

Texas Historical Statutes Project

1895
PENAL CODE
OF THE
STATE OF TEXAS



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THE
PENAL CODE

OF THE

STATE OF TEXAS.

ADOPTED AT THE REGULAR SESSION OF THE
TWENTY-FOURTH LEGISLATURE,

1895.

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AUSTIN, TEXAS:
EUGENE VON BOECKMANN.
1895.

“AN ACT to Adopt and Establish a ‘PENAL CODE’ and a ‘CODE OF CRIMINAL PROCEDURE’ for the State of Texas.”

Section 1. BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS, That the following articles shall hereafter constitute the PENAL CODE of the State of Texas:

Entered according to Act of Congress, in the year A. D. 1895, by the

STATE OF TEXAS,

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THE PENAL CODE.

TITLE I.

General Provisions relating to the whole Code.

CHAPTER ONE.

THE GENERAL OBJECTS OF THE CODE, THE PRINCIPLES ON WHICH IT IS FOUNDED, AND RULES FOR THE INTERPRETATION OF PENAL LAWS.

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Article 1. [1] The design of enacting this Code is to define in plain language every offense against the laws of this state, and affix to each offense its proper punishment. Design of the Code.
P. C. 1.

Art. 2. [2] The object of punishment is to suppress crime and reform the offender. Object of punishment.
P. C. 2.

Art. 3. [3] In order that the system of penal law in force in this state may be complete within itself, and that no system of foreign laws, written or unwritten, may be appealed to, it is declared that no person shall be punished for any act or omission, unless the same is made a penal offense and a penalty is affixed thereto by the written law of this state. All penalties must be affixed by written law.
P. C. 3.

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P. C. 13.

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P. C. 13.

Effect of modification by subsequent law.
P. C. 14.

Art. 4. [4] The principles of the common law shall be the rule of construction, when not in conflict with the Penal Code or Code of Criminal Procedure, or with some other written statute of the state.

Art. 5. [5] In the construction of this Code each general provision shall be controlled by a special provision on the same subject, if there be a conflict.

Art. 6. [6] Whenever it appears that a provision of the penal law is so indefinitely framed or of such doubtful construction that it can not be understood, either from the language in which it is expressed, or from some other written law of the state, such penal law shall be regarded as wholly inoperative.

Art. 7. [7] Whenever a court trying an offense is of opinion that the law is so defective as to have no operation, or when it appears that there has been a failure to provide for any offense, or class of offenses, which ought to be made punishable, the judge of such court shall report the same to the legislature at its next session, after such defect or omission shall have been discovered.

Art. 8. [8] It is also declared to be the duty of the attorney general to call the attention of the legislature, in his reports which are required by law to be made to the governor, to any defects or omissions in the penal law which he may observe, and in like manner the district and county attorneys shall communicate to the attorney general such suggestions as they may deem important touching the same subject.

Art. 9. [9] This Code, and every other law upon the subject of crime which may be enacted, shall be construed according to the plain import of the language in which it is written, without regard to the distinction usually made between the construction of penal laws and laws upon other subjects, and no person shall be punished for an offense which is not made penal by the plain import of the words of a law.

Art. 10. [10] Words which have their meaning specially defined shall be understood in that sense, though it be contrary to their usual meaning; and all words used in this Code, except where a word, term or phrase is specially defined, are to be taken and construed in the sense in which they are understood in common language, taking into consideration the context and subject matter relative to which they are employed.

Art. 11. [11] Every person accused of an offense shall be presumed to be innocent until his guilt is established to the satisfaction of those whose province it is to try him.

Art. 12. [12] No act or omission can be punished as an offense unless the law making it penal was in force at the time when such act or omission took place.

Art. 13. [13] No law of the legislature defining an offense, or affixing a penalty thereto, shall take effect until after the expiration of ninety days from the day of the adjournment of the session at which such penal law was enacted, unless the legislature shall otherwise determine.

Art. 14. [14] After a law has taken effect, no person shall be excused for its violation upon the ground that he was ignorant of its provisions.

Art. 15. [15] When the penalty for an offense is prescribed by one law, and altered by a subsequent law, the penalty of such second law shall not be inflicted for a breach of the law committed be-

fore the second shall have taken effect. In every such case the offender shall be tried under the law in force when the offense was committed, and if convicted, punished under that law; except that when by the provisions of the second law the punishment of the offense is ameliorated, the defendant shall be punished under such last enactment, unless he elect to receive the penalty prescribed by the law in force when the offense was committed.

Art. 16. [16] The repeal of a law, where the repealing statute substitutes no other penalty, will exempt from punishment all persons who may have offended against the provisions of such repealing law, unless it be otherwise declared in the repealing statute.

Repeal, effect of. P. C. 15.

Art. 17. [17] When by the provisions of a repealing statute a new penalty is substituted for an offense punishable under the act repealed, such repealing statute shall not exempt from punishment a person who has offended against the repealed law while it was in force, but in such case the rule prescribed in article 15 shall govern.

When new penalty is substituted. P. C. 16.

Art. 18. [18] If an offense be defined by one law, and by a subsequent law the definition of the offense is changed, no such change or modification shall take effect as to offenses already committed; but all offenders against the first law shall be tried, and their guilt or innocence determined in accordance with the provisions thereof.

Change of definition, effect of. P. C. 17.

Art. 19. [19] No offense committed, and no fine, forfeiture or penalty incurred under existing laws, previous to the time when this Code takes effect, shall be affected by the repeal herein of any such existing laws, but the punishment of such offenses, and the recovery of such fines and forfeitures shall take place as if the law repealed had still remained in force, except that when any penalty, forfeiture or punishment shall have been mitigated by the provisions of this Code, such provision shall apply to and control any judgment to be pronounced after this Code shall take effect, for any offense committed before that time, unless the defendant elect to be punished under the provisions of the repealed law.

Previous offenses not affected by this Code. P. C. 18.

Art. 20. [20] No penalty affixed to an offense by one law shall be considered as cumulative of penalties prescribed under a former law, and in every case where a new penalty is prescribed for an offense, the penalty of the first law shall be considered as repealed, unless the contrary be expressly provided in the law last enacted.

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Article 21. [21] The general terms "whoever," "any person," "any one," and the relative pronouns "he," and "they," as referring to these terms, include females as well as males, unless there is some express declaration to the contrary. The word "man," is used to signify a male person of any age; and the word "woman" a female person of any age.

Definition of terms. P. C. 20.

Words expressive of relationship, state, condition, trust, etc., include what.
P. C. 21.

Art. 22. [22] The use of any word expressive of "relationship," "state," "condition," "office" or "trust," of any person, as of "parent," "child," "ascendant," "descendant," "minor," "infant," "ward," "guardian," or the like; or of the relative pronouns "he" or "they," in reference thereto, includes both males and females.

Singular includes plural, and masculine line feminine.
P. C. 22.

Art. 23. [23] The use of the singular number includes the plural, and the plural the singular; and words used in the masculine gender include the feminine also, unless, by reasonable construction, it appears that such was not the intention of the language.

"Person" includes state or any corporation.
P. C. 23.

Art. 24. [24] Whenever any property or interest is intended to be protected by a provision of the penal law, and the general term "person," or any other general term, is used to designate the party whose property it is intended to protect, the provision of such penal law, and the protection thereby given shall extend to the property of the state, and of all public or private corporations.

"Accused" and "defendant" synonymous.
P. C. 24.

Art. 25. [25] The word "accused" is intended to refer to any person who, in a legal manner, is held to answer for any offense, at any stage of the proceeding, or against whom complaint, in a lawful manner, is made, charging the commission of an offense, including all proceedings from the order for arrest to the final execution of the law; and the word "defendant" is used in the same sense.

"Criminal" action defined.
P. C. 25.

Art. 26. [26] A "criminal action," as used in this Code, means the whole, or any part of the procedure which the law provides for bringing offenders to justice; and the terms "prosecution," "criminal prosecution," "accusation," and "criminal accusation," are used in the same sense.

"Convict" defined.
P. C. 26.

Art. 27. [27] An accused person is termed a "convict" after final condemnation by the highest court of resort which, by law, has jurisdiction of his case, and to which he may have thought proper to appeal.

"Criminal process" defined.
P. C. 27.

Art. 28. [28] The term "criminal process" is intended to signify any *capias*, warrant, citation, attachment, or other written order issued in a criminal proceeding, whether the same be to arrest, commit to jail, collect money, or for whatever other purpose used.

"Preceding" and "succeeding" defined.
P. C. 29.

Art. 29. [29] The word "preceding" means the next preceding, and the word "succeeding" the next succeeding, whenever used, to designate any particular article, chapter or title of the Code.

"Writing" and "oath."
P. C. 30.

Art. 30. [30] The word "writing" includes printing, the word "oath" includes affirmation.

"Signature" defined.
P. C. 31.

Art. 31. [31] The word "signature" includes the mark of a person unable to write his name. A mark shall have the same effect as a signature, when the name is written by some other person, and the mark made near thereto, by the person unable to write his name.

CHAPTER THREE.

OF THE PERSONS PUNISHABLE UNDER THIS CODE, AND
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Article 32. [32] All persons, whether inhabitants of this state or of the United States, or aliens, are amenable to punishment for offenses which are defined and made punishable under the provisions of this Code. The exceptions to the general rule here laid down are given in the subsequent articles of this title.

Art. 33. [33] No act done within the uninhabited portion of the state, by individuals belonging to the several Indian tribes, in their intercourse with each other, or with other tribes, and affecting no other person, is considered an offense against this Code, but in all other respects, such individuals are upon a footing with all other persons, both as to protection and liability to punishment.

Art. 34. [34] No person shall, in any case, be convicted of any offense committed before he was of the age of nine years; nor of any offense committed between the years of nine and thirteen, unless it shall appear by proof that he had discretion sufficient to understand the nature and illegality of the act constituting the offense.

Art. 35. [35] A person, for an offense committed before he arrived at the age of seventeen years, shall in no case be punished with death; but may, according to the nature and degree of the offense, be punished by imprisonment for life, or receive any of the other punishments affixed in this Code to the offense of which he is guilty.

Art. 36. [36] A married woman who commits an offense by the command or persuasion of her husband shall not in any case be punished by death, but may be imprisoned for life, or a term of years, according to the nature and degree of the crime; and in cases not capital, she shall receive only one-half the punishment to which she would otherwise be liable.

Art. 37. [37] When it shall appear that a minor was aided or instigated in the commission of an offense by a relation in the ascending line, or by his guardian, or an apprentice under age by his master, or a wife by her husband, such relation, guardian, master or husband shall, at the discretion of the jury, in capital cases, be punished by death, and in cases not capital, shall receive double the punishment imposed by law in ordinary cases for the same offense.

Art. 38. [38] The word "minor" as here and elsewhere used in this Code signifies a person under the age of twenty-one years.

Art. 39. [39] No act done in a state of insanity can be punished as an offense. No person who becomes insane after he committed

The persons punishable under this Code.
(Act Oct. 31, 1866, p. 32.)
P. C. 32.

Indians not punishable, except when.
(Act Oct. 31, 1866, p. 70.)
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Children not punishable.
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Married woman, offenses by, etc.
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P. C. 39.

"Minor" defined.
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Insanity a defense.
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an offense shall be tried for the same while in such condition. No person who becomes insane after he is found guilty shall be punished for the offense while in such condition.

Proof of insanity according to common law.
P. C. 42.

Art. 40. [40] The rules of evidence known to the common law in respect to the proof of insanity shall be observed in all trials where that question is in issue. The manner of ascertaining whether the insanity is real or pretended, when it is alleged that the defendant became insane after the commission of the offense, is prescribed in the Code of Criminal Procedure.

Intoxication as a defense.
(Gen. Laws, 17th Leg., p. 9.)

Art. 41. [40a] Neither intoxication nor temporary insanity of mind, produced by the voluntary recent use of ardent spirits, shall constitute any excuse in this state for the commission of crime, nor shall intoxication mitigate either the degree or the penalty of crime, but evidence of temporary insanity produced by such use of ardent spirits may be introduced by the defendant in any criminal prosecution in mitigation of the penalty attached to the offense for which he is being tried, and in cases of murder for the purpose of determining the degree of murder of which the defendant may be found guilty. It shall be the duty of the several district and county judges of this state, in any criminal prosecution pending before them, where temporary insanity is relied upon as a defense and the evidence tends to show that such insanity was brought about by the immoderate use of intoxicating liquors, to charge the jury in accordance with the provisions of this article.

Officer justified, when.
P. C. 43.

Art. 42. [41] A person in the lawful execution of a written process or verbal order from a court or magistrate is justified for any act done in obedience thereto.

Peace officer justified, when.
P. C. 44.

Art. 43. [42] A peace officer is in like manner justified for any act which he is bound by law to perform, without warrant or verbal order.

Duress, a defense, when.
P. C. 45.

Art. 44. [43] A person forced by threats or actual violence to do an act is not liable to punishment for the same. Such threats, however, must be—

1. Loss of life or great personal injury.
2. They must be such as are calculated to intimidate a person of ordinary firmness.
3. The act must be done when the person threatening is actually present.

The violence intended by this article must be such actual force as restrains the person from escaping, or such ill treatment as is calculated to render him incapable of resistance.

Accidents excused, when.
P. C. 46.

Art. 45. [44] No act done by accident is an offense, except in certain cases specially provided for, where there has been a degree of carelessness or negligence which the law regards as criminal.

No mistake of law excuses, when.
P. C. 47.

Art. 46. [45] No mistake of law excuses one committing an offense; but if a person laboring under a mistake, as to a particular fact, shall do an act which would otherwise be criminal, he is guilty of no offense.

Mistake of fact, excuse, when.
P. C. 48.

Art. 47. [46] The mistake as to fact which will excuse, under the preceding article, must be such that the person so acting under a mistake would have been excusable had his conjecture as to the fact been correct; and it must also be such mistake as does not arise from a want of proper care on the part of the person committing the offense.

Act done by mistake, a felony, when.
P. C. 49.

Art. 48. [47] If one intending to commit felony, and in the act of preparing for or executing the same, shall, through mistake or

accident do another act which, if voluntarily done, would be a felony, he shall receive the punishment affixed by law to the offense actually committed.

Art. 49. [48] If one intending to commit a felony, and in the act of preparing for or executing the same, shall, through mistake or accident, do another act which, if voluntarily done, would be a misdemeanor, he shall receive the highest punishment affixed by law to the offense actually committed.

Same subject,
as to misde-
meanor.
P. C. 50.

Art. 50. [49] If one intending to commit a misdemeanor, and in the act of preparing for or executing the same, shall, through mistake, commit an offense which is by law a felony, he shall receive the lowest punishment affixed by law to the offense actually committed.

Felony com-
mitted by mis-
take, etc.,
lowest pun-
ishment
affixed.
P. C. 51.

Art. 51. [50] The intention to commit an offense is presumed whenever the means used is such as would ordinarily result in the commission of the forbidden act.

Intention
presumed.
P. C. 52.

Art. 52. [51] On the trial of any criminal action, when the facts have been proved which constitute the offense, it devolves upon the accused to establish the facts or circumstances on which he relies to excuse or justify the prohibited act or omission.

Burden of
proof on de-
fendant,
when.
P. C. 53.

TITLE II. Of Offenses and Punishments.

CHAPTER ONE.

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"Offense" defined.
P. C. 54.

Article 53. [52] An offense is an act or omission forbidden by positive law, and to which is annexed, on conviction, any punishment prescribed in this Code.

How divided.
P. C. 55.

Art. 54. [53] Offenses are divided into felonies and misdemeanors.

Felonies and misdemeanors defined.
P. C. 56.

Art. 55. [54] Every offense which is punishable by death or by imprisonment in the penitentiary, either absolutely or as an alternative, is a felony; every other offense is a misdemeanor.

Felonies subdivided.
P. C. 57.

Art. 56. [55] Felonies are either capital or not capital. An offense for which the highest penalty is death is a capital felony.

Petty offenses.
P. C. 58.

Art. 57. [56] An offense which a justice of the peace, or the mayor or other officer of a town or city may try and punish, is called a petty offense.

Subdivision and classification of offenses.
P. C. 59.

Art. 58. [57] Offenses are again subdivided, and classed as follows; they are—

1. Offenses against the state, its territory, property and revenue.
2. Offenses affecting the executive, legislative and judicial departments of the government.
3. Offenses affecting the right of suffrage.
4. Offenses which affect the free exercise of religious opinion.
5. Offenses against public justice.
6. Offenses against the public peace.
7. Offenses against public morals, decency and chastity.
8. Offenses against public policy and economy.
9. Offenses against public health.
10. Offenses affecting property held in common for the use of the public.
11. Offenses against trade and commerce, and the current coin.
12. Offenses against the persons of individuals.
13. Offenses against reputation.
14. Offenses against property.
15. Miscellaneous offenses.

CHAPTER TWO.

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Article 59. [58] The punishments incurred for offenses under this Code are— Punish-
ments.
P. C. 60.

1. Death.
2. Imprisonment in the penitentiary for life or for a period of time.
- 2a. Imprisonment in the house of correction and reformatory.

[Note.—The punishment by imprisonment in the house of correction and reformatory, omitted by the codifiers of 1893, and by the joint committee on amendments to the codes, was created by the act of 1889, and has not been repealed.]

3. Imprisonment in the county jail.
4. Forfeiture of civil or political rights.
5. Pecuniary fines.

Art. 60. [59] When an offense of which a person is convicted is in its nature continuous, there shall also be judgment for its suppression. Continuous
offenses, sup-
pressed.
P. C. 61.

Art. 61. [60] In case of the execution of a convict under sentence of death, or where he is imprisoned for life, there shall be no forfeiture of any kind to the state, nor shall any cost of the prosecution be collected from his estate. No forfeiture
in capital
cases.
P. C. 62.

Art. 62. [61] When a convict is imprisoned in the penitentiary his property shall be controlled and managed in the manner directed by law; but there shall, in no criminal case, be a forfeiture of property of any kind to the state. No forfeiture
in any crim-
inal case.
P. C. 63.

Art. 63. [62] When the penalty affixed to the commission of an offense is deprivation of political rights, such rights are intended to include the rights of holding office, of serving on juries, and of suffrage. Political
rights, what
are.
(Act Feb. 12,
1858, p. 156.)
P. C. 64.

Art. 64. [63] Whenever a minimum or maximum punishment is fixed by law, and by reason of any aggravation of the offense, or the existence of any circumstance on account of which the law directs that the punishment be doubled, this shall be construed to mean that the jury shall not inflict less than double the smallest punishment incurred by the law, nor more than double the greatest punishment so incurred. Double pun-
ishment, how
fixed.
P. C. 65.

Art. 65. [64] If fine and imprisonment are the punishments to be incurred for any offense, and it is provided that the punishment be doubled in any particular case, then the jury are to assess not less than double the smallest, and not more than double the largest fine prescribed by law, and not more than double the longest period of imprisonment, nor less than double the shortest period of imprisonment so prescribed. Double pun-
ishment in
misdemeanor.
P. C. 66.

- Same subject.
P. C. 67. Art. 66. [65] When an offense is punishable by either fine or imprisonment, and as an alternative it is declared that the punishment shall be double in any particular case, the jury are to assess not less than double the amount of the smallest fine, nor more than double the amount of the largest fine, or as an alternative they shall not assess less than double the shortest period of imprisonment nor more than double the longest period. This rule applies where there may be more than two kinds of punishment prescribed as alternatives.
- Increase of punishment one-half.
P. C. 69. Art. 67. [66] Where it is directed by law that in any particular case the punishment shall be increased one-half, it is to be construed to mean that the jury may, beside the punishment ordinarily prescribed by law, assess such additional punishment as shall not be less than one-half the penalty in ordinary cases, and all the rules before prescribed with respect to offenses which by law incur alternative punishments, are applicable to cases where the penalty is to be so increased.
- Decrease of punishment one-half.
P. C. 68. Art. 68. [67] When it is provided that the punishment in any given case, on account of mitigating circumstances, shall be diminished one-half, the jury shall assess one-half of the penalty fixed by law for the offense under ordinary circumstances, and so with regard to any other proportion in which the penalty is directed to be diminished.
- Diminution of punishment, what rule.
P. C. 70. Art. 69. [68] In the diminution of punishments, the same rule as to two or more penalties, or as to alternative penalties, shall apply which are prescribed with regard to the increase of punishment.
- Capital cases, etc., not included in foregoing rules.
P. C. 71. Art. 70. [69] The foregoing rules as to increase or diminution of punishments have no application to cases where the highest penalty may be death, nor to any case where the penalty is total deprivation of civil or political rights.
- Death, how inflicted.
P. C. 72. Art. 71. [71] The punishment of death is inflicted by hanging, as prescribed in the Code of Criminal Procedure.
- Hard labor intended.
P. C. 73. Art. 72. [72] Whenever the penalty prescribed for an offense is imprisonment for a term of years in the penitentiary, imprisonment at hard labor is intended.
- Officer to be removed, when.
P. C. 75. Art. 73. [73] Whenever an offense is committed by an officer, and the same appears to the jury to be a willful violation of duty, they shall so find, and such officer shall be removed from office.

