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Codes. Criminal

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of

PENAL CODE

OF THE

STATE OF MINNESOTA.

TO TAKE EFFECT JANUARY 1, A. D. 1886,

WITH NOTES OF DECISIONS,

FURNISHED BY THE

ATTORNEY GENERAL.

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Constitutional. The food or accommodations procured, or baggage removed, need not be alleged as of any value. *State v. Benson*, 28 Minn. 424.

SEC. 318. Acrobatic exhibitions.—The proprietor, occupant, or lessee of any place where acrobatic exhibitions are held, who permits any person to perform on any trapeze, rope, pole, or other acrobatic contrivance, without network or other sufficient means of protection from falling or other accident, is guilty of a misdemeanor, punishable for the first offense by a fine of two hundred and fifty (250) dollars, and for each subsequent offense by a fine of two hundred and fifty (250) dollars and imprisonment not less than three (3) months nor more than one (1) year.

TITLE XII.

OF CRIMES AGAINST THE PUBLIC HEALTH AND SAFETY.

- Sec. 319.** "Public nuisance" defined.
- 320. Unequal damage.
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 - 340. Employment of engineer who cannot read.
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 - 342. Intoxication of persons running trains and boats.
 - 343. Failure to ring bell, etc.
 - 344. Other violations of duty by officers, agents, or servants of railroad companies.
 - 345. Dangerous exhibitions.

View of premises in the discretion of the court. *Chute v. State*, 19 Minn., 271 (230).

Indictment charging maintaining a dangerous building and a filthy building, bad for duplicity. *Chute v. State*, *supra*; *State v. Wood*, 13 Minn., 121 (112); *State v. Coon*, 14 id., 456 (340).

Building charged as on lots 1 and 2 and proof that it is also on lot 3, not a case of variance. *Chute v. State*, *supra*, and cases cited; *State v. Galvin*, 27 Minn., 16.

A jury in a criminal case, is a body of twelve men. *State v. Everett*, 14 Minn., 439 (330).

The title to real estate may become involved, and a justice of the peace should thereupon proceed under § 169, ch. 65. Gen. Statutes 1878. *State v. Sweeny*, 21 N. W. Rep., 847. See *State v. Cotton*, 29 Minn., 187; *State v. Leslie*, 30 id., 533.

When highway open to public use. *State v. Leslie*, 30 Minn., 533.

SEC. 320. Unequal damage.—An act which affects a considerable number of persons, in either of the ways specified in the last section, is not less a nuisance because the extent of the damage is unequal.

SEC. 321. Maintaining a nuisance a misdemeanor.—A person who commits, or maintains, a public nuisance, the punishment for which is not specially prescribed, or who willfully omits or refuses to perform any legal duty relating to the removal of such a public nuisance, is guilty of a misdemeanor.

SEC. 322. Permitting building to be used for nuisance.—A person who lets, or permits to be used, a building, or portion of a building, knowing that it is intended to be used for committing, or maintaining, a public nuisance, is guilty of a misdemeanor.

See §§ 291, 297, *supra*.

SEC. 323. Keeping gunpowder unlawfully.—A person who makes, or keeps, gunpowder, nitro-glycerine, or any other explosive or combustible material, within a city or village, or carries such materials through the streets thereof, in a quantity or manner prohibited by law, or by ordinance of the city or village, is guilty of a misdemeanor.

And a person who, by the careless, negligent or unauthorized use or management of gunpowder or other explosive substance, injures, or occasions the injury of, the person or property of another, is punishable by imprisonment in the county jail for not more than one (1) year.

See § 172, *supra*; §§ 477, 484, *post*.

Peo. v. Sands, 1 Johns., 78; Myers v. Malcolm, 6 Hill, 292; Bradley v. Peo.; 56 Barb., 72; Heeg v. Licht, 80 N. Y., 579.

SEC. 324. Obstructing health officer in performance of his duty.—A person who willfully opposes, or obstructs, a health officer, or physician charged with the enforcement of the health laws, in performing any legal duty, is guilty of a misdemeanor.

SEC. 325. Willful violation of health laws.—A person who willfully violates any provision of the health laws, the punishment for violating which is not otherwise prescribed by those laws, or by this code, and a person who willfully violates, or refuses, or omits to comply with any lawful order or regulation prescribed by any board of health or health officer, or any regulation lawfully made or established by any public officer under authority of the health laws, is punishable by imprisonment in the county jail not exceeding one (1) year, or by a fine not exceeding two thousand (2,000) dollars, or by both.

SEC. 326. Apothecary omitting to label drugs, or labeling them wrongly.—An apothecary or druggist, or a person employed as clerk, or salesman, by an apothecary or druggist, or otherwise carrying on business as a dealer in drugs or medicines, who, in putting up any drugs or medicines, or making up any prescription, or filling any order for drugs or medicines, willfully, negligently, or ignorantly omits to label the same, or puts any untrue label, stamp, or other designation of contents upon any box, bottle, or other package containing a drug or medicine, or substitutes