. The homicide appearing to be justifiable or excusable, the person indicted shall, upon his trial, be fully acquitted and discharged.

§ 155. BURDEN OF PROOF. The killing being proved, the burden of proving circumstances of mitigation, or that justify or excuse the homicide, will devolve on the accused, unless the proof on the part of the prosecution sufficiently manifests that the crime committed only amounts to manslaughter, or that the accused was justified or excused in committing the homicide.

INCEST.

§ 156. FATHER WITH DAUGHTER. If a father shall rudely and licentiously cohabit with his own daughter, the father shall be imprisoned in the penitentiary for a term not exceeding 20 years.

§ 157. OF RELATIVES. Persons within the degrees of consanguinity within which marriages are declared by law to be incestuous and void, who shall intermarry with each other, or who shall commit adultery or fornication with each other, or who shall lewdly and lasciviously cohabit with each other, shall be imprisoned in the penitentiary not exceeding 10 years.

INTIMIDATION.

§ 158. BY COMBINATION, ETC. If any two or more persons shall combine for the purpose of depriving the owner or possessor of property of its lawful use and management, or of preventing, by threats, suggestions of danger or any unlawful means, any person from being employed by or obtaining employment from any such owner or possessor of property, on such terms as the parties concerned may agree upon, such persons so offending shall be fined not exceeding \$500., or confined in the county jail not exceeding six months.

§ 159. OF WORKMEN, ETC. If any person shall, by threat, intimidation or unlawful interference seek to prevent any other person from working or from obtaining work at any lawful business, on any terms that he may see fit, such person so offending shall be fined not exceeding \$200.

§ 160. ENTERING PREMISES TO INTIMIDATE. Whoever enters a coal bank, mine, shaft, manufactory, building or premises of another, with intent to commit any injury thereto, or by means of threats, intimidation, or riotous or other unlawful doings, to cause any person employed therein to leave his employment, shall be fined not exceeding \$500., or confined in the county jail not exceeding six months or both.

§ 161. COMPELLING CONFESSION. If two or more persons shall commit an assault and battery on, or shall imprison another within this state, for the purpose of obtaining a confession or revelation tending to criminate the person assaulted, or any other person, or shall assault and batter, or imprison another on account of a refusal of such person to make such confession or revelation, the person so offending shall be imprisoned in the penitentiary not less than one year nor more than three years.

§ 162. COMPELLING TO LEAVE. If two or more persons shall actually do an unlawful act, with force or violence, against the person or property of another, with an intent thereby to cause such person to leave the state or county against his will the persons so offending shall be imprisoned in the penitentiary not less than one year nor more than three years.

§ 163. MOCK TRIAL. If two or more persons shall, without authority of law, assemble and try another for any real or pretended offense, or for being a person of bad repute, with intent to intimidate or inflict any injury or punishment upon the person so tried, the persons so offending shall be imprisoned in the penitentiary not less than one nor more than three year[s].

I. Crimes and Penalties.

§ 164. OF JURORS AND OTHERS. If two or more persons shall actually do an unlawful act with force or violence, against the person or property of any grand or petit juror, witness, or member of a posse comitatus, on account of any act done by him, in obedience to a duty required of him by law, or to prevent the performance of any such act, the persons so offending shall be imprisoned in the penitentiary not less [than] one year nor more than three years.

§ 165. BY THREATS. If one or more persons shall threaten violence to the person or property of another, for the purpose of obtaining a confession of crime, or for the purpose of causing such person to leave the state; or shall threaten violence to the person or property of any grand or petit juror, witness or a member of a posse comitatus, on account of any act done by him in obedience to a duty required of him by law, or to prevent the performance of any such act, the person or persons so offending shall be severally fined not exceeding \$100., or confined in the county jail not more than three months.

KIDNAPING.

§ 166. PUNISHMENT. Whoever wilfully and without lawful authority, forcibly or secretly confines or imprisons any other person within this state against his will; or forcibly carries or sends such person out of the state; or forcibly seizes, or confines, or inveigles, or kidnaps any other person, with the intent to cause such person to be secretly confined or imprisoned in this state against his will, or to cause such person to be sent out of the state against his will, shall be imprisoned in the penitentiary not exceeding five years, or fined not exceeding \$1,000. or both. This section shall not extend to a parent taking his or her minor child, unless such parent is deprived of the right to have the custody of such child by the order of a court of competent jurisdiction.

LARCENY.

§ 167. DEFINED. Larceny is the felonious stealing, taking and carrying, leading, riding or driving away the personal goods of another. Larceny shall embrace every theft which deprives another of his money or other personal property, or those means or muniments by which the right and title to property, real or personal, may be ascertained. Private stealing from the person of another, and from a house in the day time shall be deemed larceny. Larceny may also be committed by feloniously taking and carrying away any bond, bill, note, receipt or any instrument of writing of value to the owner.

§ 168. PUNISHMENT. Every person convicted of larceny if the property stolen exceeds the value of \$15., shall be imprisoned in the penitentiary not less than one nor more than 10 years; if the value of the property stolen is less than \$15., he shall be confined in the county jail not exceeding one year and fined not exceeding \$100.

§ 169. SECOND OFFENSE. In case of a second conviction of the offense of petty larceny by any person over the age of 18 years, the punishment shall be by imprisonment in the penitentiary, for a term not exceeding three years; and on the trial under an indictment for petty larceny, a duly certified copy of the record of a former conviction and judgment of any court of record in this state, for a like offense against the party indicted, shall be prima facie evidence of such former conviction, and may be used in evidence against such party: *Provided*, that such former conviction and judgment shall be set forth in apt words in the indictment.

§ 170. BY BAILEE. If any bailee of any bank bill, note, money or other property, shall convert the same to his own use, with intent to steal the same, or secretes the same with intent so to do, he shall be deemed guilty of larceny.

§ 171. OF BEASTS AND BIRDS "FERÆ NATURÆ." Whoever without the consent of the owner, and with a felonious intent, takes any beast or bird ordinarily kept in a state of confinement, and not the subject of larceny at common law, shall be deemed guilty of larceny.

§ 172. HORSE STEALING. Whoever feloniously takes or steals any horse, mule or ass, shall be imprisoned in the penitentiary not less than three nor more than 20 years. The words "horse," "mule," "ass," shall include animals of both sexes and all ages.

§ 173. OF LEAD PIPE, ETC. Every person who shall feloniously steal, take and carry away any lead pipe faucet, or faucet and stop-cock, from any dwelling house or other building, whether the same be attached to such house or building or not, or whether the

I. Crimes and Penalties.

same be laid in the ground separate from such house or building, shall be deemed guilty of larceny, and punished accordingly.

§ 174. OF NEWSPAPERS, ETC. Whoever shall unlawfully and feloniously steal, take and carry away any newspaper or periodical from the place where the same may be left for any other person, shall be deemed guilty of larceny and punished accordingly. It shall be sufficient to allege, in the indictment under this section, property to be in the publisher, or in the person for whom the newspaper or periodical was left.

§ 175. OF THINGS ATTACHED TO THE REALTY. Whoever by a trespass, with intent to steal, takes and carries away anything which is parcel of the realty, or annexed thereto, the property of another of some value, against his will, shall be guilty of such larceny as he would be guilty of, if such property were personal property.

§ 176. LARCENY AND FALSIFYING PUBLIC RECORDS. If any judge, justice of the peace, sheriff, coroner, clerk, recorder, or other public officer, or any person whatsoever, shall steal, embezzle, alter, corrupt, withdraw, falsify or avoid any record, process, charter, gift, grant, conveyance, bond, or contract, or shall knowingly and wilfully take off, discharge, or conceal any issue, forfeited recognizance, or other forfeiture, or shall forge, deface or falsify any document or instrument recorded, or any registry, acknowledgment or certificate, or shall alter, deface, or falsify, any minute, document, book or any proceeding whatever, of, or belonging to any public office within this state, the person so offending shall be imprisoned in the penitentiary not less than one nor more than seven years.

LIBEL.

§ 177. DEFINED. A libel is a malicious defamation, expressed either by printing, or by signs or pictures, or the like, tending to blacken the memory of one who is dead, or to impeach the honesty, integrity, virtue or reputation, or publish the natural defects of one who is alive, and thereby to expose him to public hatred, contempt, ridicule or financial injury.

§ 178. PUNISHMENT. Every person, whether writer or publisher, convicted of libel, shall be fined not exceeding \$500., or confined in the county jail not exceeding one year.

§ 179. JUSTIFICATION. In all prosecutions for libel, the truth, when published with good motives and for justifiable ends, shall be a sufficient defense.

LOTTERIES.

§ 180. SETTING UP OF. Whoever sets up or promotes any lottery for money, or by way of lottery disposes of any property of value, real or personal, or under pretense of a sale, gift or delivery of any other property, or any right, privilege or thing whatever, disposes of, or offers or attempts to dispose of any real or personal property, with intent to make the disposal of such real or personal property dependent upon or connected with any chance by dice, lot, numbers, game, hazard or other gambling device, whereby such chance or device is made an additional inducement to the disposal or sale of said property; and whoever aids, either by printing or writing, or is in any way concerned in the setting up, managing or drawing of any such lottery, or in such disposal, or offer or attempt to dispose of property by any such chance or device shall, for each offense be fined not exceeding \$2,000.

§ 181. PERMITTING. Whoever in a house, shop or building, owned or occupied by him, or under his control, knowingly permits the setting up, managing or drawing of such lottery or such disposal or attempt to dispose of property, or the sale of a lottery ticket, or share of a ticket or any other writing, certificate, bill, token or other device, purporting or intended to entitle the holder, bearer or any other person to a prize or to a share of, or interest in a prize to be drawn in a lottery, or in such disposal of property; and whoever knowingly suffers money or other property to be raffled for in such house, shop or building, or to be won there by throwing or using dice, or by any other game of chance, shall, for each offense, be fined not exceeding \$2,000.

§ 182. SELLING TICKETS, ETC. Whoever sells, either for himself or for another person, or offers for sale, or has in his possession, with intent to sell or offer for sale, or to exchange or negotiate, or in any wise aids or assists in the selling, negotiating or disposing

I. Crimes and Penalties.

of, any ticket in any such lottery, or a share of a ticket, or any such writing, certificate, bill, token or other device, or any share or right in such disposal or offer as is mentioned in this act, whether such lottery or the drawing thereof is in this state or elsewhere, shall, for each offense, be fined not exceeding \$2,000.

§ 183. ADVERTISING. Whoever knowingly prints, publishes, distributes or circulates, or knowingly causes to be printed, published, distributed or circulated any advertisement of any lottery ticket or scheme, or any share in such ticket or scheme, for sale, either himself, or by another person, or sets up, or exhibits, or devises, or makes, for the purpose of being set up and exhibited, any sign, symbol, or emblematic or other representation of a lottery, or the drawing thereof, in any way indicating where a lottery ticket, or any share thereof, or any such writing, certificate, bill, token or other device before mentioned may be purchased or obtained, or in any way invites, or entices, or attempts to invite or entice any other person to purchase or receive the same, shall, for each offense, be fined not exceeding \$100.

§ 184. SECOND CONVICTION. Whoever, after being convicted of any offense mentioned in either of the four preceding sections, commits the like offense or any other of the offenses therein mentioned, shall, in addition to the fine before provided, be confined in the county jail not exceeding one year.

§ 185. PRIZES, ETC., FORFEITED. All sums of money and every other valuable thing drawn as a prize, or as a share of a prize, in any lottery, and all property disposed of, or offered to be disposed of, by any chance or device, under the pretext mentioned in § 180 hereof, by any person being an inhabitant or resident within this state, and all sums of money or other things of value received by any such person, by reason of his being the owner or holder of any ticket or share of a ticket in a lottery or pretended lottery, or of any share or right in any such scheme of chance, or such device, contrary to the provisions of this act, shall be forfeited, and may be recovered by an information filed, or by an action for money had and received, brought by the attorney general, or the state's attorney in the proper county, in the name and on behalf of the People of the State of Illinois.

MALICIOUS MISCHIEF.

§ 186. TO RAILROADS. Whoever, wilfully and maliciously displaces or removes any switch, signal or rail of any railroad, or breaks down, rips up, injures or destroys any track, bridge or other portion of any railroad, or places any obstructions thereon, or places any false signal upon or along the line of any railroad track, or does any act to any engine, machine or car of such railroad, with intent that any person or property being or passing on or over such railroad should be injured thereby, shall be imprisoned in the penitentiary not less than one nor more than five years. Or if, in consequence of any such act, done with such intent, any person being or passing on or over such railroad, suffers any bodily harm, or any property is injured, the person so offending shall be imprisoned in the penitentiary not less than three nor more 10 years. And if, in consequence of any such act, done with such intent, any person is killed, the person so offending shall be deemed guilty of murder and punished accordingly.

§ 187. COMBINING TO INJURE RAILROADS. If any two or more persons shall conspire or combine to break down, take up, injure or destroy any railroad track, or railroad bridge or to burn or destroy any engine, engine house, car house, machine shop, or any other building or machinery necessary to the free use of any railroad, every such person shall be punished by imprisonment in the penitentiary not less than two nor more than five years.

§ 188. OBSTRUCTING TRAIN LADEN WITH MUNITIONS OF WAR, TROOPS, ETC. If any two or more persons shall attempt to prevent the passage of any railroad train, carrying any provisions, troops or munitions of war, for the use or in the employment of this state or of the United States, by any violence or offer of violence, or shall assemble themselves together for that purpose, or if any person shall induce, entice or persuade, or attempt to induce, entice or persuade any other person to do so, such persons, and each of them, shall be imprisoned in the penitentiary not less than one nor more than 10 years.

§ 189. ATTEMPTING INJURY TO RAILROADS. Whoever shall maliciously make any attempt, although the same may not succeed, to place obstructions on any railroad track,

I. Crimes and Penalties.

to burn, blow up or destroy any railroad bridge, or in any other way prevent the free and safe passage of trains on any railroad, shall be imprisoned in the penitentiary not less than one nor more 10 years.

§ 190. INFLUENCING OTHERS TO INJURE RAILROADS. Whoever shall maliciously hire, persuade or induce, attempt to hire, induce or persuade any person to burn, or in any way injure or destroy any railroad bridge, to take up, injure or destroy any railroad track, or any machine shop, engine house, car house, engine or car, or other machinery or property necessary for the operation of any railroad, shall be imprisoned in the penitentiary not less than one nor more than 10 years.

§ 191. RAILROAD ENGINEERS, ETC. Any engineer or person having charge of and running any railroad engine or locomotive who shall wilfully or unnecessarily kill, wound, or disfigure any horse, cow, mule, hog, or other useful animal shall upon conviction be fined in a sum not less than the value of the property so killed, wounded or disfigured, and confined in the county jail for a period of not less than 10 days, and any such engineer who shall wantonly or unnecessarily blow the engine whistle so as to frighten any team shall be liable to a fine of not less than \$10. nor more than \$50.

§ 192. TO HOUSES, ETC. Whoever wilfully and maliciously destroys, injures or defaces any building or fixture attached thereto, without consent of the owner, or destroys, injures or secretes any goods or chattels of another, shall be imprisoned in the penitentiary not less than one nor more than 10 years: *Provided*, that where the damage done in such case does not exceed \$15., the punishment shall be by fine not exceeding \$500., or by imprisonment in the county jail not exceeding one year or both in the discretion of the court.

§ 193. INJURING OR DESTROYING BAGGAGE. If any baggage-master, express agent, stage driver, hackman or any other person, whose duty it is to handle, remove or take care of trunks, valises, boxes, packages or parcels, while loading, transporting, unloading, delivering or storing the same, whether or not in the employ of a railroad, steamboat, or stage company, shall wantonly or recklessly injure or destroy the same, he shall be fined not exceeding \$200.

§ 194. TO PAPERS, ETC. Every person who shall fraudulently or maliciously tear, burn, efface, cut or in any other way destroy or secrete any deed, lease, bond, will, or any other writing sealed, or any bank bill or note, check warrant for the payment of money or other thing, or other security for the payment of money or delivery of goods, or any certificate or other public security of this state, or of the United States, or any of them, for the payment of money, or any receipt, acquittance, release, defeasance, discharge of any debt, suit or other demand, or any transfer or assurance of money, stock, goods, chattels, or other property, or any letter of attorney or other power, or any day-book or other book of account, or any agreement or contract whatsoever, with intent to defraud, prejudice or injure any person or body corporate, shall be imprisoned in the penitentiary not less than one year nor more than five years.

§ 195. TO JAILS, ETC. Whoever wilfully and maliciously breaks down, destroys or otherwise injures any public jail, or other place for the confinement of offenders shall be confined in the county jail not exceeding one year, or fined not exceeding \$5,000., nor less than the value of the property destroyed, or both.