TITLE III.

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CHAPTER ONE.

PRINCIPALS.

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Same subject	76		

Article 74. [74] All persons are principals who are guilty of acting together in the commission of an offense. Who are principals.
P. C. 214.

Art. 75. [75] When an offense is actually committed by one or more persons, but others are present, and knowing the unlawful intent, aid by acts, or encourage by words or gestures, those actually engaged in the commission of the unlawful act; or who, not being actually present, keep watch so as to prevent the interruption of those engaged in committing the offense, such persons so aiding, encouraging or keeping watch are principal offenders, and may be prosecuted and convicted as such. Same subject.
P. C. 215.

Art. 76. [76] All persons who shall engage in procuring aid, arms or means of any kind to assist in the commission of an offense while others are executing the unlawful act, and all persons who endeavor at the time of the commission of the offense, to secure the safety or concealment of the offenders, are principals, and may be convicted and punished as such. Same subject.
P. C. 216.

Art. 77. [77] If any one, by employing a child or other person, who can not be punished, to commit an offense, or by any means, such as laying poison where it may be taken, and with intent that it shall be taken, or by preparing any other means by which a person may injure himself, and with intent that such person shall thereby be injured, or by any other indirect means, cause another to receive an injury to his person or property, the offender, by the use of such indirect means, becomes a principal. Same subject.
P. C. 217.

Art. 78. [78] Any person who advises or agrees to the commission of an offense, and who is present when the same is committed, is a principal thereto, whether he aids or not in the illegal act. Same subject.
P. C. 218.

CHAPTER TWO.

ACCOMPLICES.

Article	Article
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Accomplice, who is.
P. C. 219.

Article 79. [79] An accomplice is one who is not present at the commission of an offense, but who, before the act is done, advises, commands or encourages another to commit the offense; or,

Who agrees with the principal offender to aid him in committing the offense, though he may not have given such aid; or,

Who promises any reward, favor or other inducement; or threatens any injury in order to procure the commission of the offense; or,

Who prepares arms or aid of any kind, prior to the commission of an offense, for the purpose of assisting the principal in the execution of the same.

Precise offense need not be committed.
P. C. 220.

Art. 80. [80] To render a person guilty as an accomplice, it is not necessary that the precise offense which he may have advised, or to the execution of which he may have given encouragement or promised assistance, should be committed; it is sufficient that the offense be of the same nature, though different in degree, as that which he so advised or encouraged.

Punishment.
P. C. 220a.

Art. 81. [81] Accomplices shall, in all cases not otherwise expressly provided for, be punished in the same manner as the principal offender.

Where one offense is attempted and another committed.
P. C. 221.

Art. 82. [82] If in the attempt to commit one offense the principal shall by mistake or accident commit some other under the circumstances set forth in articles 48, 49 and 50, the accomplice to the offense originally intended shall, if both offenses are felonies by law, receive the punishment affixed to the lower of the two offenses; but if the offense designed be a misdemeanor, he shall receive the highest punishment affixed by law to the commission of such misdemeanor, whether the offense actually committed be a misdemeanor or a felony.

If principal is under 17, punishment doubled.
P. C. 222.

Art. 83. [83] If the principal in an offense less than capital be under the age of seventeen years, the punishment of an accomplice shall be increased so as not to exceed, however, double the penalty affixed to the offense in ordinary cases.

If accomplice is parent, master, guardian or husband to principal, punishment increased.
P. C. 223.

Art. 84. [84] If the accomplice stands in the relation of parent, master, guardian or husband to the principal offender, he shall, in all such cases, receive the highest punishment affixed to the offense, and the same may, in felonies less than capital, be increased by the jury to double the highest penalty which would be suffered in ordinary cases.

No accomplice in manslaughter or negligent homicide.
P. C. 224.

Art. 85. [85] There may be accomplices to all offenses except manslaughter and negligent homicide.

CHAPTER THREE.

ACCESSORIES.

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Article 86. [86] An accessory is one who, knowing that an offense has been committed, conceals the offender, or gives him any other aid in order that he may evade an arrest or trial, or the execution of his sentence. But no person who aids an offender in making or preparing his defense at law, or procures him to be bailed, though he afterwards escapes, shall be considered an accessory.

Art. 87. [87] The following persons can not be accessories:

1. The husband or wife of an offender.
2. His relations in the ascending or descending line by consanguinity or affinity.
3. His brothers and sisters.
4. His domestic servants.

Art. 88. [88] Accessories to offenses shall be punished by the infliction of the lowest penalty to which the principal in the offense would be liable.

CHAPTER FOUR.

TRIAL OF ACCOMPLICES AND ACCESSORIES.

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Accessory also, unless principal is arrested 90	

Article 89. [89] An accomplice may be arrested, tried and punished before the conviction of the principal offender, and the acquittal of the principal shall not bar a prosecution against the accomplice, but on the trial of an accomplice the evidence must be such as would have convicted the principal.

Art. 90. [90] An accessory may in like manner be tried and punished before the principal, when the latter has escaped; but if the principal is arrested he shall be first tried, and if acquitted the accessory shall be discharged.

Art. 91. [91] Persons charged as principals, accomplices or accessories, whether in the same indictment or by different indictments, can not be introduced as witnesses for one another, but they may claim a severance; and if any one or more be acquitted they may testify in behalf of the others.

TITLE IV.

Of Offenses Against the State, its Territory,
Property and Revenue.

CHAPTER ONE.

TREASON.

	Article	Article
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"Treason"
defined.
P. C. 231.

Article 92. [92] Treason against the state shall consist only in levying war against it, or adhering to its enemies, giving them aid and comfort. (Const., art. 1, sec. 22.)

Punishment.
P. C. 232.

Art. 93. [93] If any citizen of this state shall be guilty of treason he shall suffer death, or imprisonment in the penitentiary for life, at the discretion of the jury.

CHAPTER TWO.

MISPRISION OF TREASON.

	Article	Article
"Misprision of treason" defined.....	94	Punishment 95

"Misprision of
treason" de-
fined.
P. C. 233

Article 94. [94] Whoever shall know that any person has committed treason, or is intending so to do, and shall not, within five days from the time of his having come to such knowledge, give information of the same to the governor, or to some magistrate or peace officer of the state, shall be deemed guilty of misprision of treason.

Punishment.
(Act Feb. 12,
1858, pp.
157-8.)
P. C. 234.

Art. 95. [95] The punishment for misprision of treason is confinement in the penitentiary for a term of not less than two nor more than seven years.

CHAPTER THREE.

MISAPPLICATION OF PUBLIC MONEY.

Article	Article		
Officer fraudulently taking or misapplying public money.....	96	Diverting special funds.....	102
“Misapplication” defined.....	97	Misapplication of county or city funds..	103
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“Officer of the government” defined.....	100	Venue.....	Sec. 1—Sup.
State treasurer improperly receiving private funds.....	101	Laws in conflict repealed.....	Sec. 2—Sup.
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Article 96. [96] If any officer of the government, who is by law a receiver or dispository of public money, or any clerk or other person employed about the office of such officer, shall fraudulently take, or misapply, or convert it to his own use, any part of such public money, or secrete the same with intent to take, misapply or convert it to his own use, or shall pay or deliver the same to any person, knowing that he is not entitled to receive it, he shall be punished by confinement in the penitentiary for a term not less than two nor more than ten years.

Officer fraudulently taking or misapplying public money. (Act Feb. 12, 1858, p. 153.) P. C. 235.

Art. 97. [97] Within the term, “misapplication of public money,” are included the following acts:

Using public funds. (Acts 1879, ch. 150, p. 165.)

1. The use of any public money, in the hands of any officer of the government, for any purpose whatsoever, save that of transmitting or transporting the same to the seat of government, and its payment into the treasury.

2. The exchange, by any officer, of one character of public funds in his hands, for those of another character; the purchase of bank checks, or postoffice orders, in exchange, for transmission to the treasury, is not included in this class.

Exchanging public funds.

3. The deposit, by any officer of the government, of public money in his hands, at any other place than the treasury of the state, when the treasury is accessible and open for business, or permitting the same to remain on deposit at such forbidden place, after the treasury is open.

Depositing public funds elsewhere than in treasury.

4. The purchase of state warrants or other evidence of state indebtedness, by any officer of the government, with public money in his hands.

Officer purchasing warrants.

5. The retention in his hands, by any collector of taxes, of any funds belonging to the state for thirty days after receiving notice from the comptroller of public accounts to pay the same over to the treasurer, as prescribed in article 5199 of the Revised Civil Statutes.

Retaining funds after notice from comptroller.

6. The willful failure of any officer to pay into the state treasury, at the time prescribed by law, whatever funds he may have on hand.

Failing to pay into treasury at proper time.

7. The special enumeration of cases of misapplication above set forth shall not be understood to exclude any case which by fair construction of language comes within the meaning of the preceding language; provided, that this article shall not be construed to prevent collectors of taxes from paying warrants drawn by the comptroller in favor of officers living in their district or county, as may be provided by law.

Other cases.

The offenses defined in subdivisions 5 and 6 of this article, when committed in any county in this state, may be prosecuted in the district court of Travis county, or in the county where the money was received.

Venue.

What not included.
(Act March 15, 1875, p. 180.)

Art. 98. [98] Nothing in the two preceding articles contained shall apply to the sale or exchange of one kind of money for another by the financial officers of the state, when done in pursuance of law.

Receiving or concealing misapplied public money.
(Act Feb. 5, 1875, p. 12.)
P. C. 236.

Art. 99. [99] If any person shall knowingly and with fraudulent intention receive or conceal any public money which has been taken, converted or misapplied by any officer or employe as set forth in the two preceding articles, he shall be punished by confinement in the penitentiary for a term not less than two nor more than five years.

“Officer of the government” defined.
P. C. 237.

Art. 100. [100] Under the term “officer of the government,” as used in this chapter, are included the state treasurer and all other heads of departments who by law may receive or keep in their care public money of the state; tax collectors, and all other officers who by law are authorized to collect, receive or keep money due to the government.

State treasurer improperly receiving private funds.
(Act May 3, 1873, pp. 61-2.)

Art. 101. [101] If the treasurer of this state shall knowingly keep or receive into the building, safes or vaults of the treasury, any money or the representative of money belonging to any individual, except in cases expressly provided for by law, he shall be punished by confinement in the penitentiary for a term not less than two nor more than five years.

Diverting special funds.
(Const., art. 8, §7.)

Art. 102. [102] If any person shall knowingly and willfully borrow, withhold or in any manner divert from its purpose, any special fund or any part thereof, belonging to or under the control of the state which has been set apart by law for a specific use, he shall be punished by confinement in the penitentiary for a term not less than two nor more than ten years.

Misapplication of county or city funds.

Art. 103. [103] If any officer of any county, city or town in this state, or any clerk or other person employed by such officer, shall fraudulently take, misapply or convert to his own use any money, property or other thing of value belonging to such county, city or town, that may have come into his custody or possession by virtue of his office or employment, or shall secrete the same with intent to take, misapply or convert it to his own use, or shall pay or deliver the same to any person knowing that he is not entitled to receive it, he shall be punished by confinement in the penitentiary for a term not less than two nor more than ten years.

Fraudulently receiving misapplied county or city funds.

Art. 104. [104] If any person shall knowingly, and with fraudulent intention, receive or conceal any money or property which has been taken, misapplied or converted by any officer or employe, as set forth in the preceding article, he shall be punished by confinement in the penitentiary for a term not less than two nor more than five years.

SUPPLEMENT.

Officer failing to pay over public money.
(Acts 1879, extra session, ch. 8, §§4, 5 and 6.)

Section 1. Every tax collector, or other officer or appointee, authorized to receive public moneys, who shall willfully and negligently fail to comply with the direction and notification, as prescribed in articles 5210 and 5211 of the supplement to chapter four, title one hundred and one of the Revised Civil Statutes, shall be deemed guilty of a felony, and shall be punished by imprisonment in the penitentiary for not less than three nor more than ten years.

Venue.

Prosecutions for failing to account for and pay over money belonging to the state, under the provisions of this section, shall be conducted in Travis county; and prosecutions for failing to account

for, and pay over, moneys belonging to the counties, cities and towns, shall be conducted in the county to which such money may belong, or in the county where such city or town is situated.

Sec. 2. The provisions of the foregoing section shall be cumulative to the provisions of the above chapter, except where the latter may be in conflict with said section, and the provisions of said chapter, when in conflict with said section, are hereby repealed.

Laws in conflict, repealed. Ib. 37.

Art. 105. [104b] The collectors of taxes shall, at the close of each month, pay over to the state treasurer all moneys collected by them during the month for the state, excepting such amounts as they are allowed by law to pay in the counties, reserving only their commissions on the same; and to enable them to do so they may, at their own risk, secure and send the same to the treasurer by express, or in postoffice orders, at not more than the usual rate of exchange, to be paid by the state; that the collectors of taxes shall pay over to the state treasurer all balances in their hands belonging to the state, and finally adjust and settle their accounts with the comptroller on or before the first day of May of each year; that the treasurer, whenever he may receive from the collectors, of taxes postoffice orders, shall collect the same and pay the money so collected into the treasury on the deposit warrant of the comptroller, and the money when so deposited shall be a credit to the tax collector. It shall be the duty of the comptroller to enforce a strict observance of the provisions of this article, but no public moneys shall be paid to the comptroller except such as are made payable directly to him as collector of the same under existing statutes, and expressly provided by law to be paid to him as receiver of taxes; and in addition to the reports required by law to be made by tax collectors, they shall make a monthly statement under oath, on forms to be provided by the comptroller, showing the amounts collected each month and the funds to which they belong. Any collector of taxes failing to comply with the provisions of this article shall be fined in a sum not less than five hundred and not more than one thousand dollars, and each failure to make the required report shall constitute a separate offense; and it shall be the duty of the comptroller to notify the county attorney, or district attorney, of the county in which the collector resides, and the sureties on the bond of said collector of any failure to comply with the provisions of this law.

Collector failing to pay. (Act March 30, 1887, p. 67.)

CHAPTER FOUR.

OF ILLEGAL CONTRACTS AFFECTING THE STATE.

	Article
Contract to charge the state, without authority	106

Contract to charge the state, without authority. (Act May 4, 1874, pp. 221-2.)

Article 106. [105] If any person or officer in this state shall contract with any other person for his services or labor, or for any property of any kind, with intent to charge the state of Texas with the same, and to do which such person or officer has no authority by law, he shall be fined in any sum not less than one hundred dollars and not more than two thousand dollars.

CHAPTER FIVE.

COLLECTION OF TAXES AND OTHER PUBLIC MONEY.

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..... 113	Clerk failing to make certain certificates
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Collector extorting excessive taxes, etc. P. C. 238.

Article 107. [106] If any person authorized to collect or receive taxes or other money due the state shall extort or attempt to extort from any one a larger sum than is due, or shall receive any sum of money or other reward as a consideration for granting any delay in the collection of such dues, or for doing any illegal act or omitting to do any legal act in relation to the collection of such money, he shall be punished by fine not exceeding five hundred dollars.

Tax officer exacting usury. P. C. 239.

Art. 108. [107] If any assessor or collector of taxes shall advance for a person owing taxes to the government the amount of money so due, and shall charge therefor a rate of interest greater than ten per centum per annum, he shall be punished in the manner provided in the preceding article.

Tax officer assuming taxes for reward. P. C. 240.

Art. 109. [108] Within the meaning of the preceding article is included the case of any assessor or collector who fails to collect taxes due and assumes to be responsible to the government therefor, and receives for such act any compensation or reward.

Collector failing to forward transcript. (Acts 1879, ch. 134.)

Art. 110. [108a] The collector of taxes shall keep a book of such size and character as may be necessary, in which shall be entered quarterly, at the following dates, to-wit, January 1, April 1, July 1 and October 1, or within ten days thereafter, commencing on July 1, 1879, in which to require the returns to be made under the provisions of this article, the several amounts as shown by such returns for which and upon which any person, firm or association of persons is or may be liable to a tax upon occupation under this act, and within fifteen days from the time of receiving and making up the several amounts and the sums due upon such amounts as occupation

tax, the collector shall forward to the comptroller of public accounts a transcript or duplicate of the return and the amounts as shown by his record, this transcript and the record from which it is taken to show the amount of such quarterly returns and the tax due thereon from every person, firm or association of persons liable to such tax, and any collector failing to forward such transcript or duplicate, taken from the pages of such collector's record herein provided for, or who shall forward a false or pretended transcript of such account, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than fifty nor more than five hundred dollars; provided, that nothing contained in this article is intended to affect the liability which, in the absence of this statute, would be incurred under any penal enactment of this state.

Art. 110a. If any tax collector shall issue any occupation tax receipt without first taking or filing the affidavit provided for in the act of March 13, 1895, page 18, acts of 1895, Art. 5049, of the Revised Civil Statutes, he shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than ten nor more than one hundred dollars.

Collector issuing occupation tax receipt without affidavit, etc. (Acts of 1895, p. 18.)

Art. 110b. No occupation tax receipt or license taken out by a merchant of a lower class than the one to which he properly belongs, shall be any protection against a prosecution and conviction for knowingly pursuing that of a higher class and failing to pay the occupation tax due therefor.

Wrong license no protection.

Art. 111. [109] If any person shall, by force or threats of force, prevent, or attempt to prevent, the collection of taxes or other money due the state by an officer authorized to enforce such collection, he shall be punished by a fine not less than one hundred nor more than five hundred dollars, and by imprisonment in the county jail not less than three months nor more than one year. When the means used to prevent the collection are such as to amount to a riot, or unlawful assembly, the punishment shall be that which is prescribed in article 316 of this Code.

Obstruction of tax collections.

Art. 112. [110] Any person who shall pursue or follow any occupation, calling or profession, or do any act taxed by law, without first obtaining a license therefor, shall be fined in any sum not less than the amount of the taxes due, and not more than double that sum.

Pursuing taxable occupation without license.

Art. 113. [111] The preceding article shall not be construed so as to affect any civil remedy to enforce the collection of taxes.

Penalty not exclusive.

Art. 114. [112] Any person prosecuted under article 112 of the Penal Code of the state of Texas shall have the right at any time before conviction to have such prosecution dismissed upon payment of the tax and all costs of said prosecution, and procuring the license to pursue or follow the occupation for the pursuing which, without license, the prosecution was instituted; and no prosecution shall be commenced against any person after the procuring of said license, notwithstanding they may have followed such occupation, calling or profession before procuring said license; provided, said license shall cover the time said person has actually followed said occupation, calling or profession. The county clerk shall be entitled to ten cents for issuing the license, to be paid by the person to whom it is issued.

Payment of tax bars prosecution. (Act March 15, 1881, pp. 34-5.)

Art. 115. [113] If any person shall refuse or neglect to make out and render a list of his taxable property when called upon in person by the assessor of taxes or his deputy, or shall fail or refuse to qualify

Refusal to render or swear to assessment. (Act Aug. 19, 1876, pp. 196-7.)

to the truth of his statement of taxable property, or shall fail or refuse to subscribe to any oath or affirmation required by law in the rendition of taxable property, he shall be fined in any sum not less than twenty nor more than one thousand dollars.

Pretended sale or transfer of coin, notes or bonds.
(Act March 23, 1891, p. 39.)

Art. 116. 1. Any evasion by any means of artifice or temporary or fictitious sale, exchange or pretended transfer upon any bank books of gold and silver coin, bank notes or other notes or bonds, subject to taxation under the laws of this state, for United States non-taxable treasury notes, or any notes or bonds not so subject to taxation, and any such pretended sale, exchange or transfer not made in good faith, and by actual exchange and delivery of the funds so sold, exchanged or transferred and made only by entry on bank books, or by any express or implied understanding not to immediately make a bona fide and permanent sale, shall be deemed prima facie to be a fraud upon the public revenue of this state.

2. The president, cashier or secretary of any banking or other corporation, or any person that may be a party or privy to such fraudulent sale, exchange or transfer shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than ten dollars nor more than one hundred dollars, and in addition thereto shall be confined in the county jail not less than ten days nor more than thirty days.

