

BY AUTHORITY OF THE LEGISLATIVE
ASSEMBLY.

THE
REVISED STATUTES
OF
ARIZONA TERRITORY

CONTAINING ALSO

THE LAWS PASSED BY THE TWENTY-FIRST LEGISLATIVE
ASSEMBLY, THE CONSTITUTION OF THE UNITED
STATES, THE ORGANIC LAW OF ARIZONA
AND THE AMENDMENTS OF CON-
GRESS RELATING THERETO.

1901

COLUMBIA, MISSOURI
PRESS OF E. W. STEPHENS
1901

PENAL CODE.

PENAL CODE.

PRELIMINARY PROVISIONS.

Section 1. This act shall be known as the penal code of Arizona, and is divided into parts, as follows:

Division of penal code.

(1.) Crimes and punishments.

(2.) Criminal procedure.

2. This act, whenever cited, enumerated, referred to or amended, may be designated simply as "The Penal Code," adding, whenever necessary, the number of the section.

Designation.

3. This code shall take effect at 12 o'clock, noon, on the first day of September, 1901. No act or omission commenced after 12 o'clock, noon, of the day on which this code takes effect as a law, is criminal or punishable, except as prescribed or authorized by this code, or by some of the statutes which it specifies as continuing in force and as not affected by its provisions, or by some ordinance, municipal, county or township regulation, passed or adopted under such statutes, and in force when this code takes effect. Any act or omission occurring prior to that time may be inquired of, prosecuted and punished in the same manner as if this code had not been passed.

Rights preserved and authority expressed.

4. The provisions of this code, so far as they are substantially the same as existing statutes, must be construed as continuations thereof, and not as new enactments.

Statutes continued.

5. The rule of the common law that penal statutes are to be strictly construed, has no application to this code. All its provisions are to be construed according to the fair import of their terms, with a view to effect its object and to promote justice.

6. No part of this code is retroactive, unless expressly so declared.

Not retroactive.

7. Words used in this code in the present tense include the future as well as the present; words used in the masculine gender include the feminine and neuter; the singular number includes the plural, and the plural the singular; the word person includes a corporation as

Words to be construed as provided herein.

PART ONE.

OF CRIMES AND PUNISHMENTS.

TITLE I.

OF PERSONS LIABLE TO PUNISHMENT FOR CRIME.

Who can not
commit crime.

24. All persons are capable of committing crimes except those belonging to the following classes:

(1.) Children under the age of ten, in the absence of clear proof that at the time of committing the act charged against them, they knew its wrongfulness.

(2.) Idiots.

(3.) Lunatics and insane persons.

(4.) Persons who committed the act or made the omission charged under an ignorance or mistake of fact, which disproves any criminal intent.

(5.) Persons who committed the act charged without being conscious thereof.

(6.) Persons who committed the act or made the omission charged through misfortune or by accident, when it appears that there was no evil design, intention or culpable negligence.

(7.) Married women (except for felonies) acting under the threats, command or coercion of their husbands.

(8.) Persons (unless the crime be punishable with death) who committed the act or made the omission charged under threats or menaces sufficient to show that they had reasonable cause to, and did believe their lives would be endangered if they refused.

Who are liable
to punishment.

25. The following persons are liable to punishment under the laws of this territory:

(1.) All persons who commit, in whole or in part, any crime within this territory.

(2.) All who commit larceny or robbery out of this territory and bring to, or are found with the property stolen, in this territory.

(3.) All who, being out of this territory, cause or aid, advise or encourage, another person to commit a crime within this territory, and are afterwards found therein.

any other drugs or articles which he has for sale, and all such poisons shall be in packages, boxes, or bottles upon which is distinctly written or printed, in the English language, the name of such poison.

364. Any person violating the provisions of the preceding section is guilty of a misdemeanor. Penalty.

365. All physicians and accouchers in this territory shall report, in writing, to the county recorder in the county in which they occur, all births and deaths which come under their supervision, with the cause of death, within thirty days after such birth or death. When any birth or death shall take place and no physician or accoucher shall be in attendance, the same shall, within thirty days thereof, be reported, in writing, to the county recorder where the same shall have occurred, with the supposed cause of death, by the parent, or husband, or wife, or the next of kin (not a minor) of the child born or person deceased, as the case may be, or if there be none, then by the owner or lessor of the house where the death shall have occurred, or by the person first discovering the deceased person. Any violation of this section is punishable by a fine not exceeding twenty dollars. The recorder shall file such notice without charge. Births and deaths must be reported.