§ 196. TO PUBLIC BUILDINGS, ETC. Whoever wilfully and maliciously or wantonly, and without cause, destroys, defaces, mars or injures any school house, church or other building erected or used for the purposes of education, or religious instruction, or for the general diffusion of knowledge; or any of the out-buildings, fences, wells or appurtenances of such school house, church or other building, or any furniture, apparatus or other property belonging to or connected with such school house, church or other building, shall be fined not exceeding \$500., or confined in the county jail not exceeding one year.

§ 197. TO CANALS, ETC. Whoever wilfully and maliciously injures, removes or destroys any canal, levee, dam, reservoir, trench or their appurtenances, or the gear or machinery of any mill or manufactory; draws off the water from any mill-pond, reservoir, canal or trench; destroys or injures any engine or its apparatus for the extinguishment of fires, or any posts, glass caps, wires or other materials used in the construction or operation of any telegraph; removes, injures or destroys any public or toll bridge, or places any obstruction on such bridge, or on any public road, with intent to injure any persons or property passing thereon, shall be fined not exceeding \$300., or confined in the county

I. Crimes and Penalties.

jail not exceeding one year or both. This section, so far as it relates to roads and bridges, is cumulative to other remedies provided by law.

§ 198. TO RAFTS, VESSELS, ETC. Whoever wilfully and maliciously, without the consent of the owner, cuts away, lets loose, injures or destroys any boom, raft of logs, or other lumber, vessel, scow or boat of any kind, fastened to any place, of which he is not the owner or legal possessor, shall be fined not exceeding \$1,000., or confined in the county jail not exceeding one year or both; and shall also be liable to the person injured in an action of trespass, in double the damages sustained.

§ 199. OBSTRUCTION OF STREAM OR WATER COURSE. Whoever wilfully and wantonly obstructs the passage of any stream or water course used for the purpose of rafting or floating mill logs or lumber, by casting, felling or depositing any tree timber or other thing across or into any such stream or water course, whereby the rafting or floating of mill logs or lumber is prevented, hindered, or impeded shall be fined not exceeding \$500., or confined in the county jail not exceeding six months or both. But nothing herein contained shall prevent the maintaining or constructing of dams for manufacturing or other lawful purposes.

§ 200. TO MONUMENTS, ETC. Whoever, wilfully and maliciously injures or removes any monument erected, or tree marked as a boundary of any land, or as a state, county, city, town or village boundary; destroys, defaces or alters the marks thereon made for the purpose of designating such boundary; injures or defaces any mile stone or guide board, erected on any public way or railroad, removes, defaces or injures any sign board, lamp, or lamp posts or extinguishes any lamp on any bridge, street-way or passage, shall be confined in the county jail not exceeding one year and fined not exceeding \$100.

§ 201. TO SHRUBS, FENCES, ETC. Whoever wilfully and maliciously cuts down, destroys or otherwise injures any shrub, vine or tree, for ornament or use whether standing or growing upon the lands of another, or upon any street, road or public ground adjoining such land; breaks or defaces any fence, hedge, or ditch used as a fence; throws down or opens any gate or bars; injures, destroys or severs from the land of another any product thereof, or thing attached thereto, such articles not being his own, shall be confined in the county jail not exceeding one year, or fined not exceeding \$200., or both; and shall be liable to the person injured in double the amount of the damages done.

§ 202. TO WATER, ETC. Whoever wilfully and maliciously defiles, corrupts or makes impure any spring or other source of water, or reservoir, or destroys or injures any pipe, conductor of water, or other property pertaining to an aqueduct, or aids and abets in any such trespass, shall be fined not exceeding \$1,000. or confined in the county jail, not exceeding one year.

§ 203. TO DOMESTIC ANIMALS. Whoever wilfully and maliciously kills, wounds, maims, disfigures or poisons any domestic animal, or exposes any poisonous substance, with intent that the life of any such animal should be destroyed thereby, such animal being the property of another, shall be imprisoned in the penitentiary not less than one, nor more than three years, or fined not exceeding \$1,000., or both: *Provided*, that this section shall not be construed to apply to persons owning sheep or other domestic animals who may in the exercise of reasonable care and good intentions, put out poison on his own premises where sheep are kept, to kill sheep-killing dogs.

§ 204. TAKING HORSES, VEHICLES, BOATS, ETC. Whoever, wilfully and maliciously takes, drives, rides or uses any horse, ox or other draft animal, or takes or uses any vehicle or boat, the property of another, without the consent of the owner or person having the legal custody, care and control of the same, shall be fined not exceeding \$300., or be confined in the county jail not exceeding one year. But the provisions of this section shall not apply to any case of taking the property of another with intent to steal the same.

§ 205. TO ADVERTISEMENTS, ETC. Whoever intentionally defaces, obliterates, tears down or destroys, in whole or in part, any copy, transcript or extract of or from any law of the United States or of this state, or any proclamation, advertisement or notification set up at any place by authority of law, or by order of any court, during the time for which the same is to remain set up, shall be fined not exceeding \$200.

I. Crimes and Penalties.

MARKS AND BRANDS.

§ 206. ALTERING OR DEFACING. Every person who shall mark or brand, alter or deface the mark or brand of any horse, mare, colt, jack, jennet, mule, or any one or more head of neat cattle or sheep, goat, hog, shoat or pig, the property of another, with intent thereby to steal the same, or to prevent identification thereof by the true owner, if the value thereof is \$15. or more, shall be imprisoned in the penitentiary not less than one nor more than three years; if the value is less than \$15., he shall be confined in the county jail not exceeding one year, or fined not exceeding \$1,000., or both.

MAYHEM.

§ 207. PUNISHMENT. Whoever, with malicious intent to maim or disfigure, cuts or maims the tongue, puts out or destroys an eye, cuts or tears off an ear, cuts, slits or mutilates the nose or lip, cuts off or disables a limb or other member of another person, shall be imprisoned in the penitentiary, not less than one nor more than 20 years, or fined not exceeding \$1,000. and confined in the county jail not exceeding one year.

MISCONDUCT OF OFFICERS.

§ 208. OMISSION AND MALFEASANCE. Every person holding any public office (whether state, county or municipal) trust or employment, who shall be guilty of any palpable omission of duty, or who shall be guilty of diverting any public money from the use or purpose for which it may have been appropriated, or set apart by or under authority of law, or who shall be guilty of contracting, directly or indirectly, for the expenditure of a greater sum or amount of money than may have been, at the time of making the contracts, appropriated or set apart by law or authorized by law, to be contracted for or expended upon the subject matter of the contracts, or who shall be guilty of wilful and corrupt oppression malfeasance or partiality, where no special provision shall have been made for the punishment thereof, shall be fined not exceeding \$10,000., and may be removed from his office, trust or employment.

§ 209. INTOXICATION OF OFFICERS, ETC. That any officer of a town, village, city, county or state, who shall be intoxicated while in discharge of the duties of his office, shall be fined for the first offense the sum of \$10., and for the second offense the sum of \$20., and for the third offense shall be guilty of a misdemeanor, and on conviction of such misdemeanor shall forfeit his office, and in such case the vacancy occasioned thereby shall be filled in the same manner as if such officer had filed his resignation in the proper office, and it had been accepted by the proper officer: *Provided*, such acceptance shall have been necessary to make the office vacant. The penalties for the first and second offense, given by this section, may be recovered in an action of debt, in the name of the People of the State of Illinois before any justice of the peace, of the proper county, and when collected shall be paid to the county superintendent where such offense shall have been committed, for the use of the school fund.

§ 210. LIQUORS FURNISHED PRISONER. Every person who procures for, furnishes or conveys to any prisoner confined in any jail or city prison, intoxicating or spirituous liquors, shall, upon conviction thereof for each offense, be fined not exceeding \$50. or imprisoned in the county jail, not exceeding 30 days, or both, in the discretion of the court, which fine may be recovered in an action of debt, in the name of the People of the State of Illinois, before any justice of the peace of the county where said offense shall have been committed. All fines collected under the provisions of this section shall be paid into the common school fund of the proper county.

§ 211. EXTORTION. If any judge, justice of the peace, sheriff, coroner, constable, police officer, clerk or other officer, state, county, town, or municipal, executive, ministerial or judicial, shall wilfully or corruptly receive or take any fee or reward to execute or do his duty as such officer, except such as is or shall be allowed by law, or if any such officer shall wilfully or corruptly ask or demand as a condition precedent to the performance of his duty as such officer, any fee or reward, except such as shall be allowed by law, every such officer, so offending shall be fined not exceeding \$200., and may be removed from office.

I. Crimes and Penalties.

§ 212. SHAVING WARRANTS, ETC. If any collector of taxes, county treasurer, or other person authorized to collect, receive or pay out any of the state, county, city or school revenues shall directly, or indirectly by himself or his agent, take, buy, shave, discount or receive any auditor's warrant, county order or jury certificate, or city or school order at less than the full sum due thereon, or shall directly or indirectly receive any profit or advantage on account of any other person's buying, shaving or discounting any such warrant, order or jury certificate, such collector, treasurer or other person shall be liable in double the amount made thereby, to be recovered in an action of debt before any court of competent jurisdiction, one half to the person complaining, and the other half to the school fund of the county where such collector, treasurer, or other person may reside.

§ 213. ILLEGAL FEES. If any officer authorized by law to charge fees, shall charge, claim, demand, or take any greater fee than such as is by law allowed to him for the service performed or shall charge, claim, demand or take any fee, or who shall knowingly charge a fee when no fee is allowed him by law or when the services for which such fee is charged have not been performed by him, or by some other person for him, he shall on the first conviction thereof, be fined not less than \$25. nor more than \$200. and upon a subsequent conviction of any like offense, he shall forfeit his office and be confined in the county jail not less than 30 days nor more than one year.

§ 214. ILLEGAL FEES. PRIVATE REMEDY. Any officer who violates the provisions of the preceding section shall in addition to the penalty therein provided, be fined for each item so charged collected or received, not less than \$10., nor more than \$100. to be sued for and recovered before any justice of the peace of the proper county, in an action of debt in the name of the People of the State of Illinois, and for the use of the person against whom such fee is charged, or from whom the same is received or collected.

§ 215. WITHHOLDING FUNDS. If any state, county town municipal or other officer or person, who now is or hereafter may be authorized by law, to collect, receive, safely keep or disburse any money, revenue, bonds, mortgages, coupons, bank bills, notes, warrants or dues, or other funds or securities belonging to the state, or any county, township, incorporated city, town or village, or any state institution or any canal, turnpike, railroad, school or college fund, or the fund of any public improvement that now is or may hereafter be authorized by law to be made, or any other fund now in being or that may hereafter be established by law for public purposes, or belonging to any insurance or other company or person, required or authorized by law to be placed in the keeping of any such officer or person, shall fail or refuse to pay or deliver over the same when required by law, or demand is made by his successor in office or trust, or the officer or person to whom the same should be paid or delivered over, or his agent or attorney authorized in writing, he shall be imprisoned in the penitentiary not less than one nor more than 10 years: *Provided*, such demand need not be made, when from the absence or fault of the offender, the same cannot conveniently be made: *And provided*, that no person shall be committed to the penitentiary under this section, unless the money not paid over shall amount to \$100., or if it appear that such failure or refusal is occasioned by unavoidable loss or accident. Every person convicted under the provisions of this section shall forever thereafter be ineligible and disqualified from holding any office of honor or profit in this state.

§ 216. WITHHOLDING RECORDS, ETC., FROM SUCCESSORS. If any person whose office shall be abolished by law, vacated or determined by removal from office, resignation, death, expiration of the time for which he was elected or appointed or other cause, or his executors, administrators or other persons, shall wilfully and unlawfully withhold or detain from his successor or other person entitled thereto by law, the records, papers, documents or other writings, or other articles of property appertaining or belonging to such office, or mutilate, destroy or take away the same, the person so offending shall be imprisoned in the penitentiary not less than one year nor more than five years.

§ 217. SEARCH WARRANT MAY ISSUE FOR RECORDS. If any person whose office shall be abolished by law, vacated or determined by removal from office, resignation, death, expiration of the time for which he was elected or appointed, or other cause, or his executors administrators or other persons, neglect or refuse to deliver over any records, papers, documents or other writings, or other articles of property pertaining to such office, when thereto lawfully required by the successor to such office, or other person entitled to the custody thereof, the judge of any court of record in the proper county, may upon the affidavit of any competent person setting forth proper facts, issue his warrant, directed to

I. Crimes and Penalties.

the sheriff or coroner of the proper county, commanding him to seize all the records, books, papers, documents and other public property belonging or appertaining to the said office, and deliver the same to the person entitled to the custody thereof, to be named in such warrant.

§ 218. EXECUTION OF THE PROCESS. The officer executing any warrant issued as aforesaid may break open any doors, trunks, or places in which any of the records, books, papers, documents or other public property, in such warrant commanded to be seized and secured may be concealed, or in which he may suspect them to be; and in case of resistance may arrest any person who may resist the execution of such warrant, and carry him before some judge or justice of the peace, to be dealt with as other persons obstructing the execution of such process; and the officer executing such warrant may call to his assistance the power of the county, in the same manner as in the execution of other process. And any officer to whom any such warrant may be directed and delivered, who shall neglect or refuse to execute and return the same according to law, or otherwise fail to perform any of the duties herein required of him, shall forfeit and pay a sum not exceeding \$1,000. nor less than \$100., to be recovered by indictment to the use of the county in any court of competent jurisdiction.

§ 219. DEFENSE. Whoever is aggrieved by the issuing of such warrant, may apply to such judge, or if he is absent to any other judge of a court of record, who if he is satisfied upon the affidavit of the applicant that there is good reason to believe injustice has been or is about to be done by the execution of such warrant, shall issue a citation to all persons interested therein, commanding them to appear before such judge at a place and time to be in such citation named, which shall be executed by the sheriff or coroner. And the judge shall have the power to enforce obedience to such citation by attachment, to be issued by him, and to proceed in a summary way, and determine according to right and justice and may issue his warrant for the restoration of any book, record, paper, document or other article of property which shall appear to him to have been improperly seized or delivered over; which warrant shall be executed in the same manner, and the officer to whom it is directed shall have the same powers and be liable to the same penalties for neglect of duty, as in case of other warrants. Any proceeding under this and the two preceding sections shall not be held to determine the right of any person to such office, but such right may be contested in the manner provided by law.

NAME.

§ 220. ASSUMING CORPORATE. If any company, association or person puts forth any sign or advertisement and therein assumes for the purpose of soliciting business a corporate name, not being incorporated, or being incorporated, puts forth any sign or advertisement assuming any other or different name than that by which it is incorporated or authorized by law to act, such company, association or person shall be fined not less than \$10. nor more than \$200., and a like sum for each day he or it shall continue to offend after having been once fined.

NUISANCES.

§ 221. ENUMERATION. It is a public nuisance:

1. To cause or suffer the carcass of any animal, or any offal, filth or noisome substance to be collected, deposited or to remain in any place to the prejudice of others.
2. To throw or deposit any offal or other offensive matter or the carcass of any animal in any water course, lake, pond, spring, well, common sewer, street or public highway.
3. To corrupt or render unwholesome or impure the water of any spring, river, stream, pond or lake to the injury or prejudice of others.
4. To obstruct or impede without legal authority the passage of any navigable river or waters.
5. To obstruct or encroach upon public highways, private ways, streets, alleys, commons, landing places, and ways to burying places.
6. To carry on the business of manufacturing gunpowder, nitro-glycerine, or other highly explosive substances or mixing or grinding the materials therefor in any building within twenty rods of any valuable building erected at the time such business may be commenced.
7. To establish powder magazines near incorporated towns at a point different from

I. Crimes and Penalties.

that appointed according to law by the corporate authorities of the town or within 50 rods of any occupied dwelling-house.

8. To erect, continue or use any building or other place for the exercise of any trade employment or manufacture which by occasioning noxious exhalations, offensive smells or otherwise is offensive or dangerous to the health of individuals or of the public.

9. To advertise wares or occupation by painting notices of the same on or affixing them to fences or other private property or on rocks or other natural objects without the consent of the owner or if in the highway or other public place, without permission of the proper authorities: *Provided*, that nothing in this section contained shall be construed to prevent the municipal authorities of any incorporated city, town or village from declaring what shall be nuisances and abating the same within their limits.

§ 222. PUNISHMENT. Whoever causes erects or continues any such nuisance shall for the first offense be fined not exceeding \$100. and for a subsequent offense shall be fined in a like amount and confined in the county jail not exceeding three months. Every such nuisance when a conviction therefor is had in a court of record may by order of the court before which the conviction is had, be abated by the sheriff or other proper officer at the expense of the defendant, and it shall be no defense to any proceeding under this section, that the nuisance is erected or continued by virtue or permission of any law of this state.

OBSCENE BOOKS, ETC.