False affidavit.
(Act March 23, 1891, p. 40.)

3. All assessors of taxes in this state shall require all taxpayers when assessed by them to make oath as to any such sale, exchange or transfer made by them on the first day of January or within sixty days before said first day of January of any year for which any such assessment is made, as to the good faith and bona fide business transaction of any such sale, exchange or transfer, as above set forth, if any such should have been made by them, and if it should be disclosed that any such pretended sale, exchange or transfer has been made for the purpose of evading taxation, then and in that event the assessor shall list and render against such person the coin, bank notes or other notes or bonds subject to taxation under the laws of this state; provided, that if any person shall make a false affidavit as to any of the foregoing facts, he shall be deemed guilty of perjury and be punished as is now provided by law.

Failure to collect occupation taxes.
(Act April 2, 1887, p. 128.)

Art. 117. [114a] It shall be the duty of the tax collector to make an affidavit before any justice of the peace against any person, firm or association of persons engaging in or pursuing any occupation on which, under the laws of this state, a tax is imposed, who fails or refuses to pay the same. And any collector of taxes who shall knowingly permit any person, firm or association of persons to engage in or pursue any occupation on which, by the laws of this state, a tax is imposed, without first paying all legal taxes assessed against such person, firm or association of persons, for such occupation, for state and county purposes, shall be fined in any sum not less than fifty nor more than five hundred dollars for every such offense; provided, that evidence that such collector of taxes has made the affidavit herein required immediately against such person, firm or association of persons so pursuing an occupation in violation of law, shall be a defense against all prosecutions under this article.

Failure of dealer to post occupation license.
(Act April 4, 1887, p. 132.)

Art. 118. [114b] 1. Any person, firm or corporation required by the statutes of this state to pay an occupation tax as a retail liquor dealer, shall post and keep posted in a conspicuous place in his or their place or places of business, his or their occupation license for the tax due the state, county and city on the occupation in which

they are engaged. Said occupation license shall be posted as above specified before any person, firm or corporation subject to the occupation tax shall engage in business.

2. Any person, firm or corporation failing, neglecting or refusing to post or keep posted their occupation license, as required in section one of this article, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in double the amount of their occupation tax for each offense, and each day any person, firm or corporation shall violate the provisions of this article shall constitute a separate offense.

3. If from any cause any certificate of occupation license shall be lost or destroyed, it shall be the duty of the clerk, upon application of the person, firm or corporation who formerly had such license, to furnish a new certificate for the remainder of the term covered by the license lost or destroyed.

4. Any person violating the provisions of this article 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 fine not exceeding five hundred dollars.

Art. 119. [114c] If any sheriff, or collector of taxes of any county in this state, deputy sheriff or deputy collector, or any employe of such sheriff or collector authorized by him to collect or receive taxes, or to assist in any way in making sales for the collection of taxes, shall in the county where he resides, bid for, purchase or attempt to purchase, or be in any way interested in the purchase of any property, either real or personal, at any sale of such property, made or attempted to be, for the collection of state and county taxes, or either, he shall be fined not less than ten nor more than one thousand dollars, and any such officer so offending shall be deemed guilty of official misconduct, and upon conviction shall be removed from office.

Officer purchasing property sold for taxes. (Act Feb. 9, 1883, p. 7.)

Art. 119a. Any collector of taxes failing to promptly comply with the requirements of articles 5167 [4742], 5168 [4743], 5169 [4743a], of the Revised Civil Statutes, or of article 5170 [4774], of the Revised Civil Statutes, shall be fined in a sum not less than three hundred nor more than one thousand dollars, and each failure to make the required monthly or annual report or remittance of the amounts shown therein to be due, shall constitute a separate offense.

Tax collector failing to perform certain duties. (Act of 1893, p. 31.)

Art. 119b. Any collector of taxes in this state who shall issue an occupation tax receipt upon any blank paper, or blank of any kind whatever other than the blank occupation tax receipt furnished to him as required by law, shall be deemed guilty of a misdemeanor, and each receipt so unlawfully issued shall constitute a separate offense, and upon conviction in any court of competent jurisdiction, shall be punished by fine of not less than one hundred dollars nor more than five hundred dollars.

Tax collector issuing unauthorized tax receipt. Ib.

Art. 119c. If any county clerk refuse to make the examinations and certificates as required in chapter 4, title CIV. of the Revised Civil Statutes he shall be fined not less than fifty nor more than two hundred dollars for each failure to do so.

Clerk failing to make certain certificates. Ib. p. 92.

CHAPTER SIX.

DEALING IN FRAUDULENT LAND CERTIFICATES.

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Surveyors locating unapproved certificates	121		

Purchasing, selling, locating or surveying fraudulent certificates.
P. C. 242.

Article 120. [115] If any person shall purchase or sell any fraudulent or forged certificate for land, or locate or survey, or cause to be located or surveyed any such certificate, or be in any manner directly or indirectly concerned in the purchasing, selling, locating or surveying of any such certificate for land, knowing the same to be fraudulent or forged, he shall be punished by confinement in the penitentiary for a term not less than two nor more than five years.

Surveyor locating unapproved certificates.
P. C. 243.

Art. 121. [116] It shall not be lawful for any district or deputy surveyor to locate any certificate for land, or to survey any land for any person holding a headright certificate of the first or second class, unless it be certified under the hand and seal of the clerk of the county court of the county where the certificate was issued, or the county where it is proposed to be located, or under the hand and seal of the commissioner of the general land office, that the same has been reported by the commissioners appointed under an act of congress to detect fraudulent land certificates, etc., passed January, 1840, as a genuine and legal claim against the government of Texas; and any surveyor offending against the true intent and meaning of this article shall be guilty of a high misdemeanor, and on conviction shall be fined in any sum not more than five thousand dollars.

Handling land office files without authority.
(Act June 2, 1873, p. 180.)

Art. 122. [117] If any person shall handle or examine any of the papers, files or records in the general land office, without the consent of the commissioner or chief clerk, or without the presence and superintendence of a clerk in said office, he shall be fined not less than one dollar nor more than five hundred dollars.

CHAPTER SEVEN.

DEALING IN PUBLIC LANDS BY OFFICERS.

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Officers not to deal in public lands.
P. C. 244.

Article 123. [118] If any person who is an officer or clerk in the general land office, or a district surveyor, or deputy district surveyor, or county surveyor, or his deputy, shall directly or indirectly be concerned in the purchase of any right, title or interest in any public land, in his own name or in the name of any other person, or shall take or receive any fee or emolument for negotiating or transacting any business connected with the duties of his office, other than the fees allowed by law, he shall be fined in a sum not exceeding five hundred dollars.

Clerks in the land office not to give information.
(Act June 2, 1873, p. 182.)

Art. 124. [119] Any clerk or other employe in the general land office, who shall accept or receive from any person or persons, money, or other thing of value, in consideration of services performed in the

designation of vacant land, or in discovering or making known to such person or persons any defects in any file or files, or any paper or document in said office, or who shall perform any work out of office hours, or receive extra compensation in money or otherwise for any work performed in office hours, or who shall handle or interfere with the records and files of said office, except in office hours, shall be fined in any sum not less than one hundred nor more than five hundred dollars; and, in addition thereto, it shall be the duty of the commissioner of the general land office to immediately discharge such clerk or employe from said office.

Art. 124a. It shall be unlawful for the commissioner of agriculture, insurance, statistics and history, or any person employed by him or connected with his office, to purchase all or any part of any mine or mineral lands, or be in any manner interested in such purchase, during the term of his office or employment. Any person violating the provisions of this article shall be punished by fine as provided in the Penal Code.

May not purchase mineral lands.
(Sen. Jour., 1895, p. 478.)

TITLE V.

Offenses Affecting the Executive, Legislative and Judicial Departments of the Government.

CHAPTER ONE.

BRIBERY.

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Bribery of cer-
tain officers.
(Act Feb. 12,
1858, p. 159.)
P. C. 250.

Article 125. [120] If any person shall bribe or offer to bribe any executive, legislative or judicial officer after his election or appointment, and either before or after he shall have been qualified or entered upon the duties of his office, 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 thereafter by law be brought before such officer in his official capacity, or do any other act or omit to do any other act in violation of his duty as an officer, he shall be punished by confinement in the penitentiary for a term not less than two nor more than five years.

Officers accept-
ing bribe.
(Act Feb. 12,
1858, p. 159.)
P. C. 251.

Art. 126. [121] Any legislative, executive or judicial officer who shall accept a bribe or consent to accept a bribe under an agreement or with an understanding that his act, vote, opinion or judgment shall be done or given in any particular manner or upon a particular side of any question, cause or proceeding which is or may thereafter by law be brought before him, or that he shall make any particular nomination, appointment, or do any other act or omit to do any act in violation of his duty as an officer, shall be punished by confinement in the penitentiary not less than two nor more than ten years.

Officers
specified.
(Act March 30,
1858, p. 69.)

Art. 127. [122] Under the name of executive, legislative and judicial officers are included the governor, lieutenant-governor, comptroller, secretary of state, state treasurer, commissioner of the general land office, commissioner of agriculture, insurance, statistics and history, superintendent of public instruction, members of the legislature, aldermen of all incorporated cities and towns in this state, judges of the supreme, district and county courts and of the court of appeals, attorney-general, district and county attorneys, justices of the peace, mayors and judges of such city courts as may be organized by law, county commissioners, and all other city, county and state officials.

Art. 128. [123] If any person shall bribe, or offer to bribe, any clerk or other officer of either branch of the legislature, or any clerk or employe in any department of the state government, with the intent to influence such officer to make any false entry in any book or record pertaining to his office, or to mutilate or destroy any part of such book or record, or to violate any other duty imposed upon him as an officer, he shall be punished by confinement in the penitentiary not less than two nor more than five years.

Bribery of clerks, etc., of legislative and executive departments. (Act Feb. 12, 1858, p. 159.) P. C. 253.

Art. 129. [124] If any officer named in the preceding article shall accept a bribe so offered, or consent to accept the same, he shall be punished by confinement in the penitentiary not less than two nor more than five years.

Accepting bribe by same. (Act Feb. 12, 1858, p. 159.) P. C. 254.

Art. 130. [125] If any person shall bribe, or offer to bribe, any auditor, juror, arbitrator, umpire or referee, with intent to influence his decision, or bias his opinion in relation to any cause or matter which may be pending before, or may thereafter by law be submitted to such auditor, juror, arbitrator, umpire or referee, he shall be punished by imprisonment in the penitentiary not less than two nor more than five years.

Bribery of auditor, juror, etc. (Act Feb. 12, 1858, p. 161.) P. C. 299.

Art. 131. [126] If any juror, auditor, arbitrator, umpire or referee shall accept, or agree to accept, a bribe offered for the purpose of biasing or influencing his opinion or judgment, as set forth in the preceding article, he shall be punished by confinement in the penitentiary not less than two nor more than five years.

Acceptance of bribe by same. (Act Feb. 12, 1858, p. 161.) P. C. 300.

Art. 132. [127] To complete the offenses mentioned in the two preceding articles, it is not necessary that the auditor, umpire, arbitrator or referee shall have been actually selected or appointed; it is sufficient if the bribe be offered or accepted with a view to the probable appointment or selection of the person to whom the bribe is offered, or by whom it is accepted. Nor is it necessary that the juror shall have been actually summoned; it is sufficient if the bribe be given or accepted in view of his being summoned as a juror or selected as such, to sit in any particular case, civil or criminal.

Offense complete, when. P. C. 301.

Art. 133. [128] If any person shall bribe, or offer to bribe, any attorney at law, charged with the prosecution or defense of a suit, with intent to induce him to divulge any secret of his client, or any circumstance which came to his knowledge as counsel, to the injury of his client, or with intent to induce him to give counsel, or in any way advise or assist the opposite party, to the injury of his client in any cause, civil or criminal, or to neglect the interests of his client, he shall be punished by imprisonment in the penitentiary not less than two nor more than five years.

Bribery of attorneys. (Act Feb. 12, 1858, p. 161.) P. C. 302.

Art. 134. [129] If any attorney at law charged, as above stated, with the management of any cause, civil or criminal, shall accept or agree to accept a bribe offered to induce him to divulge any secret of his client, or any circumstance which came to his knowledge as counsel, to the injury of his client, or to give counsel or in any way advise or assist the opposite party, to the injury of his client, or to neglect the interests of his client, he shall be punished in the manner provided in the preceding article.

Acceptance of bribe by same. P. C. 303.

Art. 135. [130] If any person shall bribe, or offer to bribe, any clerk or deputy clerk of any court of record, to induce such officer to alter, destroy or mutilate any book, record or paper pertaining to his office, or to surrender to the person offending any book, record or paper for any unlawful purpose, he shall be punished by imprisonment in the penitentiary for a term not less than two nor more than five years.

Bribery of clerks of courts. (Act Feb. 12, 1858, p. 161.) P. C. 304.

Acceptance of
bribe by same.
(Act Feb. 12,
1858, p. 161.)
P. C. 305.

Art. 136. [131] If any clerk, or deputy clerk, of any court of record in this state shall accept, or agree to accept, a bribe offered for the purposes enumerated in the preceding article, he shall be punished by imprisonment in the penitentiary for a term not less than two nor more than five years.

Bribery of
same to do any
official act.
(Act Feb. 12,
1858, p. 161.)
P. C. 306.

Art. 137. [132] If any person shall bribe, or offer to bribe, any officer named in article 135 to do any other act not enumerated in said article, in violation of the duties of his office, or to omit to do any other act incumbent on him as an officer, he shall be punished by imprisonment in the penitentiary not less than two nor more than five years.

Bribery of
sheriffs and
peace officers.
(Act Feb. 12,
1858, p. 162.)
P. C. 307.

Art. 138. [133] If any person shall bribe, or offer to bribe, any sheriff or other peace officer to permit any prisoner in his custody to escape, he shall be punished by imprisonment in the penitentiary for a term not less than two nor more than five years.

Same subject.
(Act Feb. 12,
1858, p. 162.)
P. C. 308.

Art. 139. [134] If any person shall bribe, or offer to bribe, any sheriff or other peace officer, in any case, civil or criminal, to make a false return upon any process directed to him, or fail to return any such process, or summon, or fail to summon, any one to serve on a jury, with a view to produce a result favorable to a particular side in any cause, civil or criminal, he shall be punished by confinement in the penitentiary not less than two nor more than five years.

Same subject.
(Act Feb. 12,
1858, p. 162.)
P. C. 309.

Art. 140. [135] If any person shall bribe or offer to bribe a sheriff or any other peace officer to do any other act not heretofore enumerated, contrary to his duty as an officer, or to omit to do any duty incumbent upon him as an officer, he shall be punished by confinement in the penitentiary not less than two nor more than five years.

Acceptance of
bribe by sher-
iffs, etc.
P. C. 310a.

Art. 141. [136] If any sheriff or other executive or peace officer shall accept or agree to accept a bribe offered, as mentioned in articles 138, 139 and 140, he shall receive the same punishment as is affixed to the offense of giving or offering a bribe in the particular case specified.

Bribery of
witness.
(Act Feb. 11,
1860, p. 95.)
P. C. 310b.

Art. 142. [137] If any person shall bribe or offer to bribe any witness in any case, either civil or criminal, to disobey a subpoena or other legal process, or to avoid the service of the same by secreting himself, or by any other means, he shall be punished by confinement in the penitentiary not less than two nor more than five years.

Acceptance
of bribe by
witness.
(Act Feb. 11,
1860, p. 95.)
P. C. 310b.

Art. 143. [138] If any witness in any case, civil or criminal, shall accept or agree to accept a bribe offered for the purpose or purposes mentioned in the preceding article, he shall be punished by imprisonment in the penitentiary not less than two nor more than five years.

"Bribe"
defined.
P. C. 255.
(Const., art.
16, §41.)

Art. 144. [139] By a "bribe," as used throughout this Code, is meant any gift, emolument, money or thing of value, testimonial, privilege, appointment or personal advantage, or the promise of either, bestowed or promised for the purpose of influencing an officer or other person, such as are named in this chapter, in the performance of any duty, public or official, or as an inducement to favor the person offering the same, or some other person.

Bribe need
not be direct.
P. C. 256.

Art. 145. [140] The bribe, as defined in the preceding article, need not be direct; it may be hidden under the semblance of a sale, wager, payment of a debt, or in any other manner designed to cover the true intention of the parties. The bribe, or the promise thereof, must precede the act which it is intended to induce the person bribed to perform.

CHAPTER TWO.

DRUNKENNESS IN OFFICE.

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Article 146. [141] Any state or district officer in this state who shall be guilty of drunkenness shall be subject to removal from office in the manner provided by law; and upon conviction thereof, in any court of competent jurisdiction, shall be fined in any sum not less than ten nor more than two hundred dollars.

State or district officer guilty of drunkenness. (Act July 31, 1876, pp. 76-7.)

Art. 147. [142] Within the term “state or district officer” are included the governor, lieutenant-governor, the heads of the several executive departments at the capital, and their chief clerks, the judges of the supreme court, courts of appeals, and the district courts, district attorneys, members and officers of the senate and house of representatives, and all other officers who derive their appointment directly from state authority.

“State or district officer” defined.

Art. 148. [143] Any county or municipal officer who shall be guilty of drunkenness, shall, for the first offense, be fined in any sum not less than five and not more than fifty dollars; upon a second conviction for the same offense, he shall be fined not less than fifty nor more than one hundred dollars; and upon a third conviction for the same offense, he shall be fined not less than one hundred nor more than three hundred dollars, and be subject to removal from office in the manner provided by law.

County or municipal officer guilty of drunkenness. (Act July 31, 1876, pp. 76-7.)

Art. 149. [144] Drunkenness, as used in this chapter, is the immoderate use of any spirituous, vinous or malt liquors to such an extent as to incapacitate an officer from the discharge of the duties of his office, either temporarily or permanently.

“Drunkenness” defined. (Act July 31, 1876, p. 76.)

Art. 150. [144a] Any person who shall get drunk, or be found in a state of intoxication, in any public place, shall be deemed guilty of a misdemeanor, and on conviction before a court of competent jurisdiction, shall be fined in a sum of not more than one hundred dollars for each and every such offense.

Drunkenness in public place, how punished. (Act to adopt and establish P. C. and C. of C. P., passed Feb. 21, 1879.)

TITLE VI.

Of Offenses Affecting the Right of Suffrage.

CHAPTER ONE.

BRIBERY AND UNDUE INFLUENCE.

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Bribery of election officers.....	153	Furnishing money for election purposes..	156

Bribery of elector.
P. C. 257.

Article 151. [145] If any person shall bribe, or offer to bribe, any elector for the purpose of influencing his vote at any public election, he shall be punished by fine not exceeding five hundred dollars.

Electoral accepting a bribe.
P. C. 258.

Art. 152. [146] If any elector shall accept a bribe offered as set forth in the preceding article, he shall be punished in like manner as is provided with respect to the person offering the bribe.

Bribery of election officers.
P. C. 259.

Art. 153. [147] If any person shall bribe, or offer to bribe, any manager, judge or clerk of a public election, or any officer attending the same, as a consideration for some act done or omitted to be done, or to be done or omitted contrary to his official duty in relation to such election, he shall be punished by fine not exceeding five hundred dollars.

Election officer accepting a bribe.
P. C. 260.

Art. 154. [148] If any manager, judge or clerk of an election, or officer attending thereon, shall accept a bribe offered as set forth in the preceding article, he shall be punished in the same manner as is provided in reference to the persons offering the bribe.

Bribery of any person to influence voter.
P. C. 261.

Art. 155. [149] If any one shall offer or give a bribe to any person whatever, for the purpose of inducing him to persuade or, by means not amounting to bribery, to procure persons to vote at any public election, for or against any particular candidate, the person so giving or offering, and the person so accepting, shall be punished by fine not exceeding two hundred dollars.

Furnishing money for election purposes.
P. C. 262.

Art. 156. [150] If any person shall furnish money to another to be used for the purpose of promoting the success or defeat of any particular candidate, or of any particular question submitted to a vote of the people, he shall be punished by a fine not exceeding two hundred dollars.

CHAPTER TWO.

OFFENSES BY JUDGES AND OTHER OFFICERS OF ELECTIONS.

Article	Article
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Election officer opening ballot, etc..... 158	Intimidation by election officers..... 162
Election officer divulging vote..... 159	Presiding officer failing to deliver ballots 163
Officer corruptly refusing vote..... 160	Officer giving false certificate..... 164

Article 157. [151] If any manager, judge or clerk of an election shall knowingly make or consent to any false entry on the list of voters, or put into the ballot-box, or permit to be put in, any ballot not given by a voter, or take out of such box, or permit to be taken out, any ballot deposited therein, except in the manner prescribed by law, or change any ballot given by an elector, or make any false return as to the number of votes given for or against any particular candidate, the person so offending shall be punished by fine not less than one hundred nor more than one thousand dollars.