366. It shall be unlawful for any person to dig up, cut, open or destroy the pipe, pipes or any man-hole of any sewer or sewer system used by the public in this territory, or in any manner to impede the flow of the sewage conducted thereby and therein or to interfere with the operation of said sewer or sewer system, without the permission of the management operating said sewer or sewer system. Cutting sewer pipes.

367. Any person who shall violate any provision of the preceding section shall be guilty of a misdemeanor. Penalty.

TITLE XI.

OF CRIMES AGAINST THE PUBLIC PEACE.

368. Every person who without authority of law, wilfully disturbs or breaks up, or attempts to disturb or break up, any assembly or meeting not unlawful in its character, is guilty of a misdemeanor. Disturbing lawful assembly.

369. Any use of force or violence disturbing the public peace, or any threat to use such force or violence, if accompanied by immediate power of execution, by two or more persons acting together, and without authority of law, is a riot. Riot defined.

- Penalty.** **370.** Every person who participates in any riot is punishable by imprisonment in the territorial prison not exceeding two years, or by fine not exceeding two thousand dollars, or both.
- Rout defined.** **371.** Whenever two or more persons, assembled and acting together, make any attempt or advance toward the commission of an act which would be a riot if actually committed, such assembly is a rout.
- Unlawful assembly.** **372.** Whenever two or more persons assemble together to do an unlawful act, and separate without doing, or advancing toward it, or do a lawful act in a violent, boisterous, tumultuous manner, such assembly is an unlawful assembly.
- Penalty.** **373.** Every person who participates in any rout or unlawful assembly, is guilty of a misdemeanor.
- Persons remaining at scene of any riot, etc.** **374.** Every person remaining present at the place of any riot, rout or unlawful assembly, after the same has been lawfully warned to disperse, except public officers and persons assisting them in attempting to disperse the same, is guilty of a misdemeanor.
- Magistrate must enforce authority.** **375.** If a magistrate or officer, having notice of an unlawful or riotous assembly mentioned in this chapter, neglects to proceed to the place of assembly, or as near thereto as he can with safety, and to exercise the authority with which he is vested for suppressing the same and arresting the offenders, he is guilty of a misdemeanor.
- Insurrection.** **376.** A person who, after the publication of the proclamation by the governor declaring a county to be in a state of insurrection, resists or aids in resisting the execution of process in any county declared to be in a state of insurrection, or who aids or attempts the rescue or escape of another from lawful custody or confinement, or who resists, or aids in resisting, any force ordered out by the governor to quell or suppress an insurrection, is punishable by imprisonment in the territorial prison not less than two years.
- Prize fighting prohibited.** **377.** Every person who engages in, instigates, encourages or promotes any ring or prize fight, or any other premeditated fight or contention (without deadly weapons), either as principal, aid, second, umpire, surgeon, or otherwise, is punishable by imprisonment in the territorial prison not exceeding two years.
- Persons leaving territory to engage in prize fighting.** **378.** Every person who leaves this territory with intent to evade any of the provisions of the preceding section, and to commit any act out of this territory such as is prohibited therein, and who does any act which would be punishable under these provisions if committed within the territory, is punishable in the same manner as he would have been in case such act had been committed within this territory.
- Disturbing the peace.** **379.** Every person who maliciously and wilfully disturbs the peace or quiet of any neighborhood, family or person by loud or unusual

noise, or by tumultuous or offensive conduct, or by threatening, traducing, quarreling, challenging to fight or fighting, or who applies any violent or abusive or obscene epithets to another, is punishable by fine not exceeding two hundred dollars, or by imprisonment in the county jail for not exceeding two months.

380. 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 public officer, the persons so offending are severally guilty of a misdemeanor.

Persons assembling to disturb the peace.