§ 223. CIRCULATING. Whoever brings or causes to be brought into this state for sale or exhibition, or shall sell or offer to sell, or shall give away or offer to give away, or have in his possession with or without intent to sell or give away any obscene and indecent book, pamphlet, paper, drawing, lithograph, engraving, daguerreotype, photograph, stereoscopic picture, model, cast, instrument or article of indecent or immoral use, or shall advertise the same for sale or write or cause to be written or print or cause to be printed, any circular, handbill, card, book, pamphlet, advertisement or notice of any kind, or shall give information orally stating when how or of whom or by what means any of the said indecent and obscene articles and things hereinbefore mentioned can be purchased or otherwise obtained, or shall manufacture, draw and expose or draw with intent to sell or to have sold or print any such articles shall be confined in the county jail not more than six months or be fined not less than \$100. nor more than \$1,000. for each offense. One half of said fine to be paid to the informer upon whose evidence the person so offending shall be convicted and one half to the school fund of the county in which the said conviction is obtained.

§ 224. DEPOSITING WITH COMMON CARRIER. If any person shall deposit or cause to be deposited in any post-office within this state, or place in charge of any express company or person connected therewith or of any common carrier or other person any of the obscene and indecent articles and things mentioned in the preceding section, or any circular handbill card advertisement book pamphlet or notice of any kind or shall give oral information stating where how or of whom such indecent and obscene articles or things can be purchased or otherwise obtained in any manner, with the intent of having the same conveyed by mail or express or in any other manner; or if any person shall knowingly or wilfully receive the same with intent to carry or convey, or shall carry or convey the same by express or in any other manner (except in the United States mail); he shall be subject for each offense to the same fines and penalties as are prescribed in the preceding section and said fine shall be divided and paid in the same manner as therein provided.

PERJURY.

§ 225. PUNISHMENT. Every person having taken a lawful oath or made affirmation in any judicial proceeding or in any other matter where by law an oath or affirmation is required, who shall swear or affirm wilfully corruptly and falsely in a matter material to the issue or point in question or shall suborn any other person to swear or affirm as aforesaid, shall be deemed guilty of perjury or subornation of perjury (as the case may be), and shall be imprisoned in the penitentiary not less than one year nor more than 14 years.

§ 226. MAY BE MURDER. Every person who by wilful and corrupt perjury or subornation of perjury shall procure the conviction and execution of any innocent person shall be deemed and adjudged guilty of murder and punished accordingly.

I. Crimes and Penalties.

§ 227. **INDICTMENT.** In every indictment for perjury or subornation of perjury it shall be sufficient to set forth the substance of the offense charged upon the defendant and before what court or authority the oath or affirmation was taken averring such court or authority to have had full power to administer the same, together with the proper averments to falsify the matter wherein the perjury is assigned, without setting forth any part of the record or proceedings either in law or equity other than as aforesaid and without setting forth the commission or authority of the court or other authority before whom the perjury was committed, or the form of the oath or affirmation or the manner of administering the same.

§ 228. **ATTEMPT TO SUBORN.** Whoever endeavors to incite or procure any other person to commit perjury though no perjury is committed shall be imprisoned in the penitentiary not less than one nor more than five years or confined in the county jail not exceeding one year and fined not exceeding \$1,000.

PERSONAL LIBERTY.

§ 229. All public officers, sheriffs coroners jailers constables or other officers or persons having the custody of any person committed imprisoned or restrained of his liberty for any alleged cause whatever shall except in cases of imminent danger of escape admit any practicing attorney at law of this state whom such person so restrained of his liberty may desire to see or consult, to see and consult such person so imprisoned alone and in private at the jail or other place of custody; and when any such prisoner is about to be removed beyond the limits of this state by any person or public officer under any pretense whatever, he shall at all times be entitled to reasonable delay for the purpose of obtaining counsel and of availing himself of the laws of this state for the security of personal liberty. If any public officer or other person aforesaid shall violate the provisions of this act he shall for every such offense forfeit and pay to the person aggrieved \$100., to be recovered by action of debt in any court of competent jurisdiction.

POISONING.

§ 230. **PUNISHMENT.** Whoever wilfully and maliciously administers or causes to be administered or taken by any person, any noxious or destructive substance or liquid with intent to cause the death of such person or mingles any poison with food, drink or medicine or wilfully poisons any spring well or reservoir of water with such intent, shall be imprisoned in the penitentiary not exceeding 20 years.

PRIZE FIGHTING.

§ 231. **SENDING CHALLENGE — TRAINING FOR.** Whoever sends, publishes or causes to be sent or published or otherwise made known, any challenge to fight what is commonly known as a prize fight, or shall accept any such challenge, or cause the same to be accepted or goes into training preparatory to such fight, or acts as trainer for any person contemplating any participation in such fight, or witnesses such training, or engages as a witness in any such fight, shall be confined in the county jail not exceeding six months and fined not exceeding \$500.

§ 232. **ENGAGING IN.** Whoever by previous appointment or arrangement meets another person, and engages in a prize fight, shall be imprisoned in the penitentiary not less than one nor more than 10 years.

§ 233. **AIDS, SECONDS, ETC.** Whoever is present at such fight as an aid, second or surgeon, or advises encourages or promotes such fight, shall be imprisoned in the penitentiary not less than one nor more than five years, or be confined in the county jail not exceeding one year and fined not exceeding \$1,000.

§ 234. **LEAVING THE STATE TO FIGHT.** Whoever being an inhabitant or resident of this state, by previous appointment or engagement made therein, leaves the state and engages in a fight with another person without the limits thereof, shall be imprisoned in the penitentiary not exceeding five years or fined not exceeding \$5,000.

§ 235. **SPARRING AND BOXING EXHIBITIONS.** Whoever instigates, carries on, promotes or engages in as a witness, any sparring or boxing exhibition shall be fined not exceeding \$500., or confined in the county jail not exceeding six months.

I. Crimes and Penalties.

§ 236. PREVENTING. Any person who shall upon complaint made before any judge or justice of the peace appear to be about to engage in any such fight or sparring or boxing exhibition may be compelled to enter into bond with security to keep the peace as in other cases of threatened breaches of the peace.

RAPE.

§ 237. PUNISHMENT. Rape is the carnal knowledge of a female forcibly and against her will. Every male person of the age of 14 years and upwards, who shall have carnal knowledge of any female child under the age of 10 years, either with or without her consent shall be adjudged to be guilty of the crime of rape. Every person convicted of the crime of rape shall be imprisoned in the penitentiary for a term not less than one year and may extend to life.

§ 238. EMISSION. It shall not be necessary to prove emission to convict any person of the crime of rape.

RECEIVING AND RESTORING STOLEN PROPERTY.

§ 239. RECEIVING. Every person who for his own gain or to prevent the owner from again possessing his property shall buy receive or aid in concealing stolen goods or any thing the stealing of which is declared to be larceny or property obtained by robbery or burglary knowing the same to have been so obtained shall be imprisoned in the penitentiary not less than one nor more than 10 years, or if such goods or other property or thing does not exceed the value of \$15., he shall be fined not exceeding \$1,000. and confined in the county jail not exceeding one year.

§ 240. SECOND OFFENSE. Whoever after having been convicted of the offense of buying receiving or aiding in the concealment of stolen money, goods or any property, the stealing of which is declared to be larceny, or property obtained by robbery or burglary, if he be again convicted of a like offense; or whoever at the same term of court, is convicted of three distinct acts of buying, receiving or aiding in the concealment of stolen property, or property obtained by robbery or burglary, knowing that the same was so obtained, shall be imprisoned in the penitentiary not less than two nor more than 15 years.

§ 241. PROCEDURE. In any prosecution for the offense of buying, receiving or aiding in the concealment of stolen property, or property obtained by robbery or burglary, knowing that the same was so obtained, it shall not be necessary to aver nor to prove on the trial, that the person who stole, robbed or took the property has been convicted.

§ 242. PROPERTY OF RAILROADS. If any person shall purchase or receive for sale from any other person any link, pin, bearing, journal, or other article of iron, brass or other metal, which has been manufactured and is used exclusively for railroad purposes, and which shall have stamped thereon the name of some railroad company, or the initial letter thereof; without the consent in writing of the president, general manager or general superintendent of such railroad company, such person shall be fined in a sum not less than \$100. nor more than \$500., and be imprisoned not less than 10 days nor more than 90.

§ 243. RESTORING STOLEN GOODS. All property obtained by larceny, robbery or burglary shall be restored to the owner, and no sale whether in good faith on the part of the purchaser or not, shall divest the owner of his right to such property. Such owner may maintain his action not only against the felon, but against any person in whose possession he may find the same.

RESISTANCE TO OFFICERS.

§ 244. IN EXECUTING PROCESS. If any person shall knowingly and wilfully obstruct, resist or oppose any sheriff, deputy sheriff, coroner, constable or other officer of this state or other person duly authorized, in serving or attempting to serve any lawful process or order of any court, judge or justice of the peace or any other legal process whatsoever or shall assault or beat any sheriff, deputy sheriff, coroner, constable or other officer or person duly authorized in serving or executing or attempting to serve or execute any process or order aforesaid or for having served or executed or attempted to serve or execute the same; every person so offending shall be fined not exceeding \$500. and imprisoned not exceeding one year.

I. Crimes and Penalties.

§ 245. REFUSING TO JOIN POSSE. Every male person above 18 years of age who shall neglect or refuse to join the posse comitatus or power of the county by neglecting or refusing to aid and assist in taking or arresting or securing any person against whom there may have issued any civil or criminal process, or by neglecting or refusing to aid and assist in retaking or securing any person who after having been arrested or confined may have escaped from such arrest or imprisonment, or by neglecting or refusing to aid and assist in preventing any breach of the peace or the commission of any criminal offense, being thereto lawfully required by any sheriff, deputy sheriff, coroner, constable, judge or justice of the peace, or other officer concerned in the administration of justice, shall be fined not less than \$10. nor more than \$50.

ROBBERY.

§ 246. DEFINITION AND PUNISHMENT. Robbery is the felonious and violent taking of money, goods or other valuable thing from the person of another by force or intimidation. Every person guilty of robbery shall be imprisoned in the penitentiary not less than one year nor more than 14 years. Or if he is armed with a dangerous weapon, with intent, if resisted to kill or maim such person, or being so armed, he wounds or strikes him or if he has any confederate present so armed, to aid or abet him, he may be imprisoned for any term of years or for life.

RACING, ROUTS, RIOTS, UNLAWFUL ASSEMBLIES, ETC.

§ 247. RACING. Whoever shall be guilty of driving or racing on any public highway in such a manner as to endanger the persons or lives of others, shall be fined not exceeding \$100. or confined in the county jail not more than 30 days.

§ 248. ROUT. If two or more persons shall meet to do an unlawful act, upon a common cause of quarrel and make advances toward it, they shall be deemed guilty of a rout and shall be severally fined not exceeding \$100. or confined in the county jail not exceeding four months.

§ 249. RIOT. If two or more persons actually do an unlawful act with force or violence against the person or property of another, with or without a common cause of quarrel, or even do a lawful act in a violent and tumultuous manner, the persons so offending shall be deemed guilty of a riot and shall severally be fined not exceeding \$200. or confined in the county jail not exceeding six months.

§ 250. AFFRAY. If two or more persons shall, by agreement, fight in a public place to the terror of the citizens of this state, the persons so offending shall be deemed guilty of an affray and severally fined not exceeding \$100.

§ 251. UNLAWFUL ASSEMBLY. If two or more persons shall assemble together to do an unlawful act, and separate without doing or advancing towards it, such persons shall be deemed guilty of an unlawful assembly, and be severally fined not exceeding \$100.

§ 252. UNLAWFUL ASSEMBLY. If two or more persons assemble for the purpose of disturbing the public peace, or committing any unlawful act, and do not disperse on being desired or commanded so to do by a judge, justice of the peace, sheriff, coroner, constable or other public officer, the persons so offending shall be severally fined not exceeding \$200.

§ 253. SUPPRESSION. When 12 or more persons any of them armed with clubs or dangerous weapons, or 30 or more, armed or unarmed, are unlawfully riotously or tumultuously assembled in any city, village or town, it shall be the duty of each of the municipal officers, constables and justices of the peace thereof, and of the sheriff of the county and his deputies, to go among the persons so assembled, or as near to them as they can safely go, and in the name of the state command them immediately and peaceably to disperse; and if they do not obey, such officers shall command the assistance of all persons present in arresting and securing the persons so unlawfully assembled; and every person refusing to disperse or to assist as aforesaid shall be deemed one of such unlawful assembly, and shall be fined not exceeding \$500., and confined in the county jail not exceeding one year; and each such officer having notice of such unlawful assembly and refusing or neglecting to do his duty in relation thereto, as aforesaid, shall be fined not exceeding \$200.

I. Crimes and Penalties.

§ 254. REFUSAL TO DISPERSE. When persons so riotously or unlawfully assembled neglect or refuse on command as aforesaid to disperse without unnecessary delay, any two of the magistrates or officers aforesaid may require the aid of a sufficient number of persons in arms or otherwise, and proceed in such manner as they judge expedient to suppress such riotous assembly and arrest and secure the persons composing it; and when an armed force is thus called out, they shall obey the orders for suppressing such assembly and arresting and securing the persons composing it, which they receive from the governor, any judge of a court of record the sheriff of the county, or any two of the magistrates or officers mentioned in the preceding section.

§ 255. KILLING JUSTIFIED. If, in the efforts made as aforesaid, to suppress such assembly, and to arrest and secure the persons composing it who refuse to disperse, though the number remaining is less than 12, any such persons, or any persons present as spectators or otherwise are killed or wounded, said magistrates and officers and persons acting with them by their order, shall be held guiltless and justified in law; if any of said magistrates or officers or persons thus acting with them, are killed or wounded, all persons so unlawfully or riotously assembled and all other persons who refused, when required to aid such magistrates and officers shall be held answerable therefor.

§ 256. INJURIES TO PROPERTY. If any persons thus unlawfully and riotously assembled pull down or begin to pull down or destroy any dwelling house, building, ship or vessel or perpetrate any premeditated injury, not a felony on any person, each shall be imprisoned in the penitentiary not more than five years or fined not exceeding \$500., and shall also be liable to any person injured in an action of trespass to the full amount of damages by him sustained.

SALTPETER CAVES.

§ 257. FAILURE TO PROTECT. Whoever works any saltpeter cave or other place where saltpeter is taken or manufactured without protecting the same from the approach of cattle or other stock by a good and sufficient fence, shall be fined not less than \$3. nor more than \$100. and in a like sum for each day he shall allow the same to remain so unprotected after having been once fined.

SHEEP.

§ 258. Any person who shall hereafter knowingly and wilfully bring or cause to be brought into this state, any sheep or other domestic animals infected with contagious disease, or who shall knowingly and wilfully suffer or permit sheep or other domestic animals infected with contagious disease to run at large, shall be fined in any sum not exceeding \$100. and shall be liable in a civil action for all damages occasioned thereby.

SUNDAY.

§ 259. TIPLING HOUSE ON. Whoever keeps open any tippling house or place where liquor is sold or given away, upon the first day of the week commonly called Sunday shall be fined not exceeding \$200.

§ 260. DEFINITION. Sunday shall include the time from midnight to midnight.

§ 261. DISTURBING PEACE OF SOCIETY ON. Whoever disturbs the peace and good order of society by labor (works of necessity and charity excepted) or by any amusement or diversion on Sunday, shall be fined not exceeding \$25. This section shall not be construed to prevent watermen and railroad companies from landing their passengers or watermen from loading and unloading their cargoes or ferrymen from carrying over the water, travelers and persons moving their families on the first day of the week nor to prevent the due exercise of the rights of conscience, by whomever thinks proper to keep any other day as a sabbath.

§ 262. DISTURBING PEACE OF FAMILY ON. Whoever shall be guilty of any noise, rout or amusement on the first day of the week called Sunday, whereby the peace of any private family may be disturbed, shall be fined not exceeding \$25.

TREASON.

§ 263. WHO CAN COMMIT. Crimes against the government and people shall consist in treason and misprision of treason, and can only be committed by persons owing allegiance to the state.

I. Crimes and Penalties.

§ 264. PUNISHMENT. Treason shall consist in levying war against the government and people of this state, in the same or being adherent to the enemies of this state giving them aid, advice and comfort in this state or elsewhere. Any person being thereof duly convicted of open deed by two or more witnesses or voluntary confession in open court shall suffer the pains and penalty of death; and when the overt act of treason shall be committed without the limits of this state, the person charged therewith may be arrested tried and punished in any county in this state within the limits of which he may be found; and the offense may be charged to have been committed in the county where he may be arrested.

§ 265. MISPRISION OF TREASON. Misprisions of treason shall consist in the knowledge and concealment of treason, without otherwise assenting to or participating in the crime. Any person found guilty thereof shall be imprisoned in the penitentiary not exceeding two years.

TRESPASS.

§ 266. UPON GARDENS, ETC. Whoever wilfully enters and passes over any garden, yard, or other improved field, after being expressly forbidden so to do by the owner or occupant thereof, shall be fined not exceeding \$5.