Sundry offenses by election officers.
P. C. 264.

Art. 158. [152] Any manager or other officer of election who shall unfold or examine any ballot, or who shall examine the indorsement on any ballot by comparing it with the list of voters when the votes are counted or being counted, or who shall examine or permit to be examined by any other person the ballots subsequent to their being received into the ballot-box, except in the manner prescribed by law, shall be punished by confinement in the penitentiary for a term not less than one nor more than two years.

Election officer opening ballot, etc.
(Act Aug. 23, 1876, p. 308, §16.)
(Acts 1879, ch. 112, p. 119.)

Art. 159. [153] Any presiding officer, judge, clerk or other officer of an election who shall divulge how any person has voted at such an election, from an inspection of the tickets, unless in a judicial investigation, shall be fined in any sum not less than one hundred nor more than five hundred dollars.

Election officer divulging vote.
(Acts Aug. 23, 1876, p. 309, §16.)
(Acts 1879, ch. 112, p. 120.)

Art. 160. [154] If any manager or judge of an election shall corruptly refuse to receive the vote of any qualified elector who shows by his own oath that he is entitled to vote, when his vote is objected to, such manager or judge shall be punished by fine not exceeding two hundred dollars.

Officer corruptly refusing vote.
P. C. 266.

Art. 161. [155] Any manager, judge or clerk of an election who shall, while discharging his duties as such, attempt to influence the vote of an elector for or against any particular candidate, shall be punished by a fine not exceeding two hundred dollars.

Officer attempting to influence voter.
P. C. 267.

Art. 162. [156] Any manager, judge or clerk of an election who shall, while in discharge of his duties as such, by violence or threats of violence, attempt to influence the vote of an elector for or against any particular candidate, shall be punished by fine not exceeding one thousand dollars.

Intimidation by election officer.
P. C. 268.

Art. 163. [157] Any presiding officer of any election precinct who shall fail, immediately after such election, to securely box, in the mode prescribed by law, all the ballots cast thereat, and within five days thereafter to deliver the same to the county clerk of his county, shall be fined not less than fifty nor more than five hundred dollars, and in addition thereto may be imprisoned in the county jail for a period not exceeding six months.

Presiding officer failing to deliver ballots.
(Acts Aug. 25, 1876, p. 308; April 19, 1879, p. 119; April 4, 1881, p. 97; April 9, 1883, pp. 50-1.)

Officer giving false certificate. P. C. 269.

Art. 164. [158] If any officer authorized by law to give a certificate of election shall, knowingly and corruptly, give any false certificate thereof he shall be punished by fine not exceeding three hundred dollars, and in addition thereto may be imprisoned in the county jail for a term not less than one month nor more than one year.

CHAPTER THREE.

RIOTS AND UNLAWFUL ASSEMBLIES AT ELECTIONS,
AND VIOLENCE USED OR MENACED
TOWARD ELECTORS.

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Unlawful assemblies to prevent.....	166	Carrying arms about election.....	169
Tumults, mobs and disturbances at....	167		

Riots at elections. P. C. 271.

Article 165. [159] If any riot be committed at the place of holding a public election, or within one mile of such place, with a design to disturb or influence such election, every person engaged therein shall be punished by fine not exceeding one thousand dollars.

Unlawful assemblies to prevent. P. C. 272.

Art. 166. [160] If any unlawful assembly meet at the place of holding an election, or within a mile thereof, for the purpose of preventing the holding of such election, all persons engaged in such unlawful assembly shall be punished by fine not exceeding five hundred dollars.

Tumults, mobs and disturbances at elections. (Act Aug. 23, 1876, p. 311, §25.)

Art. 167. [161] If any person shall disturb any election by inciting or encouraging a tumult or mob, or shall cause any disturbance in the vicinity of any poll or voting place, he shall be punished by fine of not less than one hundred nor more than five hundred dollars, and, in addition thereto, may be imprisoned in the county jail for a period not exceeding one month.

Intimidation of electors. (Act Aug. 23, 1876, p. 311, §25.)

Art. 168. [162] If any person shall, by force or intimidation, obstruct or influence, or attempt to obstruct or influence, any voter in the free exercise of the elective franchise, he shall suffer the punishment prescribed in the preceding article.

Carrying arms about elections. (Act Aug. 23, 1876, p. 311, §25.)

Art. 169. [163] If any person, other than a peace officer, shall carry any gun, pistol, bowie knife or other dangerous weapon, concealed or unconcealed, on any day of election, during the hours the polls are open, within the distance of one-half mile of any poll or voting place, he shall be punished as prescribed in article 167 of this Code.

CHAPTER FOUR.

MISCELLANEOUS OFFENSES AFFECTING THE RIGHT OF SUFFRAGE.

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Article 170. [164] If any magistrate or peace officer shall knowingly cause an elector to be arrested in attending upon, going to, or returning from an election, except in cases of treason, felony, or breach of the peace, he shall be punished by fine not exceeding three hundred dollars.

Illegal arrest of voter.
P. C. 270.

Art. 171. [165] If any person knowing himself not to be a qualified voter shall, at any election held, vote for any officer to be then chosen, or for or against any measure or proposition to be determined by said election, he shall be punished by confinement in the penitentiary not less than two nor more than five years.

Illegal voting.
(O. C. 275,
amended by
Act March 23,
1887, p. 37.)

Art. 172. [166] If any person shall vote, or attempt to vote, more than once at the same election, he shall be punished as prescribed in the preceding article.

Repeating.
(Act Aug. 23,
1876, p. 310,
§25.)

Art. 173. [166a] All ballots shall be written or printed on plain white paper, without any picture, sign, vignette, device or stamp mark, except the writing or printing, in black ink or black pencil, of the names of the candidates and the several offices to be filled, and except the name of the political party whose candidates are on the ticket; provided, such ballots may be written or printed on plain white foolscap, legal cap or letter paper; provided, that all ballots containing the name of any candidate pasted over the name of any other candidate shall not be counted for such candidate whose name is so pasted; and any ticket not in conformity with the above shall not be counted in counting out the votes, and no ticket not numbered as provided in this act shall be counted in counting out the votes, nor shall either of two or more tickets folded together be counted; and any person who shall deposit any ballot except as provided in this section, or shall deposit two or more tickets folded together at any election in this state, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined in any sum not exceeding one hundred dollars.

Depositing ballots folded together.
(Act April 19,
1879, p. 119,
§16.)

Art. 174. [167] Every person who shall procure, aid, assist, counsel or advise another to give his vote at any election, knowing that the person is not duly qualified to vote, or shall procure, aid, assist, counsel or advise another to give his vote more than once at such election, shall be fined in a sum not less than one hundred nor more than five hundred dollars, and may, in addition thereto, be imprisoned in the county jail for a period not exceeding one month.

Instigating illegal voting.
(O. C. 276,
and act Aug.
23, 1876, p.
311, §25.)

Art. 175. [168] If any person challenged as unqualified shall be guilty of willful and corrupt false swearing, in taking any oath

False swearing by voter.
(O. C. 278.)

prescribed by law, he shall be punished by confinement in the penitentiary not less than two nor more than five years.

Procuring voter to swear falsely. (O. C. 279.)

Art. 176. [169] Every person who shall willfully and corruptly procure any person to swear falsely, as prescribed in the preceding article, shall be punished by confinement in the penitentiary for any time not exceeding three years, or by fine not exceeding three thousand dollars.

Altering, suppressing, etc., ballots. P. C. 280.

Art. 177. [170] If any person shall fraudulently alter or obliterate, or willfully secrete, suppress or destroy any ballots, election return or certificate of election, he shall be punished by a fine not exceeding three thousand dollars.

Failing to deliver returns. P. C. 281.

Art. 178. [171] If any person intrusted with the transmission of an election return shall willfully do any act that shall defeat the delivery thereof, or shall willfully neglect to deliver the same, as directed by law, he shall be punished by a fine not exceeding one thousand dollars.

Preventing delivery of returns. P. C. 282.

Art. 179. [172] If any person shall take away such election return from any person intrusted therewith, either by force or in any other manner, or shall willfully do any act that shall defeat the due delivery thereof, as directed by law, he shall be punished by fine not exceeding two thousand dollars.

Officer opening ballots. (Act Feb. 12, 1858, p. 160.) P. C. 269a. (Acts of 1879, ch. 112, p. 120.)

Art. 180. [173] Any officer or person with whom may be legally deposited the ballots cast in an election, who shall open and read any ballot, or who shall permit it to be done, except in cases provided for by law, shall be punished by fine not less than fifty nor more than five hundred dollars, and may, in addition thereto, be imprisoned in the county jail not to exceed six months.

County clerk failing to keep ballot-boxes securely. (Act Aug. 23, 1875, p. 308, §16.)

Art. 181. [174] If any clerk of the county court in this state shall fail, neglect or refuse to securely keep any ballot-box containing tickets of election committed to his custody by the presiding officer of any election precinct, he shall be punished by fine not less than fifty nor more than five hundred dollars, and, in addition thereto, he may be imprisoned in the county jail for a period not exceeding six months.

County clerk failing to destroy ballots. (Act Aug. 23, 1876, p. 308, §16.)

Art. 182. [175] If any clerk of the county court in this state shall fail, after the expiration of one year from the date of any election, to destroy, by burning, all the ballots cast at such election which may have come to his custody, he shall be punished as prescribed in the preceding article.

Not applicable in cases of contest. (Act Aug. 23, 1876, p. 308, §16.)

Art. 183. [176] The provisions of the foregoing article shall not apply to cases in which a contest may have grown out of any election, within one year after the date of such election.

Willful neglect of official duty. P. C. 283.

Art. 184. [177] If any officer on whom a duty is enjoined, in any statute relating to elections, shall be guilty of a willful neglect of such duty, or shall act corruptly or with partiality in the discharge of such duty, in any manner not provided for in this title, he shall be fined in a sum not less than one hundred nor more than one thousand dollars.

Keeping open bar-rooms on election day. (Act Aug. 23, 1876, p. 310, amended act March 23, 1887, p. 36.)

Art. 185. [178] If any person shall open or keep open any bar-room, saloon or other place, house or establishment where vinous, malt, spirituous or intoxicating liquors are sold during any portion of the day on which an election is held for any purpose or office whatsoever, in the voting precinct, village, town or city where such election is held, or within three miles of any such voting precinct, village, town or city where such election is held; or shall, in such voting precinct, village, town or city, or within three miles thereof, sell,

barter or give away any vinous, malt, spirituous or intoxicating liquor during the day on which any such election is held; or if any person shall carry to the polling place on the day of an election, or in the neighborhood of the same, any intoxicating liquors for the purpose of sale or gift; or if any person shall find and take possession of any intoxicating liquors at or near the polling place, or inform another of the whereabouts of the said intoxicating liquors, he shall be fined not less than one hundred nor more than five hundred dollars.

Art. 186. [179] The provisions of the preceding article shall not apply to the sale of liquor at any drug store or establishment where drugs are sold for medical purposes, when such sale is made on the day of election, on the prescription of a practicing physician, nor to the sale of liquor by regular wholesale merchants to be shipped or sent out of the county, nor shall such provision be construed so as to prevent stores from being opened for the sale of other goods, wares and merchandise on the day of election.

Not applicable in what case.
(Act Aug. 20, 1876, p. 310, §21.)

Art. 187. Any elector voting at any election who does not possess the legal qualification shall be punished as now provided by law for illegal voting, and any person swearing falsely as to his own qualifications or those of a challenged elector shall be punished as now provided by law for false swearing.

Elector voting without legal qualifications.
(Act March 30, 1891, p. 47.)

Art. 188. Any person who shall illegally register as a qualified voter of any city under the provisions of the act of April 12, 1892, chapter 13, twenty-second legislature, called session, shall be deemed guilty of felony, and, upon conviction in any court of competent jurisdiction, shall be punished by confinement in the penitentiary for not less than one year nor more than two years.

Penalty for illegal registration.
(Act 22d Leg., called session, p. 13, §14.)

Art. 189. The registrar is hereby authorized and empowered to administer all necessary oaths to applicants for registration, and also to all witnesses touching the qualifications of applicants for registration, and any person who shall swear falsely about his own qualifications as a voter of the city, or any person who shall, as a witness for the applicant for registration, swear falsely about the qualifications of such applicant, shall be deemed guilty of false swearing, and upon conviction in any court of competent jurisdiction shall be punished as is provided by law for the punishment of false swearing in other cases.

Registrar to administer oaths; penalty for false swearing.
(Act April 12, 1892, chap. 13, p. 13, 22d Leg., called session, §15.)

Art. 190. Any registrar who shall knowingly issue a registration certificate to any person not legally entitled to register, or who shall knowingly issue or cause to be issued a certificate of registration to any imaginary or fictitious person, shall be deemed guilty of a felony, and upon conviction in any court of competent jurisdiction shall be punished by confinement in the penitentiary for not less than one year nor more than two years for each and every such registration certificate so issued.

Penalty for issuing illegal certificates.
Ib. §22.

Art. 191. Any officer upon whom a duty is imposed by an act to provide for the registration of all voters in all cities containing ten thousand inhabitants or more (twenty-second legislature, called session, chapter thirteen, page 13), who shall disclose to any person the name of any candidate for whom any elector has voted, or gives any information by which it can be ascertained for whom any elector has voted, or any judge or clerk of election or other officer about the polls who shall do any electioneering on election day, or any person who shall do any electioneering on election day within any polling place or within thirty feet of any polling place, or any person who shall

Electioneering at polls, etc., prohibited.
(Act April 12, 1892, chap. 13, p. 13, 22d Leg., called session, §28.)

remove any ballot from any polling place, or any person who shall knowingly apply or receive any ballot in any polling place other than that in which he is entitled to vote, or any person who shall show his ballot after it is marked to any person in such a way as to reveal the contents thereof, or the name of the candidate or candidates for whom he marked his ballot, or any person who shall, contrary to this act, examine his ballot or solicit the voter to show the same, or person other than an officer of election who shall deliver any ballot to an elector, or any elector who shall deliver a ballot to the presiding officer to be voted, except the one he received from the election officer, or any elector or any one who shall, contrary to the provisions of this act, place any mark upon or do anything to his ballot by which it may afterwards be identified as the one voted by any particular individual, upon conviction shall be punished by a fine not less than fifty dollars and not more than five hundred dollars, or by imprisonment in the county jail not less than three months nor more than one year, or both, in the discretion of the court.

Other offenses declared and penalty prescribed. *Ib.* §29.

Art. 192. Any judge or clerk of election who shall willfully disregard any of the provisions of this act, or who shall negligently fail to enforce any of the provisions of this act, or who shall, in counting the ballot or making the returns thereof, willfully disregard any of the directions or requirements of this act, or any person who shall willfully alter or destroy any ballot cast at an election or any of the returns of an election regulated by this act, or who shall introduce among the genuine ballots a fraudulent ballot, or any person who shall falsely write the initials of the presiding officer or any writing upon the ballot purporting to be written by the clerk or presiding officer, or any person who shall steal any of the ballots or returns, or willfully or fraudulently hinder or delay the delivery of any election returns to the county clerk, or willfully break open any of such sealed returns of any election regulated by this act, upon conviction shall be punished by imprisonment in the penitentiary not less than one year nor more than three years, or by fine of not less than five hundred dollars nor more than two thousand dollars, or by both such fine and imprisonment.

CHAPTER FIVE.

PRIMARY ELECTIONS.

	Article		Article
Penalty for illegal voting at primary election	192a	Officer divulging votes.....	192d
Procuring an illegal vote.....	192b	Bribery, or attempt, of officer of election	192e
Officer making false return.....	192c	Bribery, or attempt, of voter.....	192f

Penalty for illegal voting at primary election. (Act 1895, p. 40.)

Article 192a. Any person voting at any primary election called and held by authority of any political party for the purpose of nominating candidates of such political party for any public office who is not qualified to vote in the election precinct where he offers to vote at the next state, county or municipal election, or who shall vote more than once at the same or different precincts or polls on the same day, or different days in the same primary election, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding sixty days, or by both such fine and imprisonment.

Art. 192b. Every person who shall knowingly procure any illegal vote to be cast at any such primary election shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in the preceding article. Procuring an illegal vote. Ib.

Art. 192c. Any presiding officer, manager, judge or clerk of any primary election called and held by authority of any political party in this state who shall knowingly make or return, or cause to be made or returned, a false statement of the result of any such primary election shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding sixty days, or by both such fine and imprisonment. Officer making false return. Ib.

Art. 192d. Any presiding officer, judge, clerk or other officer of an election who shall divulge how any person voted at such primary election, from an inspection of the tickets, unless in a judicial investigation, shall be fined in any sum not less than one hundred nor more than five hundred dollars. Officer divulging votes. Ib.

Art. 192e. If any person shall bribe or offer to bribe any presiding officer, manager, judge or clerk of any primary election called and held by authority of any political party for the purpose of nominating candidates of such political party for public office as a consideration for some act done or omitted to be done, or to be done or omitted, contrary to his duty in relation to such primary election, [he] shall be punished by fine not exceeding five hundred dollars. Bribery or attempted bribery of officer of election. Ib.

Art. 192f. If any person shall bribe or offer to bribe any voter for the purpose of influencing his vote at any primary election called and held by authority of any political party for the purpose of nominating candidates of such political party for any public office, upon conviction thereof [he] shall be punished by fine not exceeding five hundred dollars. Bribery or attempted bribery of voter. Ib.

TITLE VII.

Of Offenses which Affect the Free Exercise of Religious Opinion.

CHAPTER ONE.

DISTURBANCE OF RELIGIOUS WORSHIP.

Article Disturbance of congregation in any man- ner 193	Article Offender may be bound over..... 194 Double penalty for second offense..... 195
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Disturbance of congrega- tion in any manner. (O. C. 284, amended by act April 23, 1873, p. 43, and by act Feb. 28, 1883, p. 17.)

Article 193. [180] Any person who by loud or vociferous talking or swearing, or by any other noise, or in any other manner willfully disturbs any congregation or part of a congregation assembled for religious worship and conducting themselves in a lawful manner, or who willfully disturbs in any manner any congregation assembled for the purpose of conducting or participating in a Sunday-school, or to transact any business relating to or in the interest of religious worship or a Sunday-school, and conducting themselves in a lawful manner, shall be fined in any sum not less than twenty-five nor more than one hundred dollars, and may be imprisoned in the county jail not exceeding thirty days, at the discretion of the jury.

Offender may be bound over. P. C. 285.

Art. 194. [181] If complaint be made to any magistrate that a person has committed the offense mentioned in the preceding article, he may be, at the discretion of the magistrate, bound over to keep the peace, and to refrain from like disturbance for the term of one year.

Double pen- alty for sec- ond offense. P. C. 286.

Art. 195. [182] Double the punishment prescribed in article 193 shall be imposed for any subsequent offense of the same kind.

CHAPTER TWO.

SUNDAY LAWS.

Article Working on Sunday..... 196 Not applicable, when..... 197 Horse racing, gaming, etc., on Sunday... 198	Article Selling goods on Sunday..... 199 Exceptions from operation of preceding article 200
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Working on Sunday. (Act April 2, 1887, p. 108.)

Article 196. [183] Any person who shall hereafter labor, or compel, force, or oblige his employes, workmen or apprentices to labor on Sunday, or any person who shall hereafter hunt game of any kind whatsoever on Sunday within one-half mile of any church, school house or private residence, shall be fined not less than ten nor more than fifty dollars.

Not applica- ble, when. (Act Dec. 2, 1871, p. 62.)

Art. 197. [184] The preceding article shall not apply to house- hold duties, works of necessity or charity; nor to necessary work on farms or plantations in order to prevent the loss of any crop; nor

to the running of steamboats and other water crafts, rail cars, wagon trains, common carriers, nor to the delivery of goods by them or the receiving or storing of said goods by the parties or their agents to whom said goods are delivered; nor to stages carrying the United States mail or passengers; nor to foundries, sugar mills or herders who have a herd of stock actually gathered and under herd; nor to persons traveling; nor to ferrymen or keepers of toll bridges, keepers of hotels, boarding houses and restaurants and their servants; nor to keepers of livery stables and their servants; nor to any person who conscientiously believes that the seventh or any other day of the week ought to be observed as the Sabbath, and who actually refrains from business and labor on that day for religious reasons.