381. Any person who shall, purposely or carelessly, discharge any gun, pistol or other firearm in any saloon, dance house, store or other public house or business house in this territory, thereby endangering the life or person of another, or thereby disturbing any of the inmates thereof, or who shall thereby injure, destroy or damage any property therein, or who shall discharge the same in any city, village or town of this territory, except in necessary self-defense, shall be fined in any sum not exceeding three hundred dollars, or be imprisoned in the county jail for a period not exceeding six months, or shall be punished by both such fine and imprisonment.

Discharging guns in certain places.

382. It shall be unlawful for any person (except a peace officer in actual service and discharge of his duty), to have or carry concealed on or about his person, any pistol or other firearm, dirk, dagger, slung-shot, sword-cane, spear, brass knuckles, or other knuckles of metal, bowie-knife or any kind of knife or weapon, except a pocket-knife, not manufactured and used for the purpose of offense and defense.

Certain arms not to be carried concealed.

383. Any person violating any of the provisions of the preceding section shall be guilty of a misdemeanor, and may be arrested with or without a warrant, either in the day-time or night-time, and taken before the nearest justice of the peace for trial; and any peace officer who shall fail, neglect or refuse to arrest any such person on his own knowledge of the violation of said section, or upon the information from some credible person, or who shall appoint any person a deputy, not intended to be used in regular service, but as a mere pretext for the purpose of carrying a concealed weapon, shall be guilty of a misdemeanor.

Penalty for carrying concealed weapons.

384. Any person found guilty of violating any of the provisions of the two preceding sections shall be punished by a fine of not less than five nor more than three hundred dollars, and shall forfeit to the county, such weapon or weapons.

Arrest of violators.

Punishment.

385. If any person within any settlement, town, village or city within this territory shall carry on or about his person, saddle, or in

Carrying weapons concealed while in villages, etc.

saddlebags, any pistol, dirk, dagger, slung-shot, sword-cane, spear, brass knuckles, bowie-knife, or any other kind of knife manufactured or sold for purposes of offense or defense, he shall be punished by a fine of not less than twenty-five nor more than one hundred dollars; and, in addition thereto, shall forfeit to the county in which he is convicted the weapon or weapons so carried.

Peace officers
and militiamen may
carry.

386. The preceding section shall not apply to a person in actual service as a militiaman, nor as a peace officer or policeman, or person summoned to his aid, nor to a revenue or other civil officer engaged in the discharge of official duty, nor to the carrying of arms on one's own premises or place of business, nor to persons traveling, nor to one who has reasonable ground for fearing an unlawful attack upon his person, and the danger is so imminent and threatening as not to admit of the arrest of the party about to make such attack upon legal process.

Carrying certain
weapons to
church.

387. If any person shall go into church or religious assembly, any school room, or other place where persons are assembled for amusement or for educational or scientific purposes, or into any circus, show or public exhibition of any kind, or into a ball room, social party or social gathering, or to any election precinct, on the day or days of any election, where any portion of the people of this territory are collected to vote at any election, or to any other place where people may be assembled to minister or to perform any other public duty, or to any other public assembly, and shall have or carry about his person a pistol or other firearm, dirk, dagger, slung-shot, sword-cane, spear, brass knuckles, bowie knife or any other kind of a knife manufactured and sold for the purposes of offense or defense, he shall be punished by a fine not less than fifty nor more than five hundred dollars, and shall forfeit to the county the weapon or weapons so found on his person.

Peace officers
not included.

388. The preceding section shall not apply to peace officers or other persons authorized or permitted by law to carry arms at the places therein designated.

Violators may
be arrested, how.

389. Any person violating any of the provisions of sections 382 and 385 may be arrested without warrant by any peace officer and carried before the nearest justice of the peace for trial; and any peace officer who shall fail or refuse to arrest such person on his own knowledge, or upon information from some credible person, shall be punished by a fine not exceeding three hundred dollars.

Travelers may
carry arms, when.

390. Persons traveling may be permitted to carry arms within settlements or towns of the territory, for one-half hour after arriving in such settlements or towns, and while going out of such towns or

settlements; and sheriffs and constables of the various counties of this territory and their lawfully appointed deputies may carry weapons in the legal discharge of the duties of their respective offices.