§ 267. UPON ORCHARDS, ETC. Whoever shall hereafter enter the inclosure of any person without leave of the owner, and pick destroy or carry away any part or portion of the fruit of any apple, pear, peach, plum or other fruit tree vine or bush, shall be fined not exceeding \$100.

§ 268. UPON COAL MINES, MANUFACTORIES, ETC. Whoever without authority of law and not being the owner or agent of adjoining lands, enters the coal bank, mine, shaft, manufactory or place where workmen are employed of another, without the expressed or implied consent of the owner or manager thereof, after notice that such entry is forbidden shall be fined not exceeding \$200. or confined in the county jail not exceeding six months in the discretion of the court.

§ 269. CUTTING TREES, ETC. Whoever shall knowingly and wilfully without color of title made in good faith, cut, box, fell, bore or destroy any tree or sapling, standing or growing upon the land of another, without the consent of the owner of the land, or if the land belongs to the state, is school land, canal land or belongs to any association or corporation, without the consent of the proper authorities or persons having legal charge thereof, shall be fined not less than \$3. nor more than \$200., or confined in the county jail not exceeding three months.

VAGABONDS.

§ 270. ENUMERATION AND PUNISHMENT. Vagabonds, idle and dissolute persons who go about begging, persons who use any juggling or unlawful games or plays, runaways, pilferers, common drunkards, common night walkers, lewd, wanton and lascivious persons in speech or behavior, common railers and brawlers, persons who habitually neglect their employment or calling and do not provide for themselves or for the support of their families, and all other idle and disorderly persons, including therein those persons who neglect all lawful business and habitually mispend their time by frequenting houses of ill fame, gaming houses or tippling shops, may be confined in the county jail, or in the work house if any there be in the county, or in the house of correction, if any there be in the county to which the county has a right to commit any person, not exceeding six months.

§ 271. CONVICTION BEFORE A JUSTICE. When a person is convicted before a justice of the peace or police magistrate of any offense mentioned in the preceding section, he may instead of the punishment therein mentioned be fined not exceeding \$20., with or without a condition that if the same with the costs of the proceeding is not paid within the time specified, he shall be committed to the county jail or to the work house if any there be within the county, or to the house of correction, if any there be in the county to which the county has a right to commit any person, as is provided in the preceding section; which conditional sentence shall be carried into execution as in other cases of commitment.

WITNESSES.

§ 272. Whoever by hiring, persuasion or otherwise induces any witness in any criminal cause or any person having knowledge of any fact tending to show the guilt or innocence

II. General Provisions.

of any person suspected or charged with having committed a crime, to leave the state, or secrete himself so that he cannot be produced as a witness at any examination or trial of the person so suspected or charged, shall be fined not exceeding \$1,000., or confined in the county jail not exceeding one year or both.

DIVISION II.

GENERAL PROVISIONS.

- | | |
|--|---|
| § 1. <i>Attempt to Commit Offense.</i>
Accessories. | § 10. <i>Sound Mind.</i> |
| § 2. <i>Before the Fact.</i> | § 11. <i>Infant.</i> |
| § 3. <i>Separate Punishment.</i> | § 12. <i>Insanity.</i> |
| § 4. <i>After the Fact.</i>
Offenses Defined; Who May Commit; Disabilities. | § 13. <i>Becoming Insane.</i> |
| § 5. <i>Felony.</i> | § 14. <i>Idiocy.</i> |
| § 6. <i>Misdemeanor.</i> | § 15. <i>Counseling Infant, Idiot, etc.</i> |
| § 7. <i>Infamous Crimes.</i> | § 16. <i>Married Woman, Under Threats.</i> |
| § 8. <i>What Constitutes an Offense.</i> | § 17. <i>Crime Under Compulsion.</i> |
| § 9. <i>Intention.</i> | § 18. <i>Misfortune or Accident.</i> |
| | § 19. <i>Drunkenness.</i> |
| | § 20. <i>Of Offenses Defined.</i> |
| | § 21. <i>Civil Remedy Preserved.</i> |

GENERAL PROVISIONS.

§ 1. **ATTEMPT TO COMMIT AN OFFENSE.** Whoever attempts to commit any offense prohibited by law, and does any act towards it but fails, or is intercepted or prevented in its execution, where no express provision is made by law for the punishment of such attempt, shall be punished, when the offense thus attempted is a felony, by imprisonment in the penitentiary not less than one, nor more than five years; in all other cases, by fine not exceeding \$300., or by confinement in the county jail not exceeding six months.

ACCESSORIES.

§ 2. **BEFORE THE FACT.** An accessory is he who stands by, and aids, abets or assists, or who, not being present, aiding, abetting or assisting, hath advised, encouraged, aided or abetted the perpetration of the crime. He who thus aids, abets, assists, advises or encourages, shall be considered as principal, and punished accordingly.

§ 3. **MAY BE PUNISHED INDEPENDENTLY OF PRINCIPAL.** Every such accessory, when a crime is committed within or without this state by his aid or procurement in this state, may be indicted and convicted at the same time as the principal, or before, or after his conviction, and whether the principal is convicted or amenable to justice or not, and punished as principal.

§ 4. **AFTER THE FACT.** Every person not standing in the relation of husband or wife, parent or child, brother or sister, to the offender, who knows the fact that a crime has been committed, and conceals it from the magistrate, or who harbors, conceals, maintains or assists any principal felon, or any accessory before the fact, knowing him to be such, shall be deemed an accessory after the fact, and shall be punished by imprisonment not exceeding two years, and fine not exceeding \$500.

DEFINITION OF OFFENSES — WHO CAPABLE OF COMMITTING — DISABILITIES.

§ 5. **FELONY.** A felony is an offense punishable with death or by imprisonment in the penitentiary.

§ 6. **MISDEMEANOR.** Every other offense is a misdemeanor. Where the performance of any act is prohibited by any statute, and no penalty for the violation of such statute is imposed, the doing of such act is a misdemeanor, and may be punished by fine not exceeding \$100., or imprisonment in the county jail not exceeding six months, or both, in the discretion of the court.

§ 7. **INFAMOUS CRIMES.** Every person convicted of the crime of murder, rape, kidnapping, wilful and corrupt perjury or subornation of perjury, arson, burglary, robbery,

II. General Provisions.

sodomy, or the crime against nature, incest, larceny, forgery, counterfeiting or bigamy, shall be deemed infamous, and shall forever thereafter be rendered incapable of holding office of honor, trust or profit, of voting at any election, or serving as a juror, unless he is again restored to such rights by the terms of a pardon for the offense, or otherwise according to law.

§ 8. WHAT CONSTITUTES AN OFFENSE. A criminal offense consists in a violation of a public law, in the commission of which there shall be a union or joint operation of act and intention, or criminal negligence.

§ 9. INTENTION. Intention is manifested by the circumstances connected with the perpetration of the offense, and the sound mind and discretion of the person accused.

§ 10. SOUND MIND. A person shall be considered of sound mind who is neither an idiot nor lunatic, nor affected with insanity, and who hath arrived at the age of 14 years, or before that age, if such person know the distinction between good and evil.

§ 11. INFANT. An infant under the age of 10 years shall not be found guilty of any crime or misdemeanor.

§ 12. INSANITY. A lunatic or insane person, without lucid intervals, shall not be found guilty of any crime or misdemeanor with which he may be charged: *Provided*, the act so charged as criminal shall have been committed in the condition of insanity. If upon the trial of a person charged with crime it shall appear from the evidence that the act was committed as charged, but that at the time of committing the same, the person so charged was lunatic or insane, the jury shall so find by their verdict, and by their verdict shall further find whether such person has or has not entirely and permanently recovered from such lunacy or insanity, and in case the jury shall find such person has not entirely and permanently recovered from such lunacy or insanity, the court shall cause such person to be taken to a state hospital for the insane, and there kept in safety until he shall have fully and permanently recovered from such lunacy or insanity; but in case the jury shall find by their verdict that such person has entirely and permanently recovered from such lunacy or insanity, he shall be discharged from custody.

§ 13. BECOMING INSANE. A person that becomes lunatic or insane after the commission of a crime or misdemeanor shall not be tried for the offense during the continuance of the lunacy or insanity. If, after the verdict of guilty, and before judgment pronounced, such person become lunatic or insane, then no judgment shall be given while such lunacy or insanity shall continue. And if, after judgment and before execution of the sentence, such person become lunatic or insane, then in case the punishment be capital the execution thereof shall be stayed until the recovery of said person from the insanity or lunacy. In all of these cases, it shall be the duty of the court to impanel a jury to try the question whether the accused be, at the time of impaneling, insane or lunatic.

§ 14. IDIOCY. An idiot shall not be found guilty, or punished for any crime or misdemeanor, with which he may be charged.

§ 15. COUNSELING INFANT, IDIOT OR LUNATIC TO COMMIT CRIME. Any person counseling, advising or encouraging an infant under the age of 10 years, lunatic or idiot, to commit any offense, shall be prosecuted for such offense when committed, as principal, and if found guilty shall suffer the same punishment that would have been inflicted on such person counseling, advising or encouraging as aforesaid, had he committed the offense directly, without the intervention of such infant, lunatic or idiot.

§ 16. MARRIED WOMEN ACTING UNDER THREATS. A married woman acting under the threats, command or coercion of her husband, shall not be found guilty of any crime or misdemeanor not punishable with death: *Provided*, it appear from all the facts and circumstances of the case, that violent threats, command or coercion were used; and in such case the husband shall be prosecuted as principal, and receive the punishment which would otherwise have been inflicted on the wife if she had been found guilty.

§ 17. COMMITTING CRIME UNDER COMPULSION. A person committing a crime or misdemeanor not punishable with death, under threats or menaces which sufficiently show that his life or member was in danger, or that he had reasonable cause to believe, and did believe, that his life or member was in danger, shall not be found guilty; and such threats and menaces being proved and established, the person compelling by such threats or menaces the commission of the offense, shall be considered as principal, and suffer the same punishment as if he had perpetrated the offense.

§ 18. MISFORTUNE OR ACCIDENT. Acts committed by misfortune or accident shall

III. Bailable Offenses ; Recognizances ; Proceedings.

not be deemed criminal, where it satisfactorily appears that there was no evil design or intention, or culpable negligence.

§ 19. **DRUNKENNESS.** Drunkenness shall not be an excuse for any crime or misdemeanor, unless such drunkenness be occasioned by the fraud, contrivance or force of some other person, for the purpose of causing the perpetration of an offense; in which case the person so causing said drunkenness, for such malignant purpose shall be considered principal, and suffer the same punishment as would have been inflicted on the person committing the offense, if he had been possessed of sound reason and discretion.

§ 20. **OF OFFENSES HEREIN DEFINED.** All offenses herein defined, shall be prosecuted and, on conviction, punished as by this act is prescribed, and not otherwise; and all offenses not provided for by statute law, may be punished by fine or imprisonment, in the discretion of the court: *Provided*, the fine shall in no case exceed \$500., and the imprisonment one year.

§ 21. **CIVIL REMEDY PRESERVED.** Nothing in this act contained shall be so construed as to prevent the party injured from having and maintaining a civil action for all damages and losses that he may have sustained in consequence of the commission of any criminal offense herein provided for; and no court shall allow or entertain the plea that the private injury is merged in the crime, or in any manner affected thereby: *Provided*, however, the record of conviction shall not be used as evidence in any civil action brought on any forged writing, or to recover the damages and losses sustained by the commission of any such criminal offense.

DIVISION III.

BAILABLE OFFENSES ; RECOGNIZANCES ; PROCEEDINGS.

- | | |
|--|---|
| § 1. <i>Bailable Offenses.</i> | § 11. <i>Sureties, Surrender Principal.</i> |
| § 2. <i>Recognizance, Form of.</i> | § 12. <i>May Arrest.</i> |
| § 3. <i>In Open Court.</i> | § 13. <i>Sheriff to Arrest.</i> |
| § 4. <i>Condition of.</i> | § 14. <i>Surrender to Sheriff.</i> |
| § 5. <i>Appear before Justice.</i> | § 15. <i>Proceedings on Surrender.</i> |
| § 6. <i>Prisoner in Vacation.</i> | § 16. <i>Second Admittance to Bail.</i> |
| § 7. <i>Sufficiency of Bail.</i> | § 17. <i>Recognizance Forfeited.</i> |
| § 8. <i>Proof of.</i> | § 18. <i>Formal Defects no Bar.</i> |
| § 9. <i>Voidability of Recognizance.</i> | § 19. <i>Bail Exonerated, on Default.</i> |
| § 10. <i>Recognizances Delivered to Clerk.</i> | |

BAILABLE OFFENSES — RECOGNIZANCES, PROCEEDINGS THEREON.

§ 1. **BAILABLE OFFENSES.** All persons shall be bailable before conviction, except for capital offenses where the proof is evident or the presumption great.

§ 2. **RECOGNIZANCE — FORM.** All recognizances in criminal cases shall be taken to the People of the State of Illinois, and when not taken in a court of record in open court, shall be signed by the persons entering into the same, and approved and certified by the judge, justice of the peace or other officer taking the same.

§ 3. **RECOGNIZANCE IN OPEN COURT.** When a recognizance is taken in a court of record, it may be done in open court, and when so taken, need not be signed by the persons entering into the same.

§ 4. **CONDITION OF RECOGNIZANCE.** The recognizance, except when otherwise provided, shall be so conditioned as to bind the accused or witness, personally to appear at the court having jurisdiction of the offense, on the first day of the next term thereof, to be holden in the county (specifying the time and place of holding the same), or if the court is then sitting, on some day of the term, to be designated therein, and from day to day, and from term to term, and from day to day of each term, until the final sentence or order of the court, to answer for the offense charged (or if an indictment has been found or information filed, to answer such indictment or information, or if the person bound is a witness, to testify in the case,) and to abide such final sentence or order, and not depart without leave.

§ 5. **RECOGNIZANCE TO APPEAR BEFORE A JUSTICE.** When a recognizance is taken for an offense cognizable by a justice of the peace, it shall be conditioned for the appearance of the accused before the justice of the peace taking the same, or before some other

III. Bailable Offenses ; Recognizance ; Proceedings.

justice of the peace of the county where the offense was committed, on the day appointed by the justice for the trial of the offense.

§ 6. **RECOGNIZANCE OF PRISONER IN VACATION.** Where any person shall be committed to jail on a criminal charge, for want of good and sufficient bail, (except for treason, murder or other offense punishable with death), or for not entering into a recognizance to appear and testify, any judge or any two justices of the peace, may take such bail or recognizance in vacation, and may discharge such prisoner from his imprisonment.

§ 7. **SUFFICIENCY OF BAIL.** Each of the bail shall be worth the amount of bail expressed in the recognizance over and above the amount exempt from execution, but the court, judge, justice of the peace or officer, in taking bail, may allow more than two bail to justify severally in amounts less than that expressed in the recognizance, if the whole qualification be equivalent to two sufficient bail.

§ 8. **PROOF OF SUFFICIENCY OF BAIL.** The court, judge, justice of the peace or officer may examine the bail, on oath, touching their sufficiency, and may receive other evidence for or against the same, in such manner as he may deem proper.

§ 9. **NO RECOGNIZANCE VOIDABLE FOR WANT OF FORM.** Every recognizance taken or attempted to be taken in pursuance of this act, shall, by all courts in this state, be held and adjudged to have been entered into voluntarily, and shall not be set aside or adjudged insufficient for want of form, either in the recognizance or in the certificate of the officer taking the same.

§ 10. **RECOGNIZANCES DELIVERED TO CLERK.** All recognizances taken in criminal cases shall be delivered to the clerk of the court before which the accused or witness is bound to appear, on or before the day mentioned in such recognizance for his appearance.

§ 11. **SURETIES MAY SURRENDER PRINCIPAL.** In all cases of bail for the appearance of any person charged with a criminal offense, his sureties or any of them may, at any time before default upon the bond or recognizance, surrender the principal in their exoneration, or the principal may surrender himself to the proper officer.

§ 12. **MAY ARREST PRINCIPAL.** For the purpose of surrendering the principal, the sureties, or any of them, may arrest the principal, at any place, or may authorize any other person to make the arrest.

§ 13. **MAY REQUIRE SHERIFF TO ARREST.** The sureties, or any of them, may require the sheriff, coroner or any constable of the county where the principal may be found, to make the arrest within his county, by producing a certified copy of the recognizance, and, in person or by agent, accompanying the officer to receive the person arrested, and upon tender to such officer of like fees as are allowed for executing *capias* in criminal cases.

§ 14. **SURRENDER TO SHERIFF.** The surrender shall be made to the sheriff of the county where the principal is required to appear, or to the warden of the penitentiary, when so required.