Art. 198. [185] Any person who shall run or be engaged in running any horse race, or who shall permit or allow the use of any nine or ten-pin alley, or who shall be engaged in match shooting, or any species of gaming for money or other consideration, within the limits of any city or town on Sunday, shall be fined not less than twenty nor more than fifty dollars.

Horse racing,
gaming, etc.,
on Sunday.
(Act Dec. 2,
1871, p. 62.)

Art. 199. [186] Any merchant, grocer, or dealer in wares or merchandise, or trader in any business whatsoever, or the proprietor of any place of public amusement, or the agent or employe of any such person, who shall sell, barter or permit his place of business or place of public amusement to be open for the purpose of traffic or public amusement on Sunday, shall be fined not less than twenty nor more than fifty dollars. The term place of public amusement shall be construed to mean circuses, theaters, variety theaters and such other amusements as are exhibited and for which an admission fee is charged; and shall also include dances at disorderly houses, low dives and places of like character with or without fees for admission.

Selling goods
on Sunday.
(Act April 2,
1887, p. 108.)

Art. 200. [186a] The preceding article shall not apply to markets or dealers in provisions as to sales of provisions made by them before 9 o'clock a. m., nor to the sale of burial or shrouding material, newspapers, ice, ice cream, milk, nor to the sending of telegraph or telephone messages at any hour of the day, nor to keepers of drug stores, hotels, boarding houses, restaurants, livery stables, bath houses or ice dealers, nor to telegraph or telephone offices.

Exceptions
from opera-
tion of pre-
ceding article.
(Act April 13,
1891, p. 173.)

TITLE VIII.

Of Offenses Against Public Justice.

CHAPTER ONE.

OF PERJURY.

	Article		Article
"Perjury" defined	201	In what sort of proceeding.....	205
Not perjury, when.....	202	Immaterial statement not perjury.....	206
Oath must be legally administered.....	203	Punishment	207
And about something past or present....	204	Perjury in capital cases.....	208

"Perjury" de-
fined.
P. C. 287.

Article 201. [188] Perjury is a false statement, either written or verbal, deliberately and willfully made, relating to something past or present, under the sanction of an oath, or such affirmation as is by law equivalent to an oath, where such oath or affirmation is legally administered, under circumstances in which an oath or affirmation is required by law, or is necessary for the prosecution or defense of any private right, or for the ends of public justice.

Not perjury,
when.
P. C. 288.

Art. 202. [189] A false statement made through inadvertence, or under agitation, or by mistake, is not perjury.

Oath must be
legally ad-
ministered.
P. C. 289.

Art. 203. [190] The oath or affirmation must be administered in the manner required by law, and by some person duly authorized to administer the same in the matter or cause in which such oath or affirmation is taken.

And about
something
past or
present.
P. C. 290.

Art. 204. [191] The false statement must be of something past or present; oaths of office, or any other promissory oaths, are therefore not included in the definition of perjury, except that part of the official oath prescribed by the constitution which relates to dueling.

In what sort
of proceeding.
(Act March 15,
1875, p. 170.)
P. C. 290a.

Art. 205. [192] All oaths or affirmations legally taken in any stage of a judicial proceeding, civil or criminal, in or out of court, or before a grand jury, are included in the description of this offense.

Immaterial
statement not
perjury.
P. C. 291.

Art. 206. [193] The statement of any circumstance wholly im- material to the matter in respect to which the declaration is made is not perjury.

Punishment.
P. C. 292.

Art. 207. [194] The crime of perjury is punished by imprison- ment in the penitentiary for a term of not more than ten years nor less than five years.

Perjury in
capital case.
P. C. 293.

Art. 208. [195] When the perjury is committed on a trial of a capital felony, and the person guilty of such perjury has, on the trial of such felony, sworn falsely to a material fact tending to produce conviction, and the person so accused of the capital felony is convict- ed and suffers the penalty of death, the punishment of the perjury so committed shall be death.

CHAPTER TWO.

OF FALSE SWEARING.

	Article		Article
"False swearing," definition of.....	209	False swearing in relation to quarantine matters	212
Past or present.....	210	Witness before grand jury divulging proceedings, etc.....	213
Officer falsely reporting collections of public moneys	211		

Article 209. [196] If any person shall deliberately and willfully, under oath or affirmation legally administered, make a false statement by a voluntary declaration or affidavit, which is not required by law or made in the course of a judicial proceeding, he is guilty of false swearing and shall be punished by imprisonment in the penitentiary not less than two nor more than five years.

False swearing, definition of.

Art. 210. [197] The false swearing must, as in regard to perjury, be relative to something past or present.

Past or present.

Art. 211. [198] If any officer of this state, or of any district or county thereof, who is charged by law with the duty of receiving or collecting public moneys, other than taxes, for the use of the state or counties, and reporting the same, under oath, to the district, county or commissioners' court of any county, shall falsely report the amount of such collections, or any part thereof, he shall be deemed guilty of false swearing, and upon conviction shall be punished as prescribed in article 209.

Officer falsely reporting collection of public moneys. (Act May 1, 1874, pp. 182-3.)

Art. 212. [198a] Any person suspected of violating any quarantine law or regulation, and who, upon being sworn by any one authorized to administer an oath by the provisions of any law of this state, shall knowingly swear falsely about any matter concerning which the quarantine laws and regulations permit examination, shall be deemed guilty of false swearing, and shall, on conviction in a court of competent jurisdiction, be punished by imprisonment in the penitentiary not less than two nor more than five years.

False swearing in relation to quarantine matters. (Act March 21, 1833, p. 27.)

Art. 213. [198a†] Any grand juror, or any person who shall appear before any grand jury in this state, and who, after being sworn according to law as a witness before said grand jury, shall afterwards divulge, either by word or sign, any matter about which said witness may have been interrogated, or any proceeding or fact said witness may have learned by reason of being said witness, shall be guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than one hundred nor more than one thousand dollars, and may be in addition thereto imprisoned in the county jail not exceeding six months; provided, this act shall not apply to persons required to testify to any of the aforesaid matters before a judicial tribunal.

Witness before grand jury divulging proceedings, etc. (Act April 4, 1837, p. 131.)

CHAPTER THREE.

OF SUBORNATION OF PERJURY AND FALSE SWEARING.

Article	Article
Subornation of perjury, or false swearing 214	Attempt at subornation of perjury..... 215

Subornation of perjury, or false swearing.

Attempt at subornation of perjury.

Article 214. [199] If any person shall designedly induce another to commit perjury or false swearing, he shall be punished as if he had himself committed the crime.

Art. 215. [200] If any person shall, by any means whatever, corruptly attempt to induce another to commit the offense of perjury or false swearing, he shall be punished by imprisonment in the penitentiary not less than two nor more than five years.

CHAPTER FOUR.

OFFENSES RELATING TO THE ARREST AND CUSTODY OF PRISONERS.

Article	Article
Officer willfully permitting escape in capital cases 216	Same in case of misdemeanor..... 229
Same in ordinary felonies..... 217	Assisting escape from house of correction... 230
Same in misdemeanors..... 218	Telegraph operator divulging process... 231
Negligently permitting escape in capital cases 219	Preventing execution of civil process... 232
Same in ordinary felonies..... 220	Offenses complete without actual escape. 233
Same in misdemeanors..... 221	County convict escaping from employer. 234
Officer refusing to arrest in felonies..... 222	Person resisting officer in felony..... 235
Same in cases of misdemeanor..... 223	Same in misdemeanor..... 236
Private person appointed to execute, same as officer..... 224	Same in civil cases..... 237
Conveying arms, disguises, etc., into jail to aid felon..... 225	Accused resisting process..... 238
Same in misdemeanor..... 226	Process must be legal..... 239
Breaking into jail to rescue prisoner.... 227	"Accusation" defined..... 240
Aiding prisoner charged with felony to escape from officer..... 228	"Legally confined in jail" defined..... 241
	"Jail" defined 242
	"Officer" defined 243
	"Arms" defined 244
	Refusing to aid officer..... 245

Officer in charge of prisoner willfully permitting escape in capital case.

P. C. 312.
In felonies.
P. C. 313.

Article 216. [201] Any officer, jailer or guard having the legal custody of any person accused or convicted of a capital offense, who willfully permits such person to escape, or to be rescued, shall be punished by confinement in the penitentiary not less than two nor more than ten years.

Art. 217. [202] Any officer, jailer or guard who has the legal custody of any person accused or convicted of a felony less than capital, who willfully permits such person to escape, or to be rescued, shall be punished by imprisonment in the penitentiary for a term not less than two and not exceeding five years.

In misdemeanors.
P. C. 314.

Art. 218. [203] Any officer, jailer or guard having the legal custody of a person accused or convicted of a misdemeanor, who willfully permits such person to escape, or to be rescued, shall be fined not exceeding one thousand dollars.

Negligently permitting escape in capital case.
P. C. 315.
In felonies.
P. C. 316.

Art. 219. [204] Any officer, jailer or guard who has the legal custody of a person accused or convicted of a capital offense, and who negligently permits such person to escape or to be rescued, shall be punished by a fine not exceeding two thousand dollars.

Art. 220. [205] Any officer, jailer or guard who has the legal custody of a person accused or convicted of a felony less than capital,

and who negligently permits such person to escape or to be rescued, shall be punished by fine not exceeding one thousand dollars.

Art. 221. [206] Any officer, jailer or guard who has the legal custody of a person accused or convicted of a misdemeanor, and who negligently permits such person to escape or to be rescued, shall be punished by fine not exceeding five hundred dollars.

In misde-
meanors.
P. C. 317.

Art. 222. [207] Any sheriff or other officer who willfully refuses or fails from neglect to execute any lawful process in his hands requiring the arrest of a person accused of felony, whereby such person escapes, or willfully refuses to receive in a jail under his charge, or to receive into his custody any person lawfully committed to such jail and ordered to be confined therein on an accusation of felony, or lawfully committed to his custody on such accusation, shall be fined not exceeding two thousand dollars.

Officer refus-
ing to arrest
or receive in
felony.
(Act Feb. 11,
1860, p. 96.)
P. C. 318.

Art. 223. [208] Any sheriff or other officer who willfully refuses or fails from neglect to execute any lawful process in his hands requiring the arrest of a person accused of a misdemeanor, whereby the accused escapes, or who willfully refuses to receive into a jail under his charge, or to receive in his custody any person lawfully committed to such jail on an accusation of misdemeanor, or lawfully committed to his custody on such accusation, shall be punished by fine not exceeding five hundred dollars.

Same in cases
of misde-
meanor.
(Act Feb. 11,
1860, p. 96.)
P. C. 319.

Art. 224. [209] If any private person, appointed with his own consent to execute a warrant of arrest, shall be guilty of any one of the offenses heretofore enumerated in this chapter, he shall be punished in the same manner as an officer in a like case.

Private per-
son appointed
to execute,
same as
officer.
P. C. 320.

Art. 225. [210] If any person shall convey, or cause to be conveyed, into any jail, any disguise, instrument, arms, or any other thing useful to aid any prisoner in escaping, with intent to facilitate the escape of a prisoner lawfully detained in such jail, on an accusation of felony, or shall, in any other manner calculated to effect the object, aid in the escape of a prisoner legally confined in jail, he shall be punished by imprisonment in the penitentiary not less than two nor more than five years.

Conveying
arms, dis-
guises, etc.,
into jail to
aid felon.
(Act Feb. 12,
1858, p. 162.)
P. C. 321.

Art. 226. [211] If any person shall, by any of the means contemplated in the preceding article, aid in the escape of a person legally confined in jail upon an accusation for a misdemeanor, he shall be fined not exceeding five hundred dollars.

Same in mis-
demeanor.
P. C. 323.

Art. 227. [212] If any person shall break into any jail for the purpose of effecting the rescue or escape of a prisoner therein confined, or for the purpose of aiding in the escape of any prisoner so confined, he shall be punished by imprisonment in the penitentiary for a term not less than two nor more than six years.

Breaking into
jail to rescue
prisoner.
P. C. 322,
324.

Art. 228. [213] If any person shall willfully aid in the escape of a prisoner from the custody of an officer, by whom he is legally held in custody on an accusation of felony, by doing any act calculated to effect that object, he shall be punished by imprisonment in the penitentiary not less than two nor more than seven years; and if, in aiding in the escape, he shall make use of arms, he shall be punished by imprisonment in the penitentiary for a term not less than two nor more than ten years.

Aiding pris-
oner charged
with felony
to escape
from officer.
(Act Feb. 12,
1858, p. 162.)
P. C. 325.

Art. 229. [214] If any person shall willfully aid a prisoner to escape from the custody of an officer, by whom he is legally detained in custody on an accusation for a misdemeanor, by doing an act calculated to effect that object, he shall be punished by fine not

Same aid in
case of mis-
demeanor.
P. C. 326.

exceeding five hundred dollars; and if, in aiding in the escape, he shall make use of arms, he shall be punished by fine not exceeding one thousand dollars.

Assisting inmate in house of correction to escape. (Act April 2, 1889, p. 98, §15.)

Art. 230. Any person who shall knowingly assist any inmate lawfully confined in the house of correction and reformatory to escape, or who shall knowingly conceal such inmate, or advise or abet the escape of such inmate, or who shall furnish such inmate with money, arms, or any character of means to escape, with the purpose of facilitating the escape of such inmate, shall be deemed guilty of a felony, and upon conviction thereof shall be confined in the penitentiary for a term of not less than two nor more than five years.

Telegraph officer divulging process. (Act April 17, 1871, p. 40, §7.)

Art. 231. [215] Any executive officer, director, superintendent, manager, operator, clerk, messenger or other party in the employ of a telegraph company, who shall willfully divulge, or in any manner make known, except to the proper authority, the contents of any warrant, affidavit or telegram relating to any crime already committed, or for the prevention of the same, shall, upon conviction, be fined in a sum not less than five hundred dollars, nor more than one thousand, or be imprisoned in the state penitentiary for a term not less than two years nor more than five years.

Preventing execution of civil process. P. C. 327.

Art. 232. [216] If any person shall prevent or defeat the execution of any process in a civil cause, by any means not amounting to actual resistance, but which are calculated to prevent the execution of such process, he shall be punished by fine not exceeding five hundred dollars; evading the execution of such process is not an offense under this article.

Offenses complete without actual escape. P. C. 328-9.

Art. 233. [217] The offenses enumerated in articles 225, 226, 227, 228 and 229 are complete without the actual escape of the prisoner; and a person accused of any of said offenses may be prosecuted and tried, although the person escaping be retaken, and although after being retaken he is brought to trial and acquitted.

County convict escaping from employer. (Act Aug. 21, 1876, p. 229, §4.)

Art. 234. [218] Any person who has been convicted of a misdemeanor or petty offense, and afterwards hired under authority of law, who shall escape from his employer or person hiring him during the term of which he may have been hired, shall be punished by imprisonment in the county jail for a term not exceeding two years.

Person resisting officer in case of felony. (Act Feb. 12, 1868, p. 163.) P. C. 331.

Art. 235. [219] If any person shall willfully oppose or resist an officer in executing or attempting to execute any lawful warrant for the arrest of another person in a case of felony he shall be punished by confinement in the penitentiary for a term not less than two nor more than five years; and if arms be used in such resistance he shall be punished by imprisonment in the penitentiary not less than two nor more than seven years.

In cases of misdemeanors. (P. C. 220, amended by act of April 4, 1881, p. 103.)

Art. 236. [220] If any person shall willfully oppose or resist an officer in executing or attempting to execute any lawful warrant for the arrest of another person in a case of misdemeanor, or in arresting or attempting to arrest any person without a warrant, where the law authorizes or requires the arrest to be made without a warrant, he shall be punished by a fine of not less than twenty-five nor more than five hundred dollars; and if arms be used, by a fine of not less than fifty nor more than one thousand dollars.

In civil cases. P. C. 333.

Art. 237. [221] If any person shall willfully resist or oppose an officer in executing or attempting to execute any process in a civil cause he shall be fined not exceeding five hundred dollars; and if arms be used in such resistance the punishment shall be doubled.

Art. 238. [222] If the party against whom a legal warrant of arrest is directed, in any criminal case, resist its execution, when attempted by any person legally authorized to execute the same, he shall be fined not exceeding five hundred dollars; and if arms be used in making the resistance in such manner as would make him liable for assault and battery or assault with intent to murder, or any other offense against the person, he shall receive the highest penalty affixed by law for the commission of such offense in ordinary cases.

Accused re-
sisting pro-
cess.
P. C. 334.

Art. 239. [223] To render a person guilty of any of the offenses included within the meaning of articles 235 and 236, the warrant or process must be executed, or its execution attempted, in a legal manner.

Process must
be legal.
P. C. 335.

Art. 240. [224] The word "accusation," as used here, and in every part of this Code, means a charge made in a lawful manner against any person, that he has been guilty of some offense which subjects him to prosecution in the name of the state. A person is said to be "accused" of an offense from the time that any "criminal action" shall have been commenced against him.

"Accusation"
defined.
P. C. 336.

A legal arrest without warrant;

A complaint to a magistrate;

A warrant legally issued; and indictment, or an information, are all examples of "accusations," and a person proceeded against by either of these is said to be "accused."

Art. 241. [225] A person is "legally confined in jail," or "legally detained in custody," when he has been committed or arrested upon a legal warrant, or arrested in any of the modes pointed out in the Code of Criminal Procedure.

"Legally
confined in
jail" defined.
P. C. 337.

Art. 242. [226] The word "jail" means any place of confinement used for detaining a prisoner.

"Jail" de-
fined.
P. C. 338.

Art. 243. [227] By "officer," as used in this chapter, is meant any peace officer, as sheriff, deputy sheriff, constable of a beat, marshal, constable or policeman of a city or town, any jailer or guard, or any person specially authorized by warrant to arrest.

"Officer" de-
fined.
P. C. 339.

Art. 244. [228] The term "arms," as used in this chapter, includes any deadly weapon.

"Arms" de-
fined.

Art. 245. [229] If any person, being called on by a magistrate, or peace officer, shall fail or refuse to aid such officer in any matter in which, by law, he may be rightfully called on to aid or assist in the execution of a duty incumbent upon such magistrate or peace officer, he shall be punished by fine not exceeding one hundred dollars.

Refusing to
aid an officer.
(Act Feb. 12,
1858, p. 163.)
P. C. 339a.

CHAPTER FIVE.

FALSE CERTIFICATE, AUTHENTICATION OR ENTRY BY AN OFFICER.

Article	Article	
Commissioner of deeds giving false certificate.....	246	Notary public giving false certificate... 252
“Instrument of writing” defined.....	247	Officer giving blank certificate..... 253
Commissioner certifying falsely to deposition.....	248	Failing to keep a record of acknowledgments..... 254
Same as to affidavit.....	249	Requisites of such record..... 255
Clerk of court making false entry.....	250	False certificate as to corporate indebtedness..... 255a
Clerk giving false certificate.....	251	

Commissioner of deeds giving false certificate.
P. C. 340.

Article 246. [230] If any person, being a commissioner of deeds and depositions, who is residing out of this state, and acting as such commissioner under authority of a law of the state, shall fraudulently certify to the execution of any instrument of writing which was never in fact acknowledged or proved before him, as the same purports to have been acknowledged or proved, he shall be punished by imprisonment in the penitentiary not less than two nor more than five years.

“Instrument of writing” defined.
P. C. 341.

Art. 247. [231] By “instrument in writing” is meant any deed, conveyance, transfer, release, obligation or other written instrument of any kind or description whatever which such commissioner is, by law, authorized to authenticate for record.

Commissioner certifying falsely to deposition.
P. C. 342.

Art. 248. [232] If any such commissioner shall falsely certify to any deposition purporting to have been taken before him, and to be used in any cause pending in a court of this state, he shall be punished in the same manner as is prescribed in article 246.

Same as to affidavit.
P. C. 343.

Art. 249. [233] If any such commissioner shall falsely certify to any affidavit purporting to have been made before him, and which, by law, he is authorized to take, he shall be punished as prescribed in article 246.

Clerks of court making false entry.
P. C. 344.

Art. 250. [234] If any clerk of a court in this state shall knowingly make any false entry upon the records of his court, which may prejudice or injure the rights of any person, he shall be punished by confinement in the penitentiary not less than two nor more than five years.

Giving false certificate.
P. C. 345.

Art. 251. [235] If any such clerk shall give a false certificate, stating that any person has done any act whatever, to which he has a right to certify, or that such person is entitled to any right whatever, when such clerk may by law give such certificate if the same were true, he shall be punished as directed in the preceding article.

Notary public giving false certificate.
P. C. 346.