391. It shall be the duty of the keeper of each and every hotel, boarding house and drinking saloon, to keep posted up in a conspicuous place in his bar room, or reception room, if there be no bar in the house, a plain notice to travelers to divest themselves of their weapons, in accordance with section 382 of this act, and the sheriffs of the various counties shall notify the keepers of hotels, boarding houses and drinking saloons, in their respective counties, of their duties under this law, and if after such notification any keeper of a hotel, boarding house or drinking saloon shall fail to keep notices posted, as required by this act, he shall, on conviction thereof before a justice of the peace, be fined in the sum of five dollars, to go to the county treasury.

Boarding house and saloon keepers must post up law.

392. Every person who, not in necessary self-defense, in the presence of two or more persons, draws or exhibits any deadly weapon in a rude, angry or threatening manner, or who, in any manner, unlawfully uses the same in any fight or quarrel, is guilty of a misdemeanor.

Person using deadly weapon.

393. Every person using or procuring, encouraging or assisting another to use, any force or violence in entering upon or detaining any lands or other possessions of another, except in the cases and in the manner allowed by law, is guilty of a misdemeanor.

Taking possession of the property of another.

394. Every person who has been removed from any lands by process of law, or who has been removed from any land pursuant to the lawful adjudication or direction of any court, tribunal or officer, and who afterwards unlawfully returns to settle, reside upon or take possession of such lands, is guilty of a misdemeanor.

Person legally ejected must not return to any property to retake it.

395. If any person or persons shall wilfully and maliciously, make any assault upon any railroad train, railroad cars or locomotive within this territory, for the purpose and with the intent to commit murder, robbery or any other felony upon or against any passenger on said train or cars, or upon or against any engineer, conductor, fireman, brakeman, or any officer or employe connected with said locomotive, train or cars, while in the performance of his duty as such engineer, conductor, fireman, brakeman, officer or employe, or upon or against any express messenger or mail agent on said train or in any of the cars thereof, on conviction thereof shall be deemed guilty of a felony and shall suffer the punishment of imprisonment in the territorial prison for not less than ten years.

Assaulting railroad trains.

Train robbery.

396. Any or all persons who shall counsel, aid, abet and assist in the perpetration of any of the offenses set forth in the preceding sec-

Accessories to train robbery.

tion, on conviction thereof, shall be deemed to be principals, and shall suffer the punishment therein prescribed.

Question of law
and fact and in-
tent.

397. Upon the trial of any and all persons charged with the violation of the two preceding sections, it shall not be necessary to prove, nor shall it be deemed material to a conviction, that the defendant or defendants, specifically intended to commit the offenses, or any of them, herein set forth, upon or against any particular person, but it shall be sufficient, if it is proven to the satisfaction of the court and jury trying the cause, as the result of such unlawful assault some person or persons was killed, robbed or injured, as the case may be, or that such assault was perpetrated with the design to commit some felony.

TITLE XII.

OF CRIMES AGAINST THE REVENUE AND PROPERTY OF THE TERRITORY.

Unlawful use of
public moneys.

398. Every officer of the territory, or of any county, city, town or district of this territory, and every other person charged with the receipt, safe-keeping, transfer or disbursement of public moneys, who either:

1. Without authority of law, appropriates the same, or any portion thereof, to his own use, or to the use of another; or,
2. Loans the same, or any portion thereof; or,
3. Fails to keep the same in his possession until disbursed or paid out by authority of law; or,
4. Without authority of law deposits the same, or any portion thereof, in any bank, or with any banker or other person; but he may deposit the same on special deposit for safe-keeping; or,
5. Changes or converts any portion thereof from coin into currency, or from currency into coin or other currency, without authority of law; or,
6. Knowingly keeps any false account, or makes any false entry or erasure in any account of, or relating to, the same; or,
7. Fraudulently alters, falsifies, conceals, destroys or obliterates any such account; or,
8. Wilfully refuses or omits to pay over, on demand, any public moneys in his hands, upon the presentation of a draft, order or warrant