§ 15. **PROCEEDINGS ON SURRENDER.** On such surrender, and the delivery to him of a certified copy of the recognizance, the sheriff or warden shall take such person into custody, and, by writing, acknowledge such surrender, and thereupon, the sureties shall be discharged from such recognizance, upon payment of all costs occasioned by any proceedings upon the recognizance.

§ 16. **SECOND ADMITTANCE TO BAIL.** When any person charged with a criminal offense is surrendered by his sureties, he may be again admitted to bail in the same manner as if committed for not finding sureties to recognize for him.

§ 17. **RECOGNIZANCE FORFEITED.** When any person who is accused of any criminal offense shall give bail for his appearance, and such person does not appear in accordance with the terms of the recognizance, the court shall declare such recognizance forfeited, and the clerk of the court shall thereupon issue a *scire facias* against such person and his sureties, returnable on the first day of the next term of the court, to show cause why such judgment should not be rendered against such person and his sureties for the amount of the recognizance, which *scire facias* shall be served by the sheriff of the county where the court is held, upon such person and his sureties, by reading the same to the defendants named in such *scire facias* at least five days before the first day of the term to which the same is returnable; and in case the person aforesaid cannot be found by the sheriff, he shall make return of that fact to the court. The court shall, thereupon, enter judgment by default against the defendants for the amount of the recognizance, unless defendants shall

IV. Prosecutions Commenced ; Limitations. V. Prevent Commission of Crimes.

appear and defend such cause ; and if the defendants shall appear and interpose a defense, then the cause shall be tried in the same manner as other causes of a like nature, after any such recognizance shall be declared forfeited as aforesaid. Before judgment, the court may, in its discretion, set aside such forfeiture, upon the accused being brought or coming into open court, and showing to the court, by affidavit, that he was unable to appear in court according to the terms of the recognizance, by reason of sickness or some other cause which shall satisfy the court that the accused had not been guilty of any laches or negligence : *Provided*, that no such forfeiture of a recognizance shall be set aside until the accused shall pay the costs of such recognizance.

§ 18. **NEGLECT TO RECORD, OR FORMAL DEFECTS, NO BAR.** Such action shall not be barred or defeated, nor shall judgment be arrested, by reason of neglect or omission to note or record the default of any principal or surety at the term when it happens, nor by reason of a defect in the form of the recognizance, if it sufficiently appears from the tenor thereof, at what court the party or witness was bound to appear, and that the court or magistrate before whom it was taken was authorized by law to require and take such recognizance.

§ 19. **WHEN BAIL TO BE EXONERATED ON DEFAULT MADE.** If, by the act of God, bail are unable without their fault to surrender their principal, they shall, on motion, before final judgment on scire facias, be exonerated and discharged by the court, with or without costs, as the court deem equitable.

DIVISION IV.

PROSECUTIONS COMMENCED ; LIMITATIONS.

- § 1. *Murder or Manslaughter.*
- § 2. *Arson or Forgery.*
- § 3. *Other Felonies.*

- § 4. *Other Offenses.*
- § 5. *Absence not Counted.*
- § 6. *Pending Proceedings.*

TIME OF COMMENCING PROSECUTIONS — LIMITATIONS.

§ 1. **FOR MURDER OR MANSLAUGHTER.** An indictment for the crime of murder or manslaughter may be found at any period after the death of the person alleged to have been killed.

§ 2. **FOR ARSON OR FORGERY.** An indictment for arson or forgery may be found at any time after the commission of the crime.

§ 3. **FOR OTHER FELONIES.** All indictments for other felonies must be found within three years next after the commission of the crime, except as otherwise provided by law.

§ 4. **FOR OTHER OFFENSES, ETC.** All prosecutions by indictment or otherwise, for misdemeanors, or for any fine or forfeiture under any penal statute, shall be commenced within one year and six months from the time of committing the offense or incurring the fine or forfeiture, except as otherwise provided by law.

§ 5. **TIME OF ABSENCE NOT COUNTED.** No period during which the party charged was not usually and publicly resident within this state shall be included in the time of limitation.

§ 6. **TIME OF PENDENCY OF PROCEEDINGS NOT COUNTED.** When an indictment, information or suit is quashed, or the proceedings on the same are set aside, or reversed on writ of error, the time during the pendency of such indictment, information or suit, so quashed, set aside or reversed, shall not be reckoned within the time limited by this act, so as to bar any new indictment, information or suit for the same offense.

DIVISION V.

PREVENT COMMISSION OF CRIMES.

- § 1. *Conservators of the Peace.*
- § 2. *Complaint.*
- § 3. *Warrant.*
- § 4. *Examination.*
- § 5. *Complaint Unsustained, Costs.*

- § 6. *Recognizance.*
- § 7. *Discharge or Commitment.*
- § 8. *Costs.*
- § 9. *Appeal.*
- § 10. *Recognizance of Witnesses.*

V. Prevent Commission of Crimes.

§ 11. *Proceedings on Appeal.*§ 12. *Appeal not Prosecuted.*§ 13. *Recognizance, after Commitment.*§ 14. *Return, how Prosecuted.*§ 15. *Conviction Unnecessary.*§ 16. *Breach of Peace before Court.*§ 17. *Penalty Remitted in Part.*§ 18. *Sureties may Surrender Principal.*§ 19. *Principal again Recognized.*§ 20. *Amendments.*

PROCEEDINGS TO PREVENT COMMISSION OF CRIMES.

§ 1. **CONSERVATORS OF THE PEACE.** All judges of courts of record within their respective jurisdictions, and justices of the peace in their respective counties, are conservators of the peace, and shall cause to be kept all laws made for the preservation of the peace, and may require persons to give security to keep the peace, or for their good behavior, or both, as provided by this act.

§ 2. **COMPLAINT.** When complaint is made to any such judge or justice of the peace, that a person has threatened or is about to commit an offense against the person or property of another, he shall examine on oath the complainant, and any witness who may be produced, and reduce the complaint to writing, and cause it to be subscribed and sworn to by the complainant.

§ 3. **WARRANT.** If such judge or justice of the peace is satisfied that there is danger that such offense will be committed, he shall issue a warrant requiring the proper officer to whom it is directed forthwith to apprehend the person complained of, and bring him before such magistrate, or before some other court, or magistrate having jurisdiction in the premises.

§ 4. **EXAMINATION.** When the person complained of is brought before the court or magistrate, if the charge is controverted the testimony produced on both sides shall be heard.

§ 5. **WHEN COMPLAINT IS NOT SUSTAINED — COSTS.** If it appear that there is no just reason to fear the commission of the offense the defendant shall be discharged, and if the judge or justice of the peace is of the opinion that the prosecution was commenced maliciously without probable cause, he may give judgment against the complainant for the costs of the prosecution.

§ 6. **RECOGNIZANCE.** If, however, there is just reason to fear the commission of such offense, the defendant shall be required to give a recognizance, with sufficient security, in such sum as the court or magistrate may direct, to keep the peace towards all people of this state, and especially towards the person against whom or whose property there is reason to fear the offense may be committed, for such time, not exceeding twelve months, as the court or magistrate may order. But he shall not be bound over to the next court unless he is also charged with some other offense for which he ought to be held to answer at such court.

§ 7. **DISCHARGE OR COMMITMENT.** If the person so ordered to recognize complies with the order, he shall be discharged; but if he refuses or neglects, the court or magistrate shall commit him to jail during the period for which he was required to give security, or until he so recognizes, stating in the warrant the cause of commitment, with the sum and time for which the security was required.

§ 8. **COSTS.** When a person is required to give security to keep the peace, or for his good behavior, the court or magistrate may further order that the costs of the prosecution, or any part thereof, shall be paid by such person, who shall stand committed until the costs are paid, or he is otherwise legally discharged.

§ 9. **APPEAL.** Whoever is aggrieved by the order of the magistrate requiring him to recognize as aforesaid, may, on giving the security required, appeal to the next term of the circuit court to be held in the same county, (except that in the county of Cook the appeal shall be taken to the criminal court of Cook county). Such recognizance shall, in case of an appeal, contain a condition that the appellant will pay the costs of the appeal, in case the order is affirmed, or the appeal dismissed.

§ 10. **RECOGNIZANCE OF WITNESSES.** The court or magistrate shall, when necessary, require the witnesses to support the complaint to recognize for their appearance at the court appealed to.

§ 11. **PROCEEDINGS ON APPEAL.** The court before which the appeal is prosecuted may affirm the order, or discharge the appellant, or may require him to enter into a new recognizance, with sufficient sureties, in such sum and for such time as the court deems

VI. Felon Pursued ; Offender Arrested ; By Whom, How.

proper, and may make such order in relation to the costs of prosecution as may be deemed just and reasonable

§ 12. **FAILING TO PROSECUTE APPEAL.** If the appellant fails to prosecute his appeal, his recognizance shall remain in full force and effect as to any breach of the conditions, without an affirmance of the judgment or order of the magistrate, and shall also stand as his security for any costs which the court appealed to orders to be paid by the appellant.

§ 13. **DISCHARGE ON RECOGNIZANCE AFTER COMMITMENT.** A person committed for not finding sureties, or refusing to recognize as required by the court or magistrate, may be discharged by any judge or justice of the peace of the county on giving such security as was required.

§ 14. **RECOGNIZANCE RETURNED TO CIRCUIT COURT — HOW PROSECUTED.** Every recognizance taken in pursuance of the foregoing provisions shall be transmitted by the magistrate to the circuit court of the county, (except that in the county of Cook it shall be transmitted to the criminal court of Cook county,) by the first day of the next term, and shall be filed of record by the clerk, and upon a breach of the condition the same shall be prosecuted by the state's attorney.

§ 15. **CONVICTION NOT NECESSARY.** In proceeding upon a recognizance it shall not be necessary to show a conviction of the defendant of an offense against the person or property of another.

§ 16. **BREACH OF PEACE IN PRESENCE OF A COURT OR MAGISTRATE.** A person who, in the presence of a court or magistrate, commits, or threatens to commit, an offense against the person or property of another, may be ordered, without process, to enter into a recognizance to keep the peace for a term not exceeding 12 months, and in case of refusal be committed as in other cases.

§ 17. **COURT MAY REMIT PART OF PENALTY.** When, upon a suit brought upon a recognizance the penalty thereof is adjudged forfeited, the court may, on the petition of any defendant, remit such portion of it as the circumstances of the case render just and reasonable.

§ 18. **SURETIES MAY SURRENDER PRINCIPAL.** The sureties of any person bound to keep the peace may at any time surrender their principal to the sheriff of the county in which the principal was bound, under the same rules and regulations governing the surrender of the principal in other criminal cases.

§ 19. **PRINCIPAL MAY AGAIN RECOGNIZE.** The person so surrendered may recognize anew with sufficient sureties, before any judge or justice of the peace of the county for the residue of the time, and shall thereupon be discharged.

§ 20. **AMENDMENTS.** No proceeding to prevent a breach of the peace shall be dismissed on account of any informality or insufficiency in the complaint, or any writ or proceeding, but the same may be amended, by order of the court or magistrate, to conform to the truth in the case.

DIVISION VI.

FELON PURSUED ; OFFENDER ARRESTED ; BY WHOM, HOW.

- § 1. *Pursuit of Felon.*
- § 2. *Duty of Officers.*
- § 3. *Posse Comitatus.*
- § 4. *Arrests without Warrant.*

- § 5. *Arrests By Magistrate.*
- § 6. *When Made.*
- § 7. *Taken before Magistrate.*
- § 8. *Recapture.*

PURSUIT OF FELON — ARREST OF OFFENDERS — BY WHOM AND HOW MADE.

§ 1. **PURSUIT OF FELON.** When the fact that a felony has been committed shall come to the knowledge of any sheriff, coroner or constable, fresh pursuit shall be forthwith made after every person guilty thereof, by such sheriff, coroner, constable and all other persons who shall be by any of them commanded, or summoned for that purpose ; every such officer who shall not do his duty in the premises shall be punished by fine in a sum not exceeding \$100., or imprisoned not exceeding three months.

§ 2. **DUTY OF OFFICERS.** It shall be the duty of every sheriff, coroner, constable, and every marshal, policeman, or other officer of any incorporated city, town or village, having

VII. Arrest; Commitment; Examination; Bail.

the power of a sheriff or constable, when any criminal offense or breach of the peace is committed or attempted in his presence, forthwith to apprehend the offender and bring him before some justice of the peace, to be dealt with according to law; to suppress all riots and unlawful assemblies, and to keep the peace, and without delay to serve and execute all warrants, writs, precepts and other process to him lawfully directed.

§ 3. POSSE COMITATUS. Every male person above the age of 18, when commanded by an officer to assist in arresting or securing an offender, shall obey such command.

§ 4. ARRESTS WITHOUT WARRANT. An arrest may be made by an officer or by a private person without warrant, for a criminal offense committed or attempted in his presence, and by an officer, when a criminal offense has in fact been committed, and he has reasonable ground for believing that the person to be arrested has committed it.

§ 5. MAGISTRATE MAY MAKE ARREST. A magistrate may orally order an officer or a private person to arrest any one committing or attempting to commit a criminal offense in the presence of such magistrate, which order shall authorize the arrest.

§ 6. WHEN MADE. An arrest may be made on any day, or at any time of the day, or night.

§ 7. PERSON ARRESTED TO BE TAKEN BEFORE A MAGISTRATE. When an arrest is made without a warrant, either by an officer or a private person, the person arrested shall, without unnecessary delay, be taken before the nearest magistrate in the county, who will hear the case, for examination, and the prisoner shall be examined and dealt with as in cases of arrests upon warrant.

§ 8. RECAPTURE. If any prisoner shall escape or be rescued, the officer or person from whose possession or custody he escaped or was rescued, may immediately pursue and retake him, in any county in this state, without a warrant.

DIVISION VII.

ARREST; COMMITMENT; EXAMINATION; BAIL.

- § 1. *Magistrates Examine Offenders.*
- § 2. *Complaint.*
- § 3. *Warrant.*
- § 4. *Name.*
- § 5. *Special Officer.*
- § 6. *Pursuit and Arrest.*
- § 7. *When not Bailed.*
- § 8. *Passing through other Counties.*
- § 9. *Prisoner before Magistrate.*
- § 10. *Adjournment.*
- § 11. *Default.*
- § 12. *Failing to Recognize.*
- § 13. *Amendments.*

- § 14. *Examination.*
- § 15. *Witnesses Separated.*
- § 16. *Discharge.*
- § 17. *Bail or Commitment.*
- § 18. *Witnesses Recognized.*
- § 19. *Married Women and Minors.*
- § 20. *Witness Committed.*
- § 21. *Mittimus.*
- § 22. *Bail Indorsed on.*
- § 23. *Witnesses Indorsed on.*
- § 24. *Delivered to Jailer.*
- § 25. *Copy of, Witness Indorsed.*

ARREST, EXAMINATION, COMMITMENT AND BAIL.

§ 1. WHAT MAGISTRATES MAY EXAMINE OFFENDERS. For the apprehension of persons charged with offenses, except such as are cognizable exclusively by justices of the peace, any judge of a court of record, in vacation as well as in term time, or any justice of the peace is authorized to issue process to carry into effect the following provisions of this act.

§ 2. COMPLAINT. Upon complaint made to any such judge or justice of the peace that any such criminal offense has been committed, he shall examine on oath the complainant and any witness produced by him, shall reduce the complaint to writing and cause it to be subscribed and sworn to by the complainant, which complaint shall contain a concise statement of the offense charged to have been committed, and the name of the person accused, and that the complainant has just and reasonable grounds to believe that such person committed the offense.

§ 3. WARRANT. If it appears that such offense has been committed, the judge or justice of the peace, shall issue a warrant, directed to all sheriffs, coroners and constables within this state, stating the offense by name, or so that it can be clearly inferred, the name of the person accused, and requiring the officer to whom it is directed forthwith to take the person of the accused and bring him before such judge or justice, or in case of

VII. Arrest ; Commitment ; Examination ; Bail.

his absence, or inability to act, before any other judge or justice of the county, and in the same warrant may require the officer to summon such witnesses as shall be therein named, to appear and give evidence on the examination.

§ 4. NAME. If the name of the defendant is unknown to the complainant or judge, or justice of the peace, he may be designated by any name, description or circumstances by which he can be identified with reasonable certainty, and if, upon arrest, he refuses to disclose his true name, he may be tried and convicted by the name used in the warrant.

§ 5. SPECIAL OFFICER. The judge or justice of the peace issuing the warrant may make an order thereon authorizing a person, to be named in the order, to execute the same, and the person so named may execute such warrant in the same manner and shall have like powers as if he were the officer named in the warrant, and all sheriffs, coroners, constables and others, when required in their respective counties, shall aid in the execution of such warrant.

§ 6. PURSUIT AND ARREST. If a person against whom a warrant is issued for any alleged offense, before or after the issuing of such warrant, escapes from, or is out of the county, the officer to whom such warrant is directed may pursue and apprehend the party charged, in any county of this state, and for that purpose may command aid and exercise the same authority as in his own county.