Art. 252. [236] If any notary public, or other officer authorized by law, shall give a false certificate for the purpose of authenticating any instrument of writing for registration, he shall be punished by imprisonment in the penitentiary not less than two nor more than five years.

Officer giving blank certificate.
(Act Feb. 12, 1858, p. 163.)
P. C. 347.

Art. 253. [237] If any officer authorized by law to take depositions or administer oaths in this state shall falsely certify that any depositions was sworn to before him, or any oath made, or shall with fraudulent intent place his certificate, signature or seal to any affidavit which is drawn with blanks as to any other matter of substance, he shall be punished by imprisonment in the penitentiary not less than two nor more than five years. Within the meaning of this

article shall be included the case of an officer who, with design that the same may be filled up and used for fraudulent purposes, attaches his signature or seal of office to any paper wholly blank.

Art. 254. [238] Any county clerk, justice of the peace, notary public, or any other officer in this state authorized by law to take acknowledgments or proof of instruments required or permitted by law to be placed on record, who shall willfully fail, neglect or refuse to enter and record in a well-bound book a short statement of each acknowledgment or proof taken by him and sign the same officially, shall be fined in any sum not less than one hundred nor more than five hundred dollars.

Failing to keep a record of acknowledgment. (Act April 28, 1874, p. 156.)

Art. 255. [239] By "short statement," as used in the preceding article, is meant that such statement shall recite the true date on which such acknowledgment or proofs were taken, the name of the grantor and grantee of such instrument, its date, if proved by a subscribing witness, the name of the witness, the known or alleged residence of the witness, and whether personally known or unknown to the officer; if personally unknown, this fact shall be stated, and by whom such person was introduced to the officer, if by any one; and the known or alleged residence of such person. Such statement shall also recite, if the instrument is acknowledged by the grantor, his then place of residence, if known to the officer; if unknown, his alleged residence, and whether such grantor is personally known to the officer; if personally unknown, by whom such grantor was introduced, if by any one, and his place of residence. If land is conveyed or charged by the instrument, the name of the original grantee shall be mentioned, and the county where the same is situated; and a failure to comply with any one of the requirements shall be punished as prescribed in the preceding article.

Requisites of such record. (Act April 28, 1874, p. 156.)

Art. 255a. If any mayor, county judge, tax assessor, or other officer or person, for the purpose of securing the certificate of the attorney-general, provided for in the act of April 29, 1893, (articles 918a to 918g inclusive of the Revised Civil Statutes), shall knowingly make or be concerned in making or forwarding to the attorney-general a false certificate as to the amount of the taxable value of the property in such county, city or town, as shown by the last official assessment, or knowingly and falsely certify as to the amount of indebtedness of such county, city or town, or the rate of tax levied to provide interest and sinking fund for such indebtedness, or other facts required by the attorney-general, he shall be guilty of felony, and upon conviction therefor shall be punished by confinement in the penitentiary not less than one nor more than five years.

False certificate as to corporate indebtedness, etc. (Act 1893, p. 85.)

CHAPTER SIX.

MISCELLANEOUS OFFENSES.

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I. EXTORTION.

Article 256. [240] If any officer authorized by law to demand or receive fees of office, or any person employed by such officer, shall willfully demand or receive higher fees than are allowed by law, or shall willfully demand or receive fees not allowed by law, he shall be punished by fine not less than twenty-five nor more than one hundred dollars for each offense.

Applies to all officers. P. C. 353. Art. 257. [241] The preceding article applies to all persons holding any office to which fees are attached, and to the heads of the departments of the government in whose offices fees may be charged.

II. CONVERSION.

Conversion by sheriff, etc. (Act Feb. 12, 1858.) P. C. 354a. Art. 258. [242] If any sheriff, or other officer, having collected money for any party to a suit, shall, without the consent of such party, unlawfully convert the same, or any part thereof, to his own use, he shall be punished in the same manner as if he had committed theft of such money.

Appropriation of trust funds. (Act May 19, 1876, p. 7.) Art. 259. [243] If any officer of any court who has the legal custody of any money, evidence of debt, scrip, instrument of writing or other article, that may have been deposited in court to abide the result of legal proceedings, shall appropriate the same to his own use, he shall be punished as if he had committed theft of such money, evidence of debt, scrip, instrument of writing or other article.

Officer failing to deposit trust funds, etc. (Act May 19, 1876, p. 7.) Art. 260. [244] Any officer of any court having the custody by law of any money, evidence of debt, scrip, instrument of writing or other article that may have been deposited in court to abide the result of any legal proceedings, who shall fail to seal up in a secure package the identical money or other article received by him, and deposit the same in some iron safe or bank vault; or who, when such money or other article is so deposited, shall fail to keep it always ac-

cessible and subject to the control of the proper court; or who shall fail to keep, in a well-bound book, a correct statement showing each and every item of money or other article so received or deposited, on what account received, and what disposition has been made of the same, shall be punished by fine not less than ten nor more than two hundred dollars, or by imprisonment in the county jail for a period not exceeding three months; and may, in addition thereto, be punished by the proper court for contempt.

Art. 261. [245] Any officer such as is enumerated in the preceding article who shall fail or refuse to turn over to his successor in office, on the expiration of his own term of office, the record of trust funds therein specified, together with the packages of money or other articles in his possession or control, shall be punished as prescribed in the preceding article.

Failing to turn over funds, etc., to successor. (Act May 19, 1876, p. 7.)

III. PECULATION.

Art. 262. [246] Any officer of this state who shall trade for, buy or be in any way concerned in the purchase of any claim or demand against the state shall be fined in the sum of one thousand dollars.

State officer buying claims against state. (Act May 3, 1873, p. 62.)

Art. 263. [247] By the term "officer of this state" as used in the preceding article is meant the governor, lieutenant-governor, the heads or employes of any of the executive departments, members and officers of both houses of the legislature, the judges of the several courts, district and county attorneys, sheriffs, tax collectors and tax assessors.

"State officer" defined.

Art. 264. [248] Any officer of any county in this state or of any city or town therein who shall contract directly or indirectly or become in any way interested in any contract for the purchase of any draft or order on the treasurer of such county, city or town, or for any jury certificate or any other debt, claim or demand for which said county, city or town may or can in any event be made liable, shall be punished by a fine of not less than ten nor more than twenty times the amount of the order, draft, jury certificate, debt, claim or liability so purchased or contracted for.

County or city officer trading in claims. (Act March 30, 1874, p. 47.)

Art. 265. [249] Within the term "officer" as used in the preceding article are included ex-officers until they have made a final settlement of their official accounts.

Ex-officers included, when. (Act March 30, 1874, p. 47.)

Art. 266. [250] If any officer of any county in this state or of any city or town therein shall become in any manner pecuniarily interested in any contracts made by such county, city or town, through its agents or otherwise, for the construction or repair of any bridge, road, street, alley or house, or any other work undertaken by such county, city or town, or shall become interested in any bid or proposal for such work or in the purchase or sale of anything made for or on account of such county, city or town, or who shall contract for or receive any money or property, or the representative of either, or any emolument or advantage whatsoever in consideration of such bid, proposal, contract, purchase or sale, he shall be fined in a sum not less than fifty nor more than five hundred dollars.

County or city officers becoming interested in contracts. (Act March 30, 1874, p. 47.)

Art. 267. [251] Any county judge, clerk or deputy clerk of any district or county court, sheriff or his deputy, justice of the peace or constable, who shall purchase or otherwise acquire from the party interested any fee or fees coming to any witness in any proceeding

Purchase of witness fees by officer. (Act Feb. 12, 1858; p. 164.) P. C. 354b.

whatever, either before the district or county court, or the court of any justice of the peace, or before any coroner's inquest, shall be punished by fine not exceeding one hundred dollars.

IV. FAILURE OF DUTY.

Officer refusing to issue or execute process, etc.
P. C. 348.

Art. 268. [252] Whenever any officer who is by law charged with the issuance or execution of process, either in civil or criminal actions, corruptly and willfully refuses to issue or execute such process, or corruptly or willfully refuses to perform any other duty enjoined upon him by law, he shall, when the act or omission is not otherwise provided for or punished, be deemed guilty of a misdemeanor, and shall be fined not exceeding five hundred dollars, and may in the discretion of the jury be imprisoned in the county jail not exceeding one year.

Failure to arrest offender.
P. C. 354.

Art. 269. [253] If any justice of the peace, sheriff or other peace officer shall willfully neglect to return, arrest or prosecute any person committing a breach of the peace or other crime or misdemeanor, which has been committed within his view or knowledge, or shall willfully and knowingly absent himself from any place where such crime or misdemeanor is being committed, or is about to be committed, for the purpose of avoiding seeing or having a knowledge of the same, he shall be guilty of a misdemeanor, and on conviction shall be fined not less than seventy-five dollars nor more than five hundred dollars.

Officers of old county failing to deliver records to new.
(Act May 1, 1874, p. 188.)

Art. 270. [254] Any district or county clerk, sheriff, justice of the peace, county treasurer or surveyor, or any other officer of a county to which some other unorganized or disorganized county is attached for judicial or other purposes, who shall fail, neglect or refuse to turn over to the proper officers of such unorganized or disorganized county, on demand, and after the organization of such unorganized or disorganized county, and the qualification of its officers, all books, records, maps, and all other property belonging to said county so organized, that may be in his possession, shall be fined in a sum not less than one hundred nor more than one thousand dollars, or be confined in the county jail for a period not exceeding one year.

Approval of bond when security is non-resident.
(Act April 14, 1874, p. 93.)

Art. 271. [255] Any officer whose duty it may be to pass upon and approve the official bond of a sheriff, or other county officer, who shall approve such bond, when any surety thereon is not a resident of the county of such sheriff or other officer, shall be punished by fine not less than one hundred nor more than five hundred dollars.

Officer failing to report collections for state.
(Act May 1, 1874, p. 182.)

Art. 272. [256] Any district attorney, sheriff, deputy sheriff, constable, or other officer, whose duty it may be to collect money, other than taxes, for the use of the state, who shall fail to report to the district court of his county, in writing and under oath, on the first day of each term thereof, the amount of money that may have come into his hands for the use of the state since the last term of said court, from whom the same was collected, and by virtue of what process, shall be punished by fine not less than twenty nor more than two hundred dollars.

Officer failing to report collections for county.
(Act May 1, 1874, p. 182.)

Art. 273. [257] Any officer such as is named in the preceding article, whose duty it may be to collect money, other than taxes, for the use of any county, who shall fail to report in writing, and under oath, to the commissioners' court of such county at each regular term

thereof, the amount of money that may have come into his hands for the use of such county since the last term of said court, from whom the same was received, and by virtue of what process, shall be punished as prescribed in the preceding article.

Art. 274. [258] Any town or city marshal, or constable, or other officer or person who may collect money, other than taxes, for the use of such town or city, who shall fail to report in writing, and under oath, to the mayor and board of aldermen, or common council, of such town or city, on the first Monday of each month, the amount of money that may have come into his hands during the month preceding such report, for the use of such town or city, from whom the same was collected, and by virtue of what process, shall be punished as prescribed in article 272.

Town or city officer failing to report collections. (Act May 1, 1874, p. 182.)

Art. 275. [1081a] Justices of the peace shall report to the county clerk, on the first Monday in each month, the names of the persons who have served as jurors in his court for the preceding month, and the number of days and fractions of days that they have served respectively, and the number of cases in which they have served respectively on each of said days or fractional days, and it shall be the duty of the county clerk to issue his warrant against the county treasurer in favor of each of the persons so serving as jurors. Every justice failing to make and file such report shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than twenty-five nor more than two hundred and fifty dollars.

Justices shall report jury service, etc. (Act March 15, 1881, p. 32, §2.)

Art. 276. [259] If the commissioners' court of any county in this state shall willfully fail, neglect or refuse to make, or cause to be made, a tabular statement of the assets, expenditures and indebtedness of such county at each regular term of the said court, specifying therein the names of creditors and the items of indebtedness, with their respective dates of accrual, and also the names of persons to whom moneys have been paid, with the amounts paid each during the quarter for which such statement is prepared, or shall willfully fail, neglect or refuse to publish an exhibit showing the aggregate receipts and disbursements of each separate fund for the quarter in some newspaper published in the county (or if there be no newspaper, then by posting such exhibit in at least four public places in the county), immediately after the first regular term in each calendar year, or shall willfully fail, neglect or refuse to post such exhibit made at the third regular meeting of said court in each calendar year, at the court house door, and at least three other public places in the county, the members of the court so failing, neglecting or refusing shall be fined in any sum not less than twenty nor more than one hundred dollars.

Commissioners' court failing to make a tabular statement, etc. (Amended by act April 13, 1891, p. 91.)

Art. 277. [259a] Should any member of the county commissioners' court of any county in this state willfully fail or refuse to attend any regular meeting or term of said court at which the business or question of levying a county tax for any purpose is to be acted on, he shall be guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than two hundred nor more than five hundred dollars.

Commissioners failing to attend court. (Act March 25, 1885, p. 51.)

Art. 278. [260] If any county treasurer in this state shall fail, neglect or refuse to furnish to the commissioners' court of his county, upon demand, a tabular statement of the amount of county funds by him received from any given time, the amount on hand, the amounts paid out, to whom paid, on what account, from what fund taken,

County treasurer failing to report. (Act March 8, 1873, p. 14.)

and the kinds of funds received and disbursed, he shall be fined in any sum not less than one hundred nor more than five hundred dollars, and, in addition thereto, he may be punished for contempt by said commissioners' court.

Clerk failing to keep indexes. (Act June 21, 1876, p. 25.)

Art. 279. [261] Any clerk of the county or district court in this state who shall fail to provide and keep in his office as part of the records thereof, well-bound alphabetical indexes and cross-indexes of the names of the parties to all suits disposed of or pending in his court, together with a reference opposite each party's name to the page of the minute book upon which is entered the final judgment in each case, shall be punished by fine not less than fifty nor more than one hundred dollars for each offense. Each month's failure shall constitute a separate offense.

Clerk permitting withdrawal of deeds when records are burned. (Act Aug. 21, 1876, p. 252.)

Art. 280. [262] If the clerk of the county court of any county in this state the land records or records of titles in which have been burned or otherwise destroyed, or any deputy of such clerk, shall permit any deed filed for record in his office to be withdrawn within twelve months after the same is filed, he shall be fined not less than one hundred nor more than five hundred dollars, and may in addition thereto be imprisoned in the county jail for a period of time not to exceed one year.

To what deeds not applicable. (Act Aug. 21, 1876, p. 252.)

Art. 281. [263] The preceding article shall not apply to deeds executed or purporting to have been executed subsequent to the destruction of such land records or records of titles:

County judge practicing in inferior courts. (Act Aug. 19, 1876, p. 616.)

Art. 282. [264] Any county judge in this state who shall practice, or offer or attempt to practice as an attorney or counselor at law in any county court or court of a justice of the peace, shall be fined not less than one hundred nor more than five hundred dollars.

May practice law in certain counties. (Acts 1879, extra session, ch. 16.)

Art. 283. [1136] County judges in those counties wherein the civil or criminal jurisdiction of the county courts has been or may hereafter be diminished, shall have the right to practice as attorneys in all justices' and county courts in cases wherein the courts over which they preside have neither original nor appellate jurisdiction, provided they are licensed lawyers.

Issuing marriage license to minor, etc. (Act Feb. 11, 1860, p. 101.) P. C. 791a.

Art. 284. [265] If the clerk of any county court or other officer authorized by law to issue a license for marriage shall, without the consent of the parent or guardian of the party applying, issue a marriage license to a male person under the age of twenty-one years, or to a female under the age of eighteen years, he shall be fined not exceeding one thousand dollars.

Father's consent sufficient when. (Act Feb. 12, 1858, p. 186.) P. C. 791b.

Art. 285. [266] Where both parents of any minor may be alive, the consent of the father alone shall be sufficient to authorize the issuance of license to the minor.

Surveyor failing to return corrected field-notes. (Act Oct. 24, 1871, p. 12.)

Art. 286. [267] If any district or county surveyor in this state, who has been paid his fees for making and recording a survey, shall fail or unnecessarily delay to correct the field-notes of such survey, upon the request of the commissioner of the general land office, or of the party interested, and return the same to the general land office when such field-notes have been returned to him by such commissioner for correction, shall be fined in a sum not less than double nor more than four times the amount of the fees originally paid him for such survey.

Surveyor failing or refusing to make survey on homestead application, etc. (Act May 26, 1873, p. 102.)

Art. 287. [268] Any district or county surveyor who shall fail or refuse to make a survey upon a homestead application within one month after such application is made, or who shall fail to record the field-notes of such survey and forward certified copies thereof and

all other papers relating thereto to the general land office within one month after such survey is made, or who shall fail to correct any field-notes of such surveys that may be returned to him for correction by the commissioner of the general land office, within ten days after receipt thereof, or who shall charge, demand or receive higher fees than those allowed by law for making, recording and certifying to such survey, shall be fined not less than ten and not more than one hundred dollars for each offense.

Art. 288. [269] No surveyor shall be punishable criminally for a failure or refusal to make a survey upon a homestead application, or for a failure to record and return the field-notes of any such survey, unless the fees allowed by law for such services shall have been first tendered him.

Not applica-
ble, when.

Art. 289. [270] If any surveyor or other person shall, without authority of law, willfully destroy, deface, alter or change any established line, corner or line or bearing tree of any legal survey, or shall willfully make any new line or corner on any established legal survey, without authority of law, he shall be fined not less than one hundred nor more than five hundred dollars.

Surveyor will-
fully altering
lines.
(Act May 4,
1874, p. 220.)

Art. 289a. Upon receiving said application (provided for in article 3498e of the Revised Statutes) and fee the surveyor shall record the application, together with the affidavit, and he shall thereupon forthwith proceed to survey said claim, and forward the field notes to the commissioner of the general land office within thirty days after filing the application, in default of which he shall pay the aggrieved party such damages as he may sustain, and in addition thereto shall be deemed guilty of a misdemeanor, and on conviction fined not less than twenty dollars nor more than one hundred dollars, and it shall be the duty of the applicants to see that the field notes are so returned.

Failure of
surveyor to
survey mining
claim.
(Act 1895, p.
198.)

Art. 289b. The trustees (district school trustees contemplated in article 3964 of the Revised Statutes) are hereby authorized and empowered to administer all oaths necessary to obtain a full, complete, and correct census of all children residing in their respective districts; and said trustees may require each parent, guardian, or other person having in charge any child or children to answer, under oath, as to the names and ages of such child or children, and any person refusing to answer such questions, under oath, shall be guilty of a misdemeanor, and on conviction thereof shall be fined not less than five nor more than twenty-five dollars.

Parents, etc.,
refusing to
answer ques-
tions of
school
trustees.
(Act 1893, p.
199.)

V. BARRATRY.

Art. 290. [271] If any person shall willfully instigate, maintain, excite, prosecute or encourage the bringing of any suit or suits at law or equity, in any court in this state, in which such person has no interest, with the intent to distress or harass the defendant therein, or shall willfully bring or prosecute any false suit or suits at law or equity, of his own, with the intent to distress or harass the defendant therein, he shall be deemed guilty of barratry, and shall be fined in any sum not exceeding five hundred dollars, and in addition thereto may be imprisoned in the county jail not exceeding one year.

"Barratry"
defined and
punished.
(Act Aug. 21,
1876, p. 227.)

VI. COMPOUNDING CRIME.

Art. 291. [272] If any person has knowledge that an offense against the penal laws of this state has been committed, and shall

Agreeing with
offenders not
to prosecute.

agree with the offender, either directly or indirectly, not to prosecute or inform on him in consideration of money or other valuable things paid, delivered or promised to him by such offender, or other person for him, he shall be fined not less than one hundred nor more than one thousand dollars.

VII. MALICIOUS PROSECUTION.

"Malicious prosecution" defined and punished.

Art. 292. [273] If any person in this state, for the purpose of extorting money from another, or the payment or security of a debt due him by such other person, or with intent to vex, harass or injure such person, shall institute or cause to be instituted, any criminal prosecution against such other person, he shall be deemed guilty of malicious prosecution, and, upon conviction, shall be fined not less than one hundred nor more than one thousand dollars, or be imprisoned in the county jail not less than one month nor more than one year.

VIII. FALSE PERSONATION.

Falsely pretending to be an officer. (Act Nov. 12, 1866, p. 201.)

Art. 293. [274] Any person who shall falsely assume or pretend to be a judicial or executive officer of this state, or a justice of the peace, sheriff, deputy sheriff, constable or any other judicial or ministerial officer of any county in the state, and shall take upon himself to act as such, shall be punished by imprisonment in the county jail for a term not exceeding six months, or by fine not exceeding five hundred dollars.

IX. GENERAL PROVISIONS.

Willful neglect of official duty. (Act May 26, 1864, pp. 7, 8.) P. C. 348a.

Art. 294. [275] If any officer of the law shall willfully or negligently fail to perform any duty imposed on him by the Penal Code or Code of Criminal Procedure he shall, when the act or omission is not otherwise defined, be deemed guilty of a misdemeanor and be punished as prescribed in the succeeding article.

General penalty, in the absence of any other. (Act March 5, 1863, p. 12.) P. C. 349.

Art. 295. [276] Whenever, in the Penal Code or Code of Criminal Procedure, it is declared that an officer is guilty of an offense on account of any particular act or omission, and there is not in the Penal Code any punishment assigned for the same, such officer shall be deemed guilty of a misdemeanor and shall be fined not exceeding two hundred dollars.

Malfeasance, when not otherwise designated. P. C. 350.

Art. 296. [277] All offenses committed by officers of the law, when not otherwise designated, are known under the general term of malfeasance in office.

"Officer" defined. P. C. 351.

Art. 297. [278] By an "officer of the law" as used in the preceding article is meant any magistrate, peace officer or clerk of a court.

Sheriff failing to make report to adjutant-general. (Act March 25, 1887, p. 44.)

Art. 298. [278a] 1. Hereafter it shall be the duty of each sheriff in this state, upon the close of any regular term of the district court in his county, or within thirty days thereafter, to make out and forward by mail to the adjutant-general of this state a certified list of all persons who, after indictment for a felony, have fled from said county. Such lists shall contain the full name of each of such fugitives, with a description giving his age, height, weight, color and occupation, the complexion of skin and the color of eyes and hair, and any peculiarities in person, speech, manner or gait that may serve

to identify such fugitive, so far as the sheriff may be able to give them, and shall state the offense with which such person is charged.

2. The adjutant-general shall prescribe, have printed and forward to the sheriffs of the several counties the necessary blanks upon which are to be made the lists herein required.

3. Any sheriff in this state failing or refusing to make out and forward said certified lists within the time and according to the forms herein provided for shall be deemed guilty of official misconduct, and upon conviction shall be fined not less than ten nor more than one hundred dollars.

TITLE IX.

Of Offenses Against the Public Peace.

CHAPTER ONE.

UNLAWFUL ASSEMBLIES.

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"Unlawful assembly" defined.
P. C. 355.

Article 299. [279] An "unlawful assembly" is the meeting of three or more persons with intent to aid each other by violence or in any other manner either to commit an offense or illegally to deprive any person of any right, or to disturb him in the enjoyment thereof.

To prevent elections.
P. C. 356.

Art. 300. [280] If the purpose of the unlawful assembly is to prevent the holding of any public election, or to prevent any particular person or number of persons from voting at a public election, the punishment shall be that which is prescribed in article 166.

To prevent execution of law, etc.
P. C. 357.

Art. 301. [281] If the purpose of the unlawful assembly be to oppose or prevent the execution or enforcement of any law of the state, or the lawful decree or judgment of a court in a civil action, the punishment shall be a fine not exceeding five hundred dollars.

To effect the rescue of capital felon.
P. C. 358.

Art. 302. [282] If the purpose of the unlawful assembly be to effect the rescue of a prisoner lawfully convicted of a capital offense, the punishment shall be a fine not exceeding one thousand dollars.

To effect the rescue of a felon.
P. C. 359.

Art. 303. [283] If the purpose of the unlawful assembly be to effect the rescue of any person lawfully convicted of a felony less than capital, the punishment shall be a fine not exceeding five hundred dollars.

To rescue one accused of capital felony.
P. C. 360.

Art. 304. [284] If the purpose of the unlawful assembly be to rescue any person arrested or imprisoned for a capital offense before trial, the punishment shall be a fine not exceeding five hundred dollars.

To rescue one accused of lesser felony.
P. C. 361.

Art. 305. [285] If the purpose of the unlawful assembly be to rescue any person lawfully arrested or imprisoned for any felony less than capital, the punishment shall be a fine not exceeding three hundred dollars.

To rescue one accused of misdemeanor.
P. C. 362.

Art. 306. [286] If the purpose of the unlawful assembly be to rescue a person accused of a misdemeanor, the punishment shall be a fine not exceeding two hundred dollars.

To prevent the sitting of any tribunal.
P. C. 362a.

Art. 307. [287] If the purpose of the unlawful assembly be to prevent or oppose the sitting of any lawful court, board of arbitrators or referees, the punishment shall be a fine not exceeding one thousand dollars.

- Art. 308. [288] If the purpose of the unlawful assembly be to prevent the collection of taxes, or other money due the state, the punishment shall be a fine not exceeding five hundred dollars. To prevent the collection of taxes. P. C. 363.
- Art. 309. [289] If the purpose of the unlawful assembly be to prevent any person from pursuing any labor, occupation or employment, or to intimidate any person from following his daily avocation, or to interfere in any manner with the labor or employment of another, the punishment shall be by fine not exceeding five hundred dollars. To prevent any person from pursuing his labor.
- Art. 310. [290] If the purpose of the unlawful assembly be to alarm and frighten any person by appearing in disguise, so that the real persons so acting and assembling cannot be readily known, and by using language or gestures calculated to produce in such person the fear of bodily harm, the punishment shall be by fine not exceeding five hundred dollars. To frighten any one by disguise. (Act Nov. 6, 1871, p. 19.) P. C. 363a.
- Art. 311. [291] If the purpose of the unlawful assembly be to repair to the vicinity of any residence, and to disturb the inmates thereof by loud, unusual or unseemly noises, or by the discharge of fire-arms, the punishment shall be by fine not exceeding five hundred dollars. A residence may be either a public or private house. To disturb families.
- Art. 312. [292] If the purpose of the unlawful assembly be to effect any illegal object other than those mentioned in the preceding articles of this chapter, all persons engaged therein shall be liable to fine not exceeding two hundred dollars. To effect any other illegal object. P. C. 364.
- Art. 313. [293] No public meeting for the purpose of exercising any political, religious or other lawful rights, no assembly for the purpose of lawful amusement or recreation, is within the meaning of this chapter. Lawful meetings not included. P. C. 365.
- Art. 314. [294] Where the persons engaged in any unlawful assembly met at first for a lawful purpose, and afterward agreed upon an unlawful purpose, they are equally guilty of the offense defined in article 299. Lawful meetings included, if unlawful purpose is afterward agreed on. P. C. 376.

CHAPTER TWO.

RIOTS.

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316	326
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Rescue of felon less than capital.....	328
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321	Indictment, requisites of.....
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322	Duty of officers in case of riot.....
Misdemeanor	332
323	
Preventing any person from labor.....	
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Article 315. [295] If the persons unlawfully assembled together do or attempt to do any illegal act, all those engaged in such illegal act are guilty of riot. "Riot" defined. P. C. 366.

Art. 316. [296] If the purpose of a riot be to prevent the collection of taxes or other money due the state, any person engaged therein shall be punished by fine not less than two hundred dollars and not exceeding one thousand dollars, although the purpose of the riot be not effected; and if such illegal purpose be effected, in addition thereto, imprisonment in the county jail not exceeding two years may be added. To prevent collection of taxes. P. C. 367.

- Execution of law. P. C. 368. Art. 317. [297] If any person, by engaging in a riot, shall prevent the execution or enforcement of any law of the state, or the lawful decree or judgment of any court in a civil cause, he shall be punished by imprisonment in the county jail not exceeding two years, and by fine not less than two hundred nor more than one thousand dollars.
- Rescue of felon under sentence of death. P. C. 369. Art. 318. [298] If any person, by engaging in a riot, shall rescue another lawfully convicted or under lawful sentence of death, he shall be punished by imprisonment in the penitentiary not less than five nor more than ten years.
- Rescue of felon, less than capital. P. C. 370. Art. 319. [299] If any person, by engaging in a riot, shall rescue any prisoner lawfully convicted of felony less than capital, or lawfully under sentence for such offense, he shall be punished by imprisonment in the penitentiary not less than two nor more than seven years.
- Rescue of one convicted of misdemeanor. Art. 320. [300] If any person, by engaging in a riot, shall rescue any prisoner lawfully convicted of a misdemeanor, he shall be punished by imprisonment in the county jail not less than six months nor more than two years.
- Rescue of one imprisoned for capital felony. P. C. 371. Art. 321. [301] If any person, by engaging in a riot, shall rescue any prisoner lawfully arrested or imprisoned for a capital felony, he shall be punished by confinement in the penitentiary not less than two nor more than seven years.
- Felony less than capital. (Act Feb. 12, 1858, p. 164.) P. C. 372. Art. 322. [302] If any person, by engaging in a riot, shall rescue any prisoner lawfully arrested or imprisoned for a felony less than capital, he shall be punished by confinement in the penitentiary not less than two nor more than seven years.
- Misdemeanor. Art. 323. [303] If any person, by engaging in a riot, shall rescue any prisoner lawfully arrested or imprisoned for a misdemeanor, he shall be punished by confinement in the county jail not less than six nor more than twelve months.
- Preventing any person from labor. Art. 324. [304] If any person, by engaging in a riot, shall prevent any other person from pursuing any labor, occupation or employment, or intimidate any other person from following his daily avocation, or interfere in any manner with the labor or employment of another, he shall be punished by confinement in the county jail not less than six months nor more than one year.
- Disturbing residence. Art. 325. [305] If any person, by engaging in a riot, shall disturb the inmates of any residence by loud, unusual or unseemly noises, or by the discharge of fire-arms in the immediate vicinity of such residence, he shall be punished by fine not less than fifty nor more than five hundred dollars. A residence may be either a public or private house.
- Committing any other illegal act. P. C. 373. Art. 326. [306] If any person, by engaging in a riot, shall commit any illegal act other than those mentioned in the ten preceding articles, he shall, in addition to receiving the punishment affixed to such illegal act by other provisions of this code, be also punished by confinement in the county jail not exceeding one year, or by fine not exceeding one thousand dollars.
- Half penalty when object not accomplished. P. C. 374. Art. 327. [307] When the purpose of the riot was to effect any of the illegal acts mentioned in the preceding articles of this chapter, and such unlawful object is not effected, the punishment may, in the discretion of the jury, be diminished to half the penalty affixed to such riot where the illegal purpose was effected.
- All participants guilty. P. C. 375. Art. 328. [308] A person engaged in any riot, whereby an illegal act is committed, shall be deemed guilty of the offense of riot, ac-

ording to the character and degree of such offense, whether the said illegal act was in fact perpetrated by him, or by those with whom he is participating.

Art. 329. [309] Where the assembly was at first lawful, and the persons so assembled afterward agree to join in the commission of an act which would amount to riot, if it had been the original purpose of the meeting, all those who do not retire when the change of purpose is known are guilty of riot.

Where assembly was at first lawful. P. C. 377.

Art. 330. [310] Any one person engaged in an unlawful assembly or riot may be prosecuted and convicted before the others are arrested, but the indictment or information must state, and it must be proved on the trial, that three or more persons were assembled, and their names given, if known; if not known, it must be so alleged.

One may be prosecuted before others are arrested. P. C. 378.

Art. 331. [311] The indictment or information must likewise state the illegal act which was the object of the meeting, or which they proceeded to do, if the assembly was originally lawful.

Indictment, requisites of. P. C. 379.

Art. 332. [312] If any persons shall be unlawfully or riotously assembled together, it shall be the duty of any magistrate or peace officer, so soon as it may come to his knowledge, to go to the place of such unlawful or riotous assembly and command the persons assembled to disperse; and all who continue so unlawfully assembled, or engaged in a riot, after being warned to disperse, shall be punished by the addition of one-half the penalty to which they would otherwise be liable, if no such warning had been given.

Duty of officers in case of riot. P. C. 380.

CHAPTER THREE.

AFFRAYS AND DISTURBANCES OF THE PEACE.

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"Public place" defined..... 335	

Article 333. [313] If any two or more persons shall fight together in a public place, they shall be punished by fine not exceeding one hundred dollars.

"Affray" defined. O. C. 381.

Art. 334. [314] If any person shall go into or near any public place, or into or near any private house, and shall use loud and vociferous or obscene, vulgar or indecent language, or swear or curse, or yell or shriek, or expose his person, or rudely display any pistol or other deadly weapon, in a manner calculated to disturb the inhabitants of such public place or private house, he shall be fined in any sum not exceeding one hundred dollars.

Disturbance of the peace. (Amended by Act Feb. 19, 1883, p. 12.)

Art. 335. [315] A public place within the meaning of the two preceding articles, is any public road, street or alley of a town or city, or any inn, tavern, store, grocery or workshop, or place at which people are assembled, or to which people commonly resort for purposes of business, amusement, recreation or other lawful purpose.

"Public place" defined. (Amended by Act Feb. 19, 1883, p. 12.)

Art. 336. [316] If any person shall discharge any gun, pistol, or fire-arms of any description, on or across any public square, street or alley in any city, town or village in this state, he shall be fined in a sum not exceeding one hundred dollars.

Shooting in public place. (Act Nov. 12, 1886, p. 210.)

Horse racing on public road and street. (Act May 19, 1873, pp. 83, 84.)

Art. 337. [317] Any person who shall run, or be in any way concerned in running any horse race in, along or across any public square, street or alley in any city, town or village, or in, along or across any public road within this state, shall be fined in a sum not less than twenty-five nor more than one hundred dollars.

CHAPTER FOUR.

UNLAWFULLY CARRYING ARMS.

	Article		Article
Unlawfully carrying arms.....	338	Not applicable, to whom.....	341
Not applicable, when and to whom.....	339	Arrest without warrant; officer failing to arrest, punishable	342
Carrying arms in church or other assembly	340	Not applicable to frontier counties.....	343

Unlawfully carrying arms. (Amended by Act Jan. 30, 1839.)

Article 338. [318] If any person in this state shall carry on or about his person, saddle, or in his saddle-bags, any pistol, dirk, dagger, slung-shot, sword-cane, spear, or knuckles made of any metal or any hard substance, bowie-knife, or any other knife manufactured or sold for purposes of offense or defense, he shall be punished by fine of not less than twenty-five nor more than two hundred dollars, or by imprisonment in the county jail not less than ten nor more than thirty days, or both, by such fine and imprisonment; and during the time of such imprisonment such offender may be put to work upon any public work in the county in which said offense is committed.

Not applicable when and to whom. (Act April 12, 1871, p. 25.)

Art. 339. [319] The preceding article shall not apply to a person in actual service as a militiaman, nor to a peace officer or a 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 arms in church or other assembly. (Act April 12, 1871, p. 25.)

Art. 340. [320] If any person shall go into any 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 state are collected to vote at any election, or to any other place where people may be assembled to muster, or perform any other public duty, or to any other public assembly, and shall have or carry about his person a pistol or other fire-arm, 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 and defense, he shall be punished by fine not less than fifty nor more than five hundred dollars.

Not applicable to whom. (Act April 12, 1871, p. 25.)

Art. 341. [321] The preceding article shall not apply to peace officers or other persons authorized or permitted by law to carry arms at the places therein designated.

Arrest without warrant. Officer failing punished. (Act April 12, 1871, p. 26.)

Art. 342. [322] Any person violating any of the provisions of articles 338 and 340 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 fine not exceeding five hundred dollars.

Art. 343. [323] The provisions of this chapter shall not apply to or be enforced in any county which the governor may designate by proclamation as a frontier county and liable to incursions by hostile Indians.

Not applicable to frontier counties. (Act April 12, 1871, p. 26.)

TITLE X.

Offenses Against Public Morals, Decency and Chastity.

CHAPTER ONE.

UNLAWFUL MARRIAGES.

	Article		Article
"Bigamy" defined	344	"Negro" and "white person" defined.....	347
Preceding article not applicable, when..	345	Proof of marriage.....	348
Intermarriage of whites and blacks....	346		

"Bigamy" defined. (Amended by Act March 23, 1887, p. 37.) O. C. 384. Article 344. [324] If any person who has a former wife or husband living shall marry another in this state, such person shall be punished by imprisonment in the state penitentiary for a term not less than two nor more than five years.

Preceding article not applicable, when. O. C. 385. Art. 345. [325] The provisions of the preceding article shall not extend to any person whose husband or wife shall have been continually remaining out of the state, or shall have voluntarily withdrawn from the other and remained absent for five years, the person marrying again not knowing the other to be living within that time; nor shall the provisions of said article extend to any person who has been legally divorced from the bonds of matrimony.

Intermarriage of whites and blacks. O. C. 386. Art. 346. [326] If any white person and negro shall knowingly intermarry with each other within this state, or having so intermarried, in or out of the state, shall continue to live together as man and wife within this state, they shall be punished by confinement in the penitentiary for a term not less than two nor more than five years.

Negro and white person defined. Art. 347. [327] The term "negro" as used in the preceding article includes also a person of mixed blood descended from negro ancestry from the third generation, inclusive, although one ancestor of each generation may have been a white person. All persons not included in the definition of "negro" shall be deemed a white person within the meaning of this article.

Proof of marriage. Art. 348. [328] In trials for the offenses named in the preceding articles of this chapter proof of marriage by mere reputation shall not be sufficient.

CHAPTER TWO.

INCEST.

Punishment	Article 349	Relationship, how proved; proof of marriage unnecessary	Article 352
Certain marriages prohibited.....	350		
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Article 349. [329] All persons who are forbidden to marry by the succeeding articles, who shall intermarry or carnally know each other, shall be punished by imprisonment in the penitentiary not less than two nor more than ten years. Punishment.

Art. 350. [330] No man shall marry his mother, his father's sister or half-sister, his mother's sister or half-sister, his daughter, the daughter of his father, mother, brother or sister, or of his half-brother or sister, the daughter of his son or daughter, his father's widow, his son's widow, his wife's daughter, or the daughter of his wife's son or daughter. Certain marriages prohibited.

Art. 351. [331] No woman shall marry her father, her father's brother or half-brother, her mother's brother or half-brother, her own brother or half-brother, her son, the son of her brother or sister, or of her half-brother or half-sister, the son of her son or daughter, her mother's husband after the death of her mother, her daughter's husband after the death of her daughter, her husband's son, the son of her husband's son or daughter. Same subject.

Art. 352. [332] Upon a trial for incest, the fact of the relationship between the parties may be proved in the manner in which that fact is established in civil suits, and proof of cohabitation or carnal knowledge shall be in all cases sufficient, without proof of marriage. Relationship, how proved; proof of marriage unnecessary.

CHAPTER THREE.

OF ADULTERY AND FORNICATION.

"Adultery" defined	Article 353	Punishment for adultery.....	Article 356
Proof of marriage.....	354	"Fornication" defined	357
Both parties guilty.....	355	Punishment for fornication.....	358

Article 353. [333] Adultery is the living together and carnal intercourse with each other, or habitual carnal intercourse with each other, without living together, of a man and woman when either is lawfully married to some other person. "Adultery" defined.

Art. 354. [334] The proof of marriage in such cases may be made by the production of the original marriage license and return thereon, or a certified copy thereof, or by the testimony of any person who was present at such marriage, or who has known the husband and wife to live together as married persons. Proof of marriage.

Art. 355. [335] When the offense of adultery has been committed, both parties are guilty, although only one of them may be married. Both parties guilty.

Art. 356. [336] Every person guilty of adultery shall be punished by fine not less than one hundred nor more than one thousand dollars. Punishment for adultery. (Act Feb. 12, 1853, p. 165.) P. C. 392.

"Fornication" defined.

Art. 357. [337] Fornication is the living together and carnal intercourse with each other, or habitual carnal intercourse with each other without living together, of a man and woman, both being unmarried.

Punishment for fornication.

Art. 358. [338] Every person guilty of fornication shall be punished by fine not less than fifty nor more than five hundred dollars.

CHAPTER FOUR.

DISORDERLY HOUSES.

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"Disorderly house" defined.....	359	Further defined	362
Includes any room, etc.....	360	Officers, their duties.....	363
Punishment for keeping.....	361		

"Disorderly house" defined. (Amended by Act April 4, 1889, p. 33.)

Article 359. [339] A disorderly house is one kept for prostitution, or where prostitutes are permitted to resort or reside for the purpose of plying their vocation, or any theater, play house or house where spirituous, vinous or malt liquors are kept for sale, and prostitutes, lewd women or women of bad reputation for chastity are employed, kept in service or permitted to display or conduct themselves in a lewd, lascivious or indecent manner, or to which persons resort for the purpose of smoking or in any manner using opium.