§ 7. WHEN NOT BAILED. When a person is arrested in a county other than that in which the offense was committed, the officer shall take him before the judge or justice who issued the warrant, or, in his absence, before some other judge or justice of the peace of the county in which the warrant was issued.

§ 8. PASSING THROUGH OTHER COUNTIES. The officer, or any person so authorized, having the custody of a prisoner, may pass through any counties which may be in his route, between the place of arrest and the place to which he is taking the prisoner, and may lodge the prisoner in any jail on the route for safe custody for one night or more, as circumstances may require.

§ 9. BEFORE WHAT MAGISTRATE PRISONER BROUGHT. Every person arrested by warrant, for any offense, where no other provision is made for his examination thereon, shall be brought before the judge or justice of the peace who issued the warrant, or if he is absent or unable to attend, before some other judge or justice of the same county ; and the warrant, with a proper return thereon, signed by the person who made the arrest, shall be delivered to such judge or justice.

§ 10. ADJOURNMENT. A judge or justice of the peace may, for good cause appearing, adjourn an examination or trial pending before himself, from time to time as occasion requires, not exceeding 10 days at one time, without the consent of the defendant or person charged. In the mean time if the party is charged with an offense not bailable, he shall be committed ; otherwise he may be recognized in a sum and with sureties to the satisfaction of such judge or justice of the peace, for his appearance for such further examination, and for want of such recognizance he shall be committed to jail.

§ 11. DEFAULT. If the person so recognized does not appear before the judge or justice of the peace, according to the condition of such recognizance, the judge or justice of the peace shall record the default, but such default may be set aside by the judge or justice, for good cause shown, on the appearance of the accused, at any time to which the matter may be continued by such judge or justice of the peace. And in case such default is not set aside as aforesaid, the judge or justice shall certify the recognizance with a record of the default to the court having cognizance of the offense, and like proceedings may be had thereupon as upon the breach of the condition of a recognizance for appearance before such court, or an action of debt may be maintained thereon.

§ 12. FAILING TO RECOGNIZE ON ADJOURNMENT. When a person fails to recognize, he may be committed to jail by an order of the judge or justice of the peace, which order shall be in writing, and contain a concise statement of the reason of such commitment, and the day and place appointed for his examination, and on the day appointed he may be brought before the judge or justice, by his verbal order to the officer who made the commitment, or by an order in writing, to a different person.

§ 13. AMENDMENTS. The prisoner shall not, in any case, be discharged on account of any insufficiency or informality in the complaint, or on account of any informality in the warrant, or because it is not under the seal of the judge or justice, but the warrant may be amended by the judge or justice of the peace at any time pending the proceedings.

VII. Arrest ; Commitment ; Examination ; Bail.

§ 14. **EXAMINATION.** The judge or justice before whom any person charged with a criminal offense is brought, with or without a warrant, shall, as soon as may be, examine the witnesses in support of the prosecution, as well as those who may be produced on behalf of the accused, on oath, in the presence of the party charged in relation to any matter connected with such charge which he may deem pertinent.

§ 15. **SEPARATING OF WITNESSES.** While a witness is being examined, the judge or justice of the peace may, if he sees cause, exclude from the place of examination all the other witnesses, or direct the witnesses to be kept separate, so that they cannot converse with each other, until they have been examined.

§ 16. **DISCHARGE.** If it appears to the judge or justice of the peace, upon the whole examination, that no offense has been committed, or that there is no probable cause for charging the prisoner with the offense, he shall be discharged.

§ 17. **BAIL OR COMMITMENT.** If it appears that an offense has been committed, and that there is probable cause to believe the prisoner guilty, and if the offense is bailable by the judge or justice of the peace, and the prisoner offers sufficient bail, it shall be taken and the prisoner discharged ; but if no sufficient bail is offered, or the offense is not bailable by the judge or justice, the prisoner shall be committed to jail for trial.

§ 18. **WITNESSES TO RECOGNIZE.** When the prisoner is admitted to bail or committed, the judge or justice of the peace shall bind, by recognizance, such witnesses against the prisoner as he deems material, to appear and testify at the next court having cognizance of the offense, and in which the prisoner shall be held to answer : *Provided*, no such witness shall be required to give other security than his own recognizance for such appearance.

§ 19. **MARRIED WOMEN AND MINORS.** When a married woman or a minor is a material witness, any other person may be allowed to recognize for the appearance of such witness ; or the judge or justice of the peace may, in his discretion, take the recognizance of such married woman or minor, in a sum not exceeding \$50., which shall be valid and binding in law, notwithstanding the coverture or minority : *Provided*, that no such minor or married woman shall be required to give other security than his or her own recognizance for such appearance.

§ 20. **COMMITMENT OF WITNESS.** Witnesses required to recognize, shall, if they refuse, be committed to jail by the judge or justice, there to remain until they comply with such order, or are otherwise discharged according to law.

§ 21. **MITTIMUS.** When an offender or witness is committed because he fails to enter into recognizance as required by law, or because the offense is not bailable, the judge or justice of the peace shall make out his warrant of commitment, directed to the sheriff, coroner or any constable, and containing a short recital of the cause of commitment, and commanding the officer to commit the prisoner to the county jail, and deliver him to the keeper thereof, and the jailer to receive him into his custody, and safely keep him until he is discharged by process of law. No mittimus shall be considered defective for want of the seal of the judge or justice, or other legal or technical form, if sufficient appear on its face to ascertain for what crime or offense the prisoner is committed.

§ 22. **AMOUNT OF BAIL TO BE INDORSED ON MITTIMUS.** If the offense is bailable, or the person committed is a witness, the judge or justice of the peace shall indorse on the warrant of commitment the amount of bail required.

§ 23. **WITNESSES TO BE INDORSED ON MITTIMUS.** The judge or justice of the peace committing any person upon a criminal charge, shall indorse upon the warrant of commitment the names and residences of the principal witnesses by whom the crime was proved before him.

§ 24. **MITTIMUS TO BE DELIVERED TO JAILER.** The officer delivering the prisoner to the custody of the jailer, shall also deliver to him such warrant of commitment, to be by him duly preserved.

§ 25. **WITNESSES INDORSED ON COPY OF MITTIMUS.** Whenever any prisoner, in the custody of the sheriff of any county, on any warrant of commitment as aforesaid, shall, by himself or his attorney, demand of said sheriff a copy of said warrant of commitment, said sheriff shall indorse on the said copy the names of the witnesses written thereon as aforesaid, and deliver the same to the prisoner, or his counsel ; and any justice or judge who shall neglect to write the name or names of the witnesses aforesaid on the warrant of commitment, or any sheriff who, on such demand, shall neglect to indorse the name of said

VIII. Search Warrants ; Search.

witness or witnesses on any copy of said commitment, or deliver the same to the prisoner, or his counsel, each justice, judge or sheriff offending in the premises, shall be fined in the sum of \$20., to be recovered by action of debt, in the name and for the use of any person who shall sue for the same, in any court of record.

DIVISION VIII.

SEARCH WARRANTS ; SEARCH.

- § 1. *Complaint, Warrant for Stolen Goods.*
- § 2. *For other Property.*
- § 3. *Search in Day Time.*
- § 4. *In Night Time.*
- § 5. *Forcible Entrance.*

- § 6. *Return, Property taken Specified.*
- § 7. *Disposal of Property.*
- § 8. *Costs against Complainant.*
- § 9. *Search for Dangerous Weapons.*

SEARCH WARRANTS — SEARCH.

§ 1. COMPLAINT — WARRANT FOR STOLEN GOODS. When complaint is made in writing, verified by affidavit, to any judge or justice of the peace, that personal property (particularly describing the same,) has been stolen, embezzled, or fraudulently obtained by false tokens or pretenses, and that the complainant believes that it is concealed in any house or place (particularly describing the same) the judge or justice of the peace, if he is satisfied that there is reasonable cause for such belief, shall issue a warrant to search such house or place for such property.

§ 2. FOR OTHER PROPERTY. Any such judge or justice of the peace may, on like complaint made on oath, issue search warrants, when satisfied that there is reasonable cause, in the following cases, to wit: 1. To search for and seize counterfeit or spurious coin, forged bank notes and other forged instruments, or tools, machinery, or materials prepared or provided for making either of them. 2. To search for and seize books, pamphlets, ballads, printed papers or other things containing obscene language, or obscene prints, pictures, figures or descriptions, manifestly tending to corrupt the morals of youth, and intended to be sold, loaned, circulated or distributed, or to be introduced into any family, school or place of education. 3. To search for and seize lottery tickets, or materials for a lottery, unlawfully made, provided or procured, for the purpose of drawing a lottery. 4. To search for and seize gaming apparatus, or implements used, or kept and provided to be used in unlawful gaming, in any gaming house, or in any building, apartment, or place resorted to for the purpose of unlawful gaming.

§ 3. SEARCH IN DAY TIME. All such warrants shall be directed to the sheriff or any constable of the county commanding such officer to search in the day time, the house or place, where the stolen property or other things for which he is required to search are believed to be concealed, (which place and property, or things to be searched for, shall be particularly designated and described in the warrant,) and to bring such stolen property or other things, when found, and the persons in whose possession they are found, to the judge or justice of the peace who issued the warrant, or to some other judge or justice of the peace, or court having cognizance of the case.

§ 4. SEARCH IN NIGHT TIME. If there is satisfactory evidence that any property stolen, embezzled, or obtained by false tokens or pretenses, or that any of the other things for which a search warrant may be issued by the provisions of this act, are kept, concealed, prepared or used in a particular house or place, a warrant may be issued by two judges or justices of the peace, to authorize the search of such house or place in the night time, and to bring the property or things described in the warrant or summons, and the persons in whose possession they are found, before either of the judges or justices who issued the warrant, or some other judge or justice of the peace of the county.

§ 5. FORCIBLE ENTRANCE. The officer may break open any outer or inner door or window of a house, or anything therein, if, after notice of his authority and purpose, he is refused admittance, using no more force than is necessary.

§ 6. RETURN MUST SPECIFY PROPERTY TAKEN. The return of the officer shall particularly specify the property taken, and the place where, and the person from whom, the property is taken.

§ 7. DISPOSAL OF PROPERTY. When an officer, in the execution of a search warrant,

IX. Justices' Jurisdiction ; Proceedings in Small Offenses.

finds stolen or embezzled property, or seizes any of the other things for which a search is allowed by this act, all the property and things so seized shall be safely kept by direction of the judge, justice or court, so long as necessary for the purpose of being produced or used as evidence on any trial. As soon as may be afterwards, all such stolen and embezzled property shall be restored to the owner thereof, and all the other things seized by virtue of such warrants shall be burnt, or otherwise destroyed, under the direction of the judge, justice or court.

§ 8. COSTS AGAINST COMPLAINANT. If, on the hearing, it appears that there was no probable cause for suing out the warrant, the whole cost may be taxed against the complainant, and execution awarded.

§ 9. SEARCH FOR DANGEROUS WEAPONS. When a person charged with a felony is suspected by the judge or justice of the peace before whom he is brought to have upon his person a dangerous weapon, or anything which may be used as evidence of the commission of the offense, the judge or justice may direct him to be searched in his presence, and such weapon or other thing to be retained, subject to the order of the court in which the defendant may be tried.

DIVISION IX.

JUSTICES' JURISDICTION ; PROCEEDINGS IN SMALL OFFENSES.

§ 1. *Original Jurisdiction.*

§ 2. *Arrest and Trial.*

§ 3. *Special Constable.*

§ 4. *Jury Trial.*

§ 5. *Determine Penalty.*

§ 6. *Judgment on Verdict.*

§ 7. *Execution.*

§ 8. *Capias.*

§ 9. *Appeals.*

§ 10. *Duty on Appeal.*

§ 11. *Defendant Guilty, Judgment.*

JURISDICTION OF JUSTICES OF THE PEACE AND PROCEEDINGS BEFORE THEM IN SMALL OFFENSES.

§ 1. JURISDICTION. Justices of the peace shall have original jurisdiction in all cases of misdemeanor when the punishment is by fine only, and the fine does not exceed \$200., and also in all cases of assault and battery and affrays in which the people are plaintiffs, and in cases arising under §§ 270 and 271 of Division I. of this act.

§ 2. ARREST AND TRIAL. In all cases of offenses of which a justice of the peace has jurisdiction, he may upon the affidavit of any competent person, issue his warrant to any constable of his county for the arrest of any person charged with either of said offenses and upon the arrest of such person shall proceed to hear and determine the cause according to law.

§ 3. SPECIAL CONSTABLE. Any justice of the peace may appoint a suitable person to act as constable in a criminal case, where there is a probability that a person charged with any offense will escape, or that goods and chattels will be removed before application can be made to a qualified constable ; and the person so appointed shall act as constable in that particular case and no other ; and any temporary appointment so made as aforesaid shall be made by a written indorsement, under the seal of the justice deputing, on the back of the process which the person receiving the same shall be deputed to execute.

§ 4. JURY TRIAL. The person accused may have the cause tried by a jury upon the same conditions, and the jury shall be summoned and impaneled in the same manner, as in civil cases before justices of the peace : *Provided*, it shall not be necessary for the defendant to advance the jury fees.

§ 5. JURY TO DETERMINE PENALTY. If the jury find the accused guilty, they shall assess the fine or fix the punishment as aforesaid.

§ 6. JUDGMENT ON VERDICT RENDERED. Upon the jury returning their verdict, the justice shall record the same in his docket or record book and proceed to render judgment thereon accordingly, with costs. If the jury return a verdict of not guilty, the justice shall discharge the defendant without costs.

§ 7. EXECUTION TO ISSUE. Upon the rendition of a judgment imposing a fine the justice shall, except as otherwise provided, issue execution against the goods and chattels

X. Courts of Record ; Criminal Jurisdiction.

of the defendant for the fine and costs, which may be levied upon any personal property of the defendant not exempt from execution, and proceedings may be had thereon as upon other executions.

§ 8. *CAPIAS ISSUED.* If the constable shall return upon such execution that the defendant has no goods and chattels whereof to make the money, the justice shall issue a *capias* against the body of the defendant, and the constable shall arrest such person and commit him to the jail of the county, there to remain 48 hours; and if the fine exceed \$10., then to remain in said jail 24 hours for every \$5. over and above the said \$10., and so on in proportion to the amount of said fine.

§ 9. *APPEALS.* The defendant may appeal from the judgment of the justice of the peace in criminal cases to the circuit court of the county, the appeal to be taken in the same time and manner and upon the same conditions and with like effect and like proceedings may be had thereon as in civil cases, except that no damages shall be allowed, and except that in the county of Cook the appeal shall be to the criminal court of Cook county.

§ 10. *DUTY OF JUSTICE ON APPEAL.* When any defendant convicted of either of the said offenses appeals, it shall be the duty of the justice to return to the clerk of the court to which the appeal is taken, when he returns the papers in the case, the names of all material witnesses.

§ 11. *DEFENDANT GUILTY, JUDGMENT RENDERED.* If upon such appeal the defendant shall be found guilty, judgment shall be rendered against both principal and surety in the appeal bond, for the amount of the fine assessed by the jury in said court, and all costs that may have accrued.

DIVISION X.

COURTS OF RECORD ; CRIMINAL JURISDICTION.

§ 1. *Jurisdiction of Circuit Courts.*

§ 2. *Criminal Court, Cook County.*

§ 3. *Prosecution in Circuit Court.*

§ 4. *Local Jurisdiction.*

§ 5. *Offense on County Line.*

§ 6. *Killing in one County, Death in Another.*

§ 7. *In Homicide.*

§ 8. *Jurisdiction in Larceny.*

§ 9. *Offense on Navigable Water.*

§ 10. *Without, Consummated within the State.*

§ 11. *On R. R. Cars, or Water Craft.*

JURISDICTION OF COURTS OF RECORD IN CRIMINAL OFFENSES AND MANNER OF PROSECUTING THE SAME.

§ 1. *JURISDICTION OF CIRCUIT COURTS.* The circuit courts of the several counties except of the county of Cook, shall have exclusive original jurisdiction of all criminal offenses, except as otherwise provided by law.

§ 2. *OF CRIMINAL COURT OF COOK COUNTY.* The criminal court of Cook county shall have exclusive original jurisdiction of all criminal offenses in the county of Cook, except such as is conferred upon justices of the peace, and appellate jurisdiction from justices of the peace.

§ 3. *PROSECUTION IN CIRCUIT COURTS.* All offenses cognizable in the said courts shall be prosecuted by indictment.

§ 4. *LOCAL JURISDICTION.* The local jurisdiction of all offenses not otherwise provided for by law, shall be in the county where the offense was committed.

§ 5. *OFFENSE ON COUNTY LINE.* Where an offense shall be committed on a county line or within one hundred rods of the same, it may be so alleged and the trial may be in either county divided by such line; and where any offense shall be committed against the person of another and the person committing the offense shall be in one county, and the person receiving the injury shall be in another county, the trial may be had in either of said counties.

§ 6. *KILLING IN ONE COUNTY AND DEATH IN ANOTHER.* If the party killing shall be in one county, and the party killed be in another county, at the time the cause of death shall be administered or inflicted, or if it is doubtful in which of several counties the cause of death was administered or inflicted, the accused may be tried in either county.

§ 7. *IN HOMICIDE.* If the cause of death is administered or inflicted in one county

XI. Proceedings before Grand Jury ; Indictment.

and the party die within another county or without the state, the accused shall be tried in the county where the cause of death was administered or inflicted.

§ 8. JURISDICTION IN LARCENY. Where property is stolen in another state or country and brought into this state, or is stolen in one county of this state and carried into another, the jurisdiction shall be in any county into or through which the property may have passed or where the same may be found.

§ 9. OFFENSE COMMITTED ON NAVIGABLE WATER OF THE STATE. An offense committed on any of the navigable waters bordering on this state and within the jurisdiction of the state, may be alleged to have been committed and the offender may be tried in the county opposite which it was committed, or in any county through or into which the boat, raft or vessel (if committed on either) may pass or come in the course of the voyage, or in which the voyage may terminate.

§ 10. OFFENSE COMMENCED WITHOUT BUT CONSUMMATED WITHIN THE STATE. When the commission of an offense commenced without this state is consummated within this state, the offender shall be liable to punishment therefor in this state, though he was without the state at the time of the commission of the offense charged, if he consummated the offense within this state, through the intervention of any innocent or guilty agency, or any means proceeding directly or indirectly from himself; and in such case he may be tried and punished in the county where the offense was consummated.

§ 11. OFFENSES COMMITTED ON RAILROAD CARS OR WATER CRAFT. When any offense is committed in or upon any railroad car passing over any railroad in this state, or any water craft navigating any of the waters within this state, and it cannot readily be determined in what county the offense was committed, the offense may be charged to have been committed and the offender tried in any of the counties through or along or into which such railroad car or water craft may pass or come, or can reasonably be determined to have been on or near the day when the offense was committed.

DIVISION XI.

PROCEEDINGS BEFORE GRAND JURY ; INDICTMENT.

§ 1. *Sitting of Jury.*

§ 2. *Presentments.*

§ 3. *Summoned after Adjournment.*

§ 4. *Witnesses.*

§ 5. *Evidence.*

§ 6. *Form of Indictment.*

§ 7. *Prosecutor Indorsed.*

Malicious Prosecution.

§ 8. *Instrument Destroyed.*

§ 9. *Indictment Quashed, Want of Form.*

§ 10. *Improper Disclosures.*

PROCEEDINGS BEFORE GRAND JURY—INDICTMENT.

§ 1. SITTINGS OF JURY. The grand jury having been impaneled and instructed by the court, shall retire to their room to consider such matters as may be brought before them. The court shall designate an officer to attend upon their sessions.

§ 2. PRESENTMENTS. Grand juries shall present all offenses cognizable by the court at which they attend, and may appoint one of their number to take minutes of their proceedings, to be delivered to the prosecuting attorney, if the jury so direct.

§ 3. MAY BE SUMMONED AFTER ADJOURNMENT. If they are dismissed before the court adjourns, they may be summoned again on any special occasion at such time as the court directs.

§ 4. WITNESSES. In all complaints exhibited before the grand jury of any county, they shall hear the witnesses on behalf of the people only.

§ 5. EVIDENCE. The grand jury may find an indictment on the oath of one or more witnesses, except that in cases of treason or perjury, at least two witnesses to the same fact shall be deemed necessary, except where the fact is proved by some writing, or they may make presentment upon information of not less than two of their own body, unless the juror giving the information is sworn as a witness, in which case his evidence shall be considered the same as that of any other witness. In finding a bill of indictment, at least 16 of the grand jury shall be present, and at least 12 of them shall agree to the finding.

XII. Arrest upon Indictment; Bail.

§ 6. FORM OF INDICTMENT. Every indictment or accusation of the grand jury shall be deemed sufficiently technical and correct, which states the offense in the terms and language of the statutes creating the offense, or so plainly that the nature of the offense may be easily understood by the jury. The commencement of the indictment shall be in substance as follows:

STATE OF ILLINOIS }
County. } ss. Of the . . . term of the . . . Circuit Court in the year of
our Lord, 18 . . .

The grand jurors chosen, selected and sworn, in and for the county of . . . , in the name and by the authority of the People of the State of Illinois, upon their oaths, present, etc., (*here insert the offense, and time and place of committing the same, with reasonable certainty.*)

§ 7. PROSECUTOR INDORSED — MALICIOUS PROSECUTION. No bill of indictment for false imprisonment, or wilful and malicious mischief shall be found a "true bill," by any grand jury, unless a prosecutor is indorsed thereon by the foreman of the grand jury, with the consent of the prosecutor, except the same shall be found upon the information and knowledge of two or more of the grand jury, or upon the information of some public officer in the necessary discharge of his duty; in which case it shall be stated at the end of the indictment, how the same is found, and then no prosecutor shall be required; but in cases where a prosecutor is indorsed on the indictment, and the defendant shall be acquitted on trial, the petit jury acquitting such defendant shall find in addition to the verdict of "not guilty" whether the prosecutor had acted maliciously by instituting the prosecution or not; and whenever the petit jury shall return with a verdict of "not guilty" that the prosecutor had acted maliciously in the premises, the court shall enter judgment for costs against the prosecutor, including a fee of five dollars to the attorney general or state's attorney, and award execution for the same as is done in civil cases: *Provided*, that nothing herein contained shall render the prosecutor incompetent to be a witness either before a grand or petit jury.

§ 8. INSTRUMENT DESTROYED. When an instrument which is the subject of an indictment, has been destroyed or withheld by the act or procurement of the defendant, and the fact of such destruction or withholding is alleged in the indictment and established on trial, the accused shall not be acquitted on account of any misdescription of the instrument so withheld or destroyed.

§ 9. NO INDICTMENT QUASHED FOR WANT OF FORM. All exceptions which go merely to the form of an indictment, shall be made before trial, and no motion in arrest of judgment, or writ of error shall be sustained, for any matter not affecting the real merits of the offense charged in such indictment. No indictment shall be quashed for want of the words "with force and arms," or of the occupation or place of residence of the accused, nor by reason of the disqualification of any grand juror.

§ 10. DISCLOSURES IMPROPER. No grand juror or officer of the court or other person shall disclose that an indictment for felony is found or about to be found against any person not in custody or under recognizance, except by issuing process for his arrest, until he is arrested; nor shall any grand juror state how any member of the jury voted, or what opinion he expressed on any question before them; and the court in charging said jury shall impress upon their minds the provisions of this section. A violation of this section shall subject the offender to an attachment as for contempt of court, in which he may be fined not exceeding \$500.

DIVISION XII.

ARREST UPON INDICTMENT; BAIL.

§ 1. Order Fixing Bail.

§ 2. *Capias*.

§ 3. Bail Indorsed.

§ 4. Service and Return.

§ 5. Passing through other Counties.

§ 6. Costs.

§ 7. Letting to Bail.

ARREST UPON INDICTMENT — ADMITTING TO BAIL.

§ 1. ORDER FIXING AMOUNT OF BAIL. When an indictment is found as a true bill, if the offense is bailable, the court shall make an order fixing the amount of bail to be required of the accused. When the court orders process against the accused returnable forthwith, the amount of bail need not be fixed until the accused is brought into court.

XIII. Arraignment ; Trial ; Discharge.

§ 2. **CAPIAS.** The clerk of the court in which the indictment is found shall immediately issue process of *capias* for the apprehension of each person indicted, directed to the sheriff, coroner or any constable of the county where such person then is or is supposed to be. When deemed necessary, warrants may issue to different counties at the same time.

§ 3. **AMOUNT OF BAIL INDORSED ON WRIT.** When not otherwise ordered by the court, the clerk shall indorse on the process the amount of bail required by the order of the court, but when the court shall order the process returnable immediately, such indorsement shall not be made, but the *capias* shall require the accused to be arrested, and brought immediately to court.

§ 4. **SERVICE AND RETURN OF CAPIAS — BAIL.** The sheriff, or in case of his absence or inability, the coroner or some one of the constables of the county to which the *capias* is directed, shall arrest the person named in the warrant, and if the offense is bailable and the writ is not returnable forthwith, let him to bail if sufficient bail is offered; or if the offense is not bailable, or sufficient bail is not offered, take his body to the jail of the county where the *capias* is returnable, and deliver him together with the *capias* to the keeper of the jail, there to remain until discharged in due course of law. If the process is returnable forthwith the accused shall be immediately brought into court, when he shall be either committed, bailed or tried as the court may direct.

§ 5. **PASSING THROUGH OTHER COUNTIES.** The officer having the custody of a prisoner may pass through any counties which lie in his route between the place of arrest and the county to which he is taking the prisoner, and may lodge the prisoner in any jail on his route for safe custody for one night or more, as occasion may require.

§ 6. **COSTS.** The county where the indictment is found, shall pay to the officer his reasonable charges for his services in bringing an offender from another county.

§ 7. **LETTING TO BAIL.** The officer making the arrest shall let the accused to bail by his entering into recognizance in the form required by law, in the amount specified in the process, with one or more sufficient sureties to be approved by the officer.

DIVISION XIII.

ARRAIGNMENT ; TRIAL ; DISCHARGE.

§ 1. *Copy of Indictment.*

§ 2. *Counsel.*

§ 3. *Arraignment, Plea.*

§ 4. *Plea of Guilty, Explained.*

§ 5. *Standing Mute.*

§ 6. *Disqualifications Removed.*

§ 7. *Subpena.*

§ 8. *Mode of Procedure.*

§ 9. *Privileges Abolished.*

§ 10. *Trial de Medietate Linguae.*

§ 11. *Jurors Judges of Law and Fact.*

§ 12. *Challenges.*

§ 13. *In Murder Trial.*

§ 14. *Prolongation of Session.*

§ 15. *Sworn Officer Attend Jury.*

§ 16. *Penalty.*

§ 17. *Exceptions.*

§ 18. *Discharged, Want of Prosecution.*

ARRAIGNMENT — TRIAL — DISCHARGE.

§ 1. **COPY OF INDICTMENT.** Every person charged with treason murder or other felonious crime, shall be furnished, previous to his arraignment, with a copy of the indictment and a list of the jurors and witnesses. In all other cases he shall, at his request or the request of his counsel, be furnished with a copy of the indictment and a list of the jurors and witnesses.

§ 2. **COUNSEL.** Every person charged with crime shall be allowed counsel, and when he shall state upon oath that he is unable to procure counsel, the court shall assign him competent counsel, who shall conduct his defense. In all cases counsel shall have access to persons confined, and shall have the right to see and consult such persons in private.

§ 3. **ARRAIGNMENT — PLEA.** Upon the arraignment of a prisoner it shall be sufficient without complying with any other form, to declare orally, by himself or his counsel, that he is not guilty; which plea shall be immediately entered upon the minutes of the court by the clerk, and the mention of the arraignment and such plea shall constitute the issue between the people of the state and the prisoner; and if the clerk neglects to insert in the minutes the said arraignment and plea, it may and shall be done at any time by order of the court, and then the error or defect shall be cured.

XIII. Arraignment ; Trial ; Discharge.

§ 4. PLEA OF GUILTY, EXPLAINED. In cases where the party pleads "guilty," such plea shall not be entered until the court shall have fully explained to the accused the consequences of entering such plea ; after which, if the party persist in pleading "guilty," such plea shall be received and recorded, and the court shall proceed to render judgment and execution thereon as if he had been found guilty by a jury. In all cases where the court possesses any discretion as to the extent of the punishment, it shall be the duty of the court to examine witnesses as to the aggravation and mitigation of the offense.

§ 5. STANDING MUTE. In all cases where the party on being arraigned obstinately stands mute, or refuses to plead, the court shall order the plea of "not guilty," to be entered on the minutes, and the trial, judgment and execution shall proceed in the same manner as it would have done if the party had pleaded "not guilty."

§ 6. DISQUALIFICATIONS REMOVED. No person shall be disqualified as a witness in any criminal case or proceeding by reason of his interest in the event of the same, as a party or otherwise, or by reason of his having been convicted of any crime ; but such interest or conviction may be shown for the purpose of affecting his credibility : *Provided however*, that a defendant in any criminal case or proceeding shall only at his own request be deemed a competent witness and his neglect to testify shall not create any presumption against him, nor shall the court permit any reference or comment to be made to or upon such neglect.

§ 7. SUBPENAS. It shall be the duty of the clerk of the court to issue subpoenas either on the part of the people or of the accused, directed to the sheriff, coroner or any constable of any county of this state. And every witness who shall be duly subpoenaed and shall neglect or refuse to attend any court, pursuant to the requisitions of such subpoena, shall be proceeded against and punished for contempt of the court. And attachments against witnesses who live in a different county from that where such subpoena is returnable, may be served in the same manner as capias are directed to be served, out of the county from which they issue.

§ 8. MODE OF PROCEDURE. All trials for criminal offenses shall be conducted according to the course of the common law, except when this act points out a different mode, and the rules of evidence of the common law shall also be binding upon all courts and juries in criminal cases except as otherwise provided by law.

§ 9. CERTAIN PRIVILEGES ABOLISHED. The benefit of clergy, appeals of felony and trials by battle are forever abolished.

§ 10. TRIAL DE MEDIETATE LINGUÆ. In no case shall the right to a trial by jury de medietate linguæ be allowed in criminal prosecutions.

§ 11. JURORS JUDGES OF LAW AND FACT. Juries in all criminal cases shall be judges of the law and the fact.

§ 12. CHALLENGES. Every person arraigned for any crime punishable with death or imprisonment in the penitentiary for life shall be admitted on his trial to a peremptory challenge of twenty jurors, and no more ; and every person arraigned for any offense that may be punished by imprisonment for a term exceeding eighteen months shall be admitted to a peremptory challenge of ten jurors ; and in all other criminal trials, the defendant shall be allowed a peremptory challenge of six jurors. The attorney prosecuting on behalf of the people shall be admitted to a peremptory challenge of the same number of jurors that the accused is entitled to.

§ 13. CHALLENGES IN TRIAL FOR MURDER. In trials for murder it shall be a cause for challenge of any juror who shall on being examined, state that he has conscientious scruples against capital punishment, or that he is opposed to the same.

§ 14. PROLONGATION OF SESSION. The court in which a trial for a criminal offense is pending may continue in session until the verdict is rendered and judgment entered, notwithstanding the judge may be required by law to hold court in another county before the conclusion of such trial.

§ 15. OFFICER SWORN TO ATTEND JURY. When the jury retire to consider of their verdict in any criminal case, a constable or other officer shall be sworn or affirmed to attend the jury to some private and convenient place, and to the best of his ability keep them together without meat or drink, (water excepted), unless by leave of the court, until they shall have agreed upon their verdict, nor suffer others to speak to them, and that when they shall have agreed on their verdict he will return them into court : *Provided*, in cases of misdemeanor only, if the prosecutor for the people and the person on trial by

XIV. Judgment and Execution Thereof.

himself or counsel shall agree, which agreement shall be entered upon the minutes of the court, to dispense with the attendance of an officer upon the jury or that the jury when they have agreed upon their verdict may write and seal the same and after delivering the same to the clerk, may separate, it shall be lawful for the court to carry into effect any such agreement, and receive any such verdict so delivered to the clerk as the lawful verdict of such jury.

§ 16. **PENALTY.** If any officer sworn to attend upon a jury shall knowingly violate his oath or affirmation, or shall so negligently perform his duties that the jury shall separate without leave of the court, or obtain food or drink (except water) or if any person not belonging to the jury shall hold conversation with any of the jury, every person and officer so offending shall be punished for a contempt of the court by fine or imprisonment, or both, in the discretion of the court.

§ 17. **EXCEPTIONS.** Exceptions may be taken in criminal cases, and bills of exceptions shall be signed and sealed by the judge, and entered of record, and error may be assigned thereon by the defendant, the same as in civil cases: *Provided*, that in no criminal case shall the people be allowed an appeal, writ of error or new trial.

§ 18. **DISCHARGED FOR WANT OF PROSECUTION.** Any person committed for a criminal or supposed criminal matter, and not admitted to bail and not tried at or before the second term of the court having jurisdiction of the offense, shall be set at liberty by the court, unless the delay shall happen on the application of the prisoner. If such court at the second term shall be satisfied that due exertions have been made to procure the evidence for and on behalf of the people, and that there are reasonable grounds to believe that such evidence may be procured at the third term, it shall have power to continue such case till the third term. If any such prisoner shall have been admitted to bail for a crime other than a capital offense, the court may continue the trial of said cause to a third term, if it shall appear by oath or affirmation that the witnesses for the people of the state are absent, such witnesses being mentioned by name, and the court shown wherein their testimony is material.