Includes any room, etc.

Art. 360. [340] Any room or part of a building or other place appropriated or used for either of the purposes above enumerated is a disorderly house within the meaning of this chapter.

Punishment for keeping, or owner of the house having information that his house is being kept or used, etc. (Amended by Act April 4, 1889, p. 33.)

Art. 361. [341] Any owner, lessee or tenant who shall keep or be concerned in keeping, or knowingly permit the keeping of a disorderly house in any house, building, edifice or tenement owned, leased or occupied by him, shall be deemed guilty of keeping or being concerned in keeping, or knowingly permitting to be kept, as the case may be, a disorderly house, and shall be punished by a fine of two hundred dollars for each day he shall keep, be concerned in keeping, or knowingly permit to be kept, such disorderly house. Any owner having information that his house is being kept, used or occupied as a disorderly house shall be held guilty of knowingly permitting his house to be kept as a disorderly house under this chapter unless he shall immediately proceed to prevent the keeping, using or occupying of such house for such purpose, by giving such information to the county or district attorney against such lessee, tenant or occupant for violation of this article, or take such other action as may reasonably accomplish such result.

"Disorderly house" further defined. (Act April 4, 1889, p. 33.)

Art. 362. [341a] Every owner, lessee, tenant or manager of any theater, dance house, play house or house where spirituous, vinous or malt liquors are kept for sale, who shall knowingly employ or have in service in any capacity in such theater, play house or house where spirituous, vinous or malt liquors are kept for sale, any prostitute, lewd woman or woman of bad reputation for chastity to display or conduct herself therein in a lewd, lascivious or indecent manner, shall be deemed guilty of keeping a disorderly house, and shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars. Each day that such person is kept in service or employed or permitted to display or conduct herself as hereinbefore provided, shall be deemed a separate offense.

Art. 363. [341b] Sheriffs and their deputies, constables and their deputies, mayors, marshals, chiefs of police, their deputies and assistants, and policemen of towns and cities are especially charged diligently to discover and report to the proper legal authorities, and by all lawful means to aid in the enforcement of the law for all violations of the articles of this chapter; the district judges are required to give them specially in charge to the grand juries, and grand juries are required at every term of the district court of their county to call before them each and all officers charged with the enforcement of the articles of this chapter and examine them under oath touching their knowledge and information of violations thereof, and as to their diligence in their enforcement.

Sheriffs and other officers, district judges and grand juries, their duties in the premises. (Act April 4, 1889, p. 33.)

CHAPTER FIVE.

MISCELLANEOUS OFFENSES.

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"Sodomy" defined and punished.....	364	Desecration of graves.....	366
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Article 364. [342] If any person shall commit with mankind or beast the abominable and detestable crime against nature, he shall be deemed guilty of sodomy, and on conviction thereof he shall be punished by confinement in the penitentiary for not less than five nor more than fifteen years.

"Sodomy" defined and punished. (Act Feb. 11, 1860, p. 97.)

Art. 365. [343] If any person shall make, publish or print any indecent and obscene print, picture or written composition, manifestly designed to corrupt the morals of youth, or shall designedly make any obscene and indecent exhibition of his own or the person of another, in public, he shall be fined not exceeding one hundred dollars.

Indecent publications and exposures.

Art. 366. [344] If any person shall wrongfully destroy, mutilate, deface, injure or remove any tomb, monument, gravestone or other structure in any place used or intended for the burial of the dead, or any fence, railing or curb for the protection of such structure, or any inclosure for any such place of burial, or shall wrongfully injure, cut, remove or destroy any tree or shrub growing within any such inclosure, he shall be punished by imprisonment in jail not exceeding six months, or by fine not exceeding five hundred dollars.

Desecration of grave. (Act Feb. 12, 1858, p. 166.)

Art. 367. [345] If any person not authorized by law, or by a relative or friend, for the purpose of reinterment, shall disinter, remove or carry away any human body, or the remains thereof, or shall conceal the same knowing it to be so illegally disinterred, he shall be punished by fine not exceeding two thousand dollars.

Interference with dead bodies.

TITLE XI.

Offenses Against Public Policy and Economy.

CHAPTER ONE.

ILLEGAL BANKING AND PASSING SPURIOUS MONEY.

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Issuing bills to pass as money.

Article 368. [346] If any person within this state shall issue any bill, promissory note, check or other paper intended to circulate as money, he shall be fined not less than ten dollars nor more than fifty dollars for each bill, promissory note, check or other paper so issued.

Includes corporations.

Art. 369. [347] Any officer of any banking company or body corporate who signs his own name, or that of another, by the authority of such other, to any bank bill, promissory note, check or other paper, being evidence of a promise to pay, and intended to circulate as money, is guilty of the offense punishable by the preceding article.

Also indorsement of foreign bills.

Art. 370. [348] Any person who may bring into this state any bank bill, purporting to be issued by any bank in any other state or territory of the Union, or in any foreign country, and shall sign or indorse the same to be circulated as money in this state, shall be deemed guilty of the offense mentioned in article 368.

Passing paper of broken bank.

Art. 371. [349] If any person shall fraudulently pass or transfer, or offer to pass or transfer, any paper purporting to be bank paper, and to be issued by any bank which having once existed has since broken, or the money of the same becomes valueless, he shall be punished by confinement in the penitentiary not less than two nor more than five years.

Not applicable to U. S. banks. (Act Feb. 12, 1858, p. 166.)

Art. 372. [350] The provisions of this chapter shall not apply to any bank incorporated under the laws of the United States, nor to bills issued by such bank.

CHAPTER TWO.

OF LOTTERIES AND RAFFLES.

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Establishing a lottery.

Article 373. [351] If any person shall establish a lottery or dispose of any estate, real or personal, by lottery, he shall be fined not less than one hundred nor more than one thousand dollars.

Art. 374. [352] If any person shall sell, offer for sale or keep for sale any ticket or part ticket in any lottery, he shall be fined not less than ten nor more than fifty dollars. Selling lottery tickets.

Art. 375. [353] If any person shall establish a raffle for, or dispose by raffle of any estate, real or personal, exceeding five hundred dollars in value, he shall be fined not less than one hundred nor more than one thousand dollars. Raffle for over \$500.

Art. 376. [354] If any person shall offer for sale or keep for sale any chance, ticket, or part ticket in any raffle of estate, real or personal, exceeding five hundred dollars in value, he shall be fined not less than ten nor more than fifty dollars. Offering for sale ticket in raffle for over \$500.

Art. 377. [354a] If any person shall, directly or through an agent or agents, manage or superintend for himself, or shall as agent or representative of any other person, firm or corporation, conduct, carry on or transact any business which is commonly known as dealing in futures, in cotton, grain, lard, any kinds of meats or agricultural products, or corporation stocks, or shall keep any house, or manage, conduct, carry on or transact any business commonly known as a produce or stock exchange, or bucket shop, where future contracts are bought and sold with no intention of an actual bona fide delivery of the article or thing so bought or sold, such person, whether acting for himself or for another, as aforesaid, shall be deemed guilty of a misdemeanor, and shall be fined in any sum not less than one hundred nor more than five hundred dollars, and in addition thereto shall be imprisoned in the county jail not less than thirty days nor more than six months; provided, that each day that such business or house is carried on or kept shall constitute a separate offense. Dealing in futures. (Act March 1, 1887, p. 10, §1.)

Art. 378. [354b] Whoever knowingly permits any such business to be carried on in his building, house, booth, arbor or erection of which he is the owner, or has the possession, care, management or renting, shall be guilty of a misdemeanor, and on conviction fined in any sum not less than one hundred nor more than five hundred dollars. Each day he so permits shall constitute a separate offense. Permitting premises to be used for such business. (Act March 1, 1887, p. 10, §2.)

CHAPTER THREE.

GAMING.

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Article 379. [355] If any person shall play at any game with cards, at any house for retailing spirituous liquors, storehouse, tavern, inn or any other public house, or in any street, highway or other public place, or in any out-house where people resort, he shall be fined not less than ten nor more than twenty-five dollars. Playing cards in a public place.

Art. 380. [356] All houses commonly known as public, and all gaming-houses, are included within the meaning of the preceding article. Any room attached to such public house and commonly used for gaming, is also included, whether the same be kept closed What included in preceding article. (Act Feb. 11, 1866, pp. 97, 98.)

or open. A private room of an inn or tavern is not within the meaning of public places, unless such room is commonly used for gaming; nor is a private business office or a private residence to be construed as within the meaning of a public house or place; provided, said private residence shall not be a house for retailing spirituous liquors.

Offense complete without betting.

Art. 381. [347] In prosecutions under the two preceding articles it shall not be necessary for the state to prove that any money or article of value, or the representative of either, was bet at such game. The offense is complete without such proof.

Keeping or exhibiting table or bank. (Amended by Act March 26, 1887, p. 57.)

Art. 382. [358] If any person shall keep or exhibit for the purpose of gaming, any gaming table or bank of any name or description whatever, or any table or bank used for gaming which has no name, any pigeon-hole table or jenny-lind table, or nine or ten pin alley, table or alley of any kind whatever regardless of the number of pins, balls or rings used for gaming—and such pigeon-hole table or jenny-lind table, or nine or ten pin alley, table or alley of any kind whatever, regardless of the number of pins, balls or rings used, shall be considered as used for gaming if the table fees, or alley fees, or money, or anything of value is bet thereon—or shall be in any manner interested in keeping or exhibiting any such table or bank, or nine or ten pin alley, table or alley of any kind whatever, regardless of the number of pins, balls or rings used, at any place, he shall be punished by a fine of not less than twenty-five nor more than one hundred dollars, and imprisonment in the county jail for not less than ten nor more than ninety days.

Table or bank includes, what.

Art. 383. [359] It being intended by the foregoing article to include every species of gaming device known by the name of table or bank, of every kind whatever, this provision shall be construed to include any and all games which in common language are said to be played, dealt, kept or exhibited.

Games specially enumerated.

Art. 384. [360] Lest any misapprehension should arise as to whether certain games are included within the meaning of the foregoing articles, it is declared that the following games are within the meaning and intention of said articles, viz., faro, monte, vingt et un, rouge et noir, roulette, A B C, chuck-a-luck, keno, pool and rondo, but the enumeration of these games specially shall not exclude any other properly within the meaning of the two preceding articles. Any game played for money upon a billiard table, or table resembling a billiard table, other than the game of billiards licensed by law, is punishable under the provisions of this chapter.

Indictment.

Art. 385. [361] In any indictment or information for the class of offenses named in the three preceding articles, it is sufficient to state that the person accused kept a table or bank for gaming, or exhibited a table or bank for gaming, without giving the name or description thereof, and without stating that the table or bank, or gaming device, was without any name, or that the name was unknown.

Proof.

Art. 386. [362] In prosecutions under articles 382, 383 and 384, it shall be sufficient to prove that any game therein mentioned was played, dealt or exhibited, without proving that money or other articles of value were won or lost thereon.

"Played," "dealt" and "exhibited" defined.

Art. 387. [363] The words "played" and "dealt" have the meaning attached to them in common language. The word "exhibited" is intended to signify the act of displaying the bank or game for the purpose of obtaining bettors.

Art. 388. [364] If any person shall bet or wager at any gaming table, or bank, or pigeon-hole or jenny-lind table, or nine or ten pin alley, such as are mentioned in the six preceding articles, or shall bet or wager any money or other thing of value at any of the games included in the six preceding articles, or at any of the following games, viz., poker-dice, jack-pot, high-dice, high-die, low-dice, low die, dominoes, euchre with dominoes, poker with dominoes, sett with dominoes, muggins, crack-loo, crack-or-loo, or at any game of any character whatever that can be played with dice or dominoes, or at any table, bank or alley, by whatsoever the name may be known, and without reference as to how the same may be constructed or operated, he shall be fined not less than ten dollars nor more than twenty-five dollars; provided, no person shall be indicted under this section for playing any of said games with dice or dominoes at a private residence.

Betting at table or bank on certain games. (Amended by Act March 5, 1881, p. 17.)

Art. 389. [365] If any person shall permit any game prohibited by the provisions of this chapter to be played in his house, or a house under his control, or upon his premises, or upon premises under his control, the said house being a public place, or the said premises being appurtenances to a public place, he shall be fined not less than twenty-five nor more than one hundred dollars.

Permitting a house to be used for gaming. (Amended by Act March 5, 1881, p. 17.)

Art. 390. [366] If any person shall rent to another a room or house for the purpose of being used as a place for playing, dealing or exhibiting any of the games prohibited by the provisions of this chapter, he shall be fined not less than twenty-five nor more than one hundred dollars.

Renting a house for same purpose.

Art. 391. [367] Any court, officer or tribunal having jurisdiction of the offenses enumerated in this chapter, or any district or county attorney, may subpoena persons and compel their attendance as witnesses to testify as to the violations of any of the provisions of the foregoing articles. Any person so summoned and examined shall not be liable to prosecution for any violation of said articles about which he may testify, and for any offense enumerated in this chapter a conviction may be had upon the unsupported evidence of an accomplice or participant.

Procedure in gaming cases.

CHAPTER FOUR.

NEGLECT OF OFFICERS TO ARREST OR PROSECUTE IN GAMING CASES.

Article	Article
Justice of the peace, etc., failure to prosecute	392
	Peace officer falling to inform..... 393
	"Offense against gaming laws" defined. 394

Article 392. [368] If any justice of the peace, mayor or recorder, shall know the fact that an offense against the gaming laws has been committed by any person, and shall fail or neglect to cause such person to be arrested and prosecuted for the same, he shall be punished by fine not less than twenty-five nor more than one hundred dollars.

Justice of the peace, etc., failing to prosecute. (Act Feb. 12, 1858, p. 167.)

Art. 393. [369] If any peace officer shall know that any person has committed an offense against the gaming laws, and shall neglect or fail to give information thereof to some justice of the peace,

Peace officer falling to inform. (Act Feb. 12, 1858, p. 167.)

mayor or recorder, having jurisdiction to try such offense, he shall be punished by fine not less than twenty-five nor more than one hundred dollars.

“Offense against gaming laws” defined. (Act Feb. 12, 1858, p. 167.)

Art. 394. [370] By the term “offense against the gaming laws,” as used in the two preceding articles, is meant any offense included within the provisions of chapter three of this title.

CHAPTER FIVE.

BETTING ON ELECTIONS.

	Article		Article
Penalty	395	What “bet or wager” includes.....	397
“Public election” defined.....	396		

Penalty. (Act Feb. 12, 1858, p. 167.)

Article 395. [371] If any person shall, whether before or after the happening of any public election, held within this state, wager or bet in any manner whatever upon the result of any such election, he shall be fined not less than twenty-five nor more than one thousand dollars.

“Public election” defined.

Art. 396. [372] A public election, within the meaning of the preceding article, is any election for a public officer under the authority of the constitution and laws of the United States or of this state.

What “bet or wager” includes.

Art. 397. [373] The bet or wager may be of money or of any article of value, and any device in the form of purchase or sale or in any other form made for the purpose of concealing the true intention of the parties, is equally within the meaning of a bet or wager.

CHAPTER SIX.

UNLAWFULLY SELLING INTOXICATING LIQUOR.

	Article		Article
Selling liquor to wild Indians.....	398	“Blind tiger” defined; penalty for keeping; procedure against.....	406
Selling to Choctaws or Chickasaws.....	399	Repeal of law does not exempt offender; offender not an accomplice.....	407
Selling to minors.....	400	Evidence when persons are jointly indicted.....	408
Selling and permitting same drank on premises.....	401	Member of firm liable personally etc.....	409
Selling in prohibited districts.....	402	If owner is unknown, person selling is liable.....	410
Not applicable, when.....	403	Procedure in case of firm.....	411
Failure to cancel prescription; permitting liquor to be drank on premises.....	404		
Giving prescription illegally.....	405		

Selling liquor to wild Indians. (Act Oct. 31, 1866, p. 71.)

Article 398. [374] If any person shall sell, give or barter, or cause to be sold, given or bartered, any ardent spirits, or any spirituous or intoxicating liquors, or fire-arms, or ammunition, to any Indian of the wild or unfriendly tribes, he shall be fined not less than ten nor more than one hundred dollars.

Selling to Choctaws, or Chickasaws. (Act Feb. 12, 1858, pp. 197-8.)

Art. 399. [375] If any person shall sell, give or barter, or cause to be sold, given or bartered, any spirituous, vinous or intoxicating liquor to an Indian of the Choctaw or Chickasaw territory, he shall be fined not less than fifty nor more than one hundred dollars.

Selling to minors.

Art. 400. [376] Any person who shall knowingly sell or give, or cause to be sold or given, any spirituous, vinous or intoxicating liquor to any other person under the age of twenty-one years, with-

out the written consent of the parent or guardian of such minor, or some one standing in their place or stead, shall be fined not less than twenty-five nor more than one hundred dollars.

Art. 401. [377] If any person or firm shall sell, or be in any way concerned in selling, spirituous, vinous or other intoxicating liquors in quantities of a quart or more, and shall permit the same to be drunk at the place or establishment where sold, or at any other place provided by said person or firm for that purpose, he or they shall be punished by fine not less than fifty nor more than two hundred and fifty dollars.

Selling and permitting the same drunk on premises. (Act Feb. 12, 1858, p. 168.)

Art. 402. [378] If any person shall sell any intoxicating liquor in any county, justice precinct, city or town in which the sale of intoxicating liquor has been prohibited under the laws of this state, or if any person shall give away any intoxicating liquor in any such county, justice precinct, city or town, with the purpose of evading the provisions of said laws, he shall be punished by fine of not less than twenty-five nor more than one hundred dollars, and by imprisonment in the county jail for not less than twenty nor more than sixty days.

Selling in prohibited districts. (Amended by Act March 30, 1887, p. 70.)

Art. 403. [378a] The preceding article shall not apply to the sale of wines for sacramental purposes, nor to alcoholic stimulants as medicines in cases of actual sickness, but such stimulants shall only be sold upon the prescription of a regular practicing physician, dated and signed by him and certified on his honor that he (the physician) has personally examined the applicant (naming him), and that he finds him actually sick and in need of the stimulant prescribed as a medicine; provided, that a physician who does not follow the profession of medicine as his principal or usual calling, or who is in any way directly or indirectly engaged in the sale of such stimulants, on his own account or as the agent, employe or partner of others, shall not be authorized to give the prescription provided for in this article; and provided further, that no person shall be permitted to sell more than once on the same prescription, nor upon a prescription which has been cancelled, nor on a prescription which is not dated, signed and certified as above required; provided, that every person selling such stimulants upon the prescription herein provided for shall cancel such prescription by indorsing thereon the word "cancelled," and file the same away.

Not applicable, when. (Added by Act March 30, 1887, pp. 70-71.)

Art. 404. [378b] It shall be the duty of any person who sells any intoxicating liquor upon the prescription provided for in article 403 to write across the face of the prescription, with ink, the word "cancelled," and for any failure to do so he shall be punished by a fine of not less than twenty-five nor more than one hundred dollars; and if any person shall sell any intoxicating liquor upon the prescription provided for in article 403, and shall permit the same to be drunk at the place or establishment where sold, or at any other place provided for that purpose by such person, he shall be punished by fine of not less than twenty-five nor more than one hundred dollars.

Failure to cancel prescription; permitting liquor to be drunk on premises. (Added by Act March 30, 1887, p. 71.)

Art. 405. [378c] If any person who is not a regular practicing physician shall give a prescription to be used in obtaining any intoxicating liquor in any county, justice precinct, city or town, in which the sale of intoxicating liquor has been prohibited under the laws of this state; or if any practicing physician who is directly or indirectly, either for himself or as the agent or employe of another, interested in the sale of intoxicating liquor, shall give a prescrip-

Giving prescription illegally. (Added by Act March 30, 1887, p. 71.)

tion to be used in obtaining any intoxicating liquor in any such county, justice precinct, city or town; or if any physician should give a prescription to be used in obtaining any intoxicating liquor in such county, justice precinct, city or town, to any one who is not actually sick, and without a personal examination of such person, he shall be punished by a fine of not less than twenty-five nor more than one hundred dollars, and by imprisonment in the county jail not less than twenty nor more than sixty days.

"Blind tiger" defined; penalty for keeping; procedure against. (Added by Act March 30, 1887, pp. 71, 72.)

Art. 406. [378d] If any person shall keep or run, or shall be in any manner interested in keeping or running a blind tiger in any county, justice precinct, city or town in which the sale of intoxicating liquor has been prohibited under the laws of this state, he shall be punished by confinement in the county jail not less than two nor more than twelve months, and by fine of