DIVISION XIV.

JUDGMENT AND EXECUTION THEREOF.

1. *Death Penalty, How Inflicted.*
2. *Place of Inflicting.*
3. *Duty of Sheriff at Execution.*
4. *Certificate of Execution.*
5. *Disposition of Body.*
6. *Jury Determine Penalty.*
7. *Fix Fines.*
8. *Penalties Fixed by Court.*
9. *In Other Cases.*
10. *Workhouse.*

- § 11. *Youthful Offenders, Punishment.*
- § 12. *County Board Control Convicts.*
- § 13. *Judgment for Costs.*
- § 14. *Fines and Costs, Payment.*
Commitment to Enforce.
- § 15. *Judgment, a Lien.*
- § 16. *Acknowledged.*
- § 17. *Discharge of Pauper.*
- § 18. *Convict Conveyed to Penitentiary.*
- § 19. *Sheriff's Powers.*

JUDGMENT AND EXECUTION THEREOF.

§ 1. **DEATH PENALTY — MANNER OF INFLECTING.** The manner of inflicting the punishment of death shall be by hanging the person convicted, by the neck until dead, at such time as the court may direct, not less than 15 nor more than 25 days from the time sentence is pronounced: *Provided*, the day set shall not occur before the 10th day of the term of the supreme court occurring (in either of the grand divisions) next after the pronouncing of the judgment, and, *Provided*, that for good cause the court or governor may prolong the time. At the expiration of the time so prolonged, the judgment shall be executed the same as if that were the time fixed by the judgment for the execution thereof.

§ 2. **PLACE OF INFLECTING.** Whenever any person shall be condemned to suffer death by hanging, for any crime of which such person shall have been convicted in any court of this state, such punishment shall be inflicted within the walls of the prison of the county in which such conviction shall have taken place, or within a yard or inclosure adjoining such prison.

§ 3. **DUTY OF SHERIFF AT EXECUTION.** It shall be the duty of the sheriff, or the deputy sheriff of the county, to be present at such execution, and, by at least three days'

XIV. Judgment and Execution Thereof.

previous notice, to invite the presence of the judges, prosecuting attorney, and clerks of the courts of said county, together with two physicians and 12 reputable citizens, to be selected by said sheriff or his deputy. And the said sheriff or deputy shall, at the request of the criminal, permit such ministers of the gospel, not exceeding three, as said criminal shall name, and any of the immediate relatives of said criminal, to be present at such execution; and also such officers of the prison, deputies and constables as shall by him be deemed expedient to have present; but no other persons than those herein mentioned, shall be permitted to be present at such execution; nor shall any person, not a relative of the criminal, under the age of 21 years, be allowed to witness the same.

§ 4. **CERTIFICATE OF EXECUTION.** The sheriff or his deputy, or the judges attending such execution, shall prepare and sign, officially, a certificate, setting forth the time and place thereof, and that such criminal was then and there executed, in conformity to the sentence of the court and the provisions of this act; and shall procure to said certificate the signatures of the other public officers and persons, not relatives of the criminal, who witnessed such execution; which certificate shall be filed with the clerk of the court where the conviction of such criminal was had.

§ 5. **DISPOSITION OF BODY.** The court may order, on the application of any respectable surgeon or surgeons, that the body of the convict shall, after death, be delivered to such surgeon or surgeons for dissection, unless the same be objected to by some relative of the convict.

§ 6. **PENALTIES DETERMINED BY JURY: PENITENTIARY.** In all cases where the punishment shall be confinement in the penitentiary, if the case is tried by a jury, the jury shall say in their verdict for what time the offender shall be confined, and the court, in pronouncing sentence, shall designate what portion of time the offender shall be confined to solitary imprisonment, and what portion to hard labor.

§ 7. **FINES FIXED BY JURY.** When a fine is also to be inflicted, the jury shall fix the amount of the fine. When either fine or imprisonment in the penitentiary may be inflicted, the jury shall determine which, and the time of confinement or the amount of the fine.

§ 8. **PENALTIES TO BE FIXED BY THE COURT.** When the punishment may be either by imprisonment in the penitentiary, or by confinement in the county jail, with or without fine, if the jury will not inflict the punishment of imprisonment in the penitentiary, they shall simply find the accused guilty, and the court shall fix the time of confinement in the jail, or fine, or both, as the case may require.

§ 9. **IN OTHER CASES, BY THE COURT.** When the accused pleads guilty, and in all other cases not otherwise provided for, the court shall fix the time of confinement, or the amount of the fine, or both, as the case may require.

§ 10. **WORKHOUSE.** Any person convicted in a court of this state, having jurisdiction of any crime or misdemeanor, the punishment of which is confinement in the county jail, may be sentenced by the court in which such conviction is had, to labor for the benefit of the county, during the term of such imprisonment, in the workhouse, house of correction or other place provided for that purpose by the county or city authorities. Nothing contained in this act shall be construed to prevent the imprisonment of any convict in the Reform School at Pontiac, as provided by law.

§ 11. **PUNISHMENT OF OFFENDERS UNDER EIGHTEEN.** Persons under the age of 18 years shall not be punished by imprisonment in the penitentiary for any offense except murder, manslaughter, rape, robbery, burglary or arson; in all other cases where a penitentiary punishment is or shall be provided, such person under the age of 18 years and over the age of 16 years, shall be punished by confinement in the county jail for a term not exceeding 18 months, at the discretion of the court.

§ 12. **CONVICTS UNDER CONTROL OF COUNTY BOARD.** Nothing contained in this act shall prevent the county board taking such control of convicts committed to the county jail, and their transfer to workhouses, houses of correction or other places of employment, as is provided by law: *Provided*, that no such transfer shall be made of any convict without the order of the court in which he was convicted, if in session, or of the judge thereof in vacation, and in all cases a report of such transfer shall be made to the court, as soon as may be after the transfer, and entered of record.

§ 13. **JUDGMENT FOR COSTS.** When any person is convicted of an offense under any statute, or at common law, the court shall give judgment that the offender pay the costs of the prosecution.

XIV. Judgment and Execution Thereof.

§ 14. COMMITMENT TO ENFORCE PAYMENT OF COSTS AND FINES. When a fine is inflicted, the court may order, as a part of the judgment, that the offender be committed to jail, there to remain until the fine and costs are fully paid or he is discharged according to law.

§ 15. JUDGMENT A LIEN ON PROPERTY, REAL AND PERSONAL. The property, real and personal, of every person who shall be convicted of any offense, shall be bound, and a lien is hereby created on the property, both real and personal, of every such offender, not exempt from execution or attachment, from the time of finding the indictment, at least so far as will be sufficient to pay the fine and costs of prosecution. The clerk of the court in which the conviction is had, shall at the end of the term, issue an execution for every fine that shall have been imposed during the term, and remains unpaid; and all costs of conviction remaining unpaid; in which execution shall be stated the day on which the arrest was made, or indictment found, as the case may be. The execution may be directed to the proper officer of any county in this state. The officer to whom such execution is delivered, shall levy the same upon all the estate, real and personal, of the defendant, (not exempt from execution) possessed by him on the day of the arrest or finding the indictment, as stated in the execution, and any such property subsequently acquired, and the property so levied upon shall be advertised and sold in the same manner as in civil cases, with the like rights to all parties that may be interested therein. It shall be no objection to the selling of any property under such execution, that the body of the defendant is in custody for the fine or costs, or both.

§ 16. ACKNOWLEDGMENT OF JUDGMENT. If the person convicted, together with one or more sufficient sureties, will acknowledge a judgment in favor of the People of the State of Illinois, for the amount of the fine and costs, or the costs only, when no fine is imposed, the court shall cause the same to be entered in full satisfaction of the fine and costs, or costs only, with a direction that if the judgment is not paid within five months from the time of entering the same, execution shall be issued thereon, and the defendant shall, upon the entering of such judgment be discharged from imprisonment on account of such fine or costs, but he shall not thereby be discharged from any imprisonment which is made a part of his punishment, not dependent upon the payment of the fine or costs. Such judgment shall be a lien upon all the real estate of the persons acknowledging the same, from the date of its entry. If the judgment so entered is not paid within five months from the entry, it may be enforced by execution, in the same manner as other judgments at law. Such judgment may be acknowledged in vacation before the clerk of the court, and he may, in such case, approve the surety, and a judgment so acknowledged shall have the same force and effect, from the date of the entry as if entered in term time in open court.

§ 17. DISCHARGE OF PAUPER. Whenever it shall be made satisfactorily to appear to the court, after all legal means have been exhausted, that any person who is confined in jail for any fine or costs of prosecution, for any criminal offense, hath no estate wherewith to pay such fine and costs, or costs only, it shall be the duty of the said court to discharge such person from further imprisonment for such fine and costs, which discharge shall operate as a complete release of such fine and costs: *Provided*, that nothing herein shall authorize any person to be discharged from imprisonment before the expiration of the time for which he may be sentenced to be imprisoned, as part of his punishment.

§ 18. CONVICT CONVEYED TO PENITENTIARY. When a convict shall be sentenced to imprisonment in the penitentiary, the clerk of the court shall forthwith deliver a certified copy of the judgment to the sheriff or other proper officer of the county, who shall without delay convey the convict to the penitentiary of the state, and deliver him to the warden thereof.

§ 19. POWERS OF SHERIFF WHILE CONVEYING CONVICT, ETC. The sheriff, while conveying the convict to the penitentiary, shall have the same power to require the aid of any citizen of this state in securing such convict, or retaking him if he shall escape, as he would have in his own county, and any person who shall refuse or neglect to assist such sheriff when required, shall be liable to the same penalty as in any other case of neglect or refusal to join a posse comitatus, when lawfully required.

XV. Writs of Error ; New Trial.

DIVISION XV.

WRITS OF ERROR ; NEW TRIAL.

- § 1. *Writs of Error, Capital Cases.*
- § 2. *Affirmed, Sentence.*
- § 3. *In Other Cases.*
- § 4. *Supersedeas.*
- § 5. *Writ of Error, How Issued.*
- § 6. *Letting to Bail.*

- § 7. *Recognizance Taken.*
By Sheriff or Warden.
- § 8. *Judgment Affirmed, Proceedings.*
- § 9. *Surrender by Sureties.*
- § 10. *Time of Service.*
- § 11. *Prisoner Returned for Trial.*

WRITS OF ERROR — NEW TRIAL.

§ 1. WRITS OF ERROR IN CAPITAL CASES. In any prosecution by indictment for a capital offense, when the sentence is death, the party aggrieved by manifest and material error, appearing of record, may be relieved by writ of error, in the following manner, to-wit: 1. He shall obtain a certified copy of the record from the clerk, and a certificate from the judge who tried the cause, or from the prosecuting officer on the trial, that he is of opinion that such record contains a full and true history of the proceedings on the trial. 2. He shall present such transcript and certificate with an assignment of the errors relied upon to the supreme court, if in session, or to one of the judges thereof in vacation. 3. If, after inspecting such transcript, the court or judge is of opinion that there is reasonable cause for allowing a writ of error, and shall also be of the opinion that there is a reasonable doubt as to the guilt of the defendant, it shall be granted by indorsement on the back of such transcript, with a direction that the same shall be a supersedeas. 4. Upon the filing of such transcript and order, the clerk of the supreme court shall issue a supersedeas to stay the execution of the sentence of death until the further order of the court, but the prisoner shall not be discharged from jail.

§ 2. WHEN AFFIRMED — SENTENCE. If the judgment is affirmed, the supreme court shall, by order, fix the time when the original sentence of death shall be executed, a copy of which order shall be sufficient authority to the sheriff for the execution of the prisoner at the time therein specified.

§ 3. WRITS OF ERROR IN OTHER CASES. Writs of error in all criminal cases, where sentence is not death, shall be considered as writs of right, and issued of course.

§ 4. SUPERSEDEAS IN OTHER CASES. When a supersedeas is desired, a transcript of the record, with a certificate and assignment of errors, must be presented to the supreme court, if in session, or to one of the judges thereof in vacation, in like manner as in cases where the sentence is death.

§ 5. ISSUED HOW. If, after inspecting the transcript, the court or judge is of opinion that there is reasonable cause for allowing a writ of error, and shall also be of the opinion that there is a reasonable doubt as to the guilt of the defendant, it shall be granted, by indorsement on the back of the transcript, with a direction that the same be made a supersedeas, and supersedeas shall issue in like manner and with like effect as in cases where the sentence is death.

§ 6. LETTING TO BAIL. When the court or judge is of opinion that the party obtaining such writ of error ought to be bailed until the determination of the writ, and he is at the time in custody, the said court or judge may make an order to admit such prisoner to bail, upon his entering into a recognizance to the People of the State of Illinois, in such sum, and with such security, as said court or judge shall prescribe, conditioned that the prisoner will appear at the next term of the court in which his trial took place, and at each subsequent term of said court, on the first days thereof, until the determination of such writ of error, and will not at any of the terms of said court depart the court without leave, and that in case the judgment is affirmed he will surrender himself to the sheriff, or warden, or other officer from whose custody he is bailed.

§ 7. RECOGNIZANCE TAKEN BY SHERIFF OR WARDEN — HOW RETURNABLE. If the prisoner is in the custody of the sheriff, he shall take the recognizance ; if in the custody of the warden of the penitentiary, he shall take the recognizance. In either case the recognizance shall be returned to the next term of the court in which the prisoner was sentenced, and there entered of record, and such proceedings may be had thereon, in case of breach of the conditions thereof, as in other cases of recognizances.

Bodies Surrendered.

§ 8. JUDGMENT AFFIRMED — PROCEEDINGS THEREON. If the judgment is affirmed, the supreme court shall direct the court in which the original sentence was rendered to carry the same into effect, and shall give judgment against the plaintiff in error for costs, and execution may issue therefor from the supreme court.

§ 9. SURRENDER OF THE PRISONER BY SURETIES ON JUDGMENT AFFIRMED. When judgment is affirmed, if the prisoner was bailed from the custody of the sheriff, he shall be surrendered to the sheriff, who shall proceed to execute the judgment of the court; or, if bailed from the custody of the warden, he shall be surrendered to such warden, to be dealt with according to the judgment of the court, and the warden receiving him shall immediately certify to the clerk of the court to which the recognizance is returned the fact of such surrender, which certificate shall be sufficient evidence of the compliance of the condition of the bond.

§ 10. TIME OF SERVICE. When a prisoner has been committed to the penitentiary in pursuance of a sentence of imprisonment therein, or has been committed to the county jail pursuant to a sentence of confinement therein, and the judgment is affirmed, the time of service under the sentence of such prisoner shall commence to run from the time of such commitment, notwithstanding a supersedeas may have been granted: *Provided*, if any such prisoner is admitted to bail after such commitment, the time during which he is out upon bail shall be excluded from the computation of his time of service.

§ 11. RETURNING PRISONER FOR TRIAL. In case of the reversal of any judgment upon which any person has been committed to the penitentiary, and the granting of a new trial by the supreme court, it shall be the duty of the warden of the penitentiary, upon receiving a certified copy of such judgment of the supreme court, to deliver the person so committed to the custody of the sheriff of the county where such new trial is to be had, and of such sheriff to take and reconvey such person to the jail of his county, and for such services the sheriff shall be allowed and paid like fees as in the case of commitments to the penitentiary.

CONSTRUCTION: DUTY OF COURTS.

An act to provide for Recording Indictments. Approved 11 April 1873. In force 1 July 1873.

1. INDICTMENT RECORDED.] § 1. The judge of the court in which any indictment may be found or returned by the grand jury of any county, may order the clerk of his said court in which said indictment is found and returned, to copy such indictment, together with all indorsements thereon, at length, upon the records of such court; and in case of the loss or destruction of such original indictment, such copy of the lost or destroyed indictment shall be considered as prima facie evidence of the contents of such original indictment, and the party or parties who stand indicted may be tried upon a certified copy from the record of such lost or destroyed indictment.

NOTE. The following acts; 19th March 1873, concerning unlawful interference, and misconduct at coal bank; and 3d May 1873, relating to obscene literature, are specially repealed. See REPEALING ACT.

DISSECTION.

§ 1. *Bodies Surrendered.*
§ 2. *Body Decently Buried.*

§ 3. *How Used.*
§ 4. *Penalty for Violation.*

An act to promote the science of Medicine and Surgery in the State of Illinois. Approved 16 February 1874. In force 1 July 1874.

BODIES SURRENDERED.] § 1. It shall be lawful, in cities and counties whose population exceeds 100,000 inhabitants, for superintendents of penitentiaries, wardens of poor houses, coroners and city undertakers, to deliver to the professors and teachers in medical colleges and schools in this state and for professors and teachers to receive the remains or body of any deceased person, for purposes of medical and surgical study: *Provided*, that said remains shall not have been regularly interred, and shall not have been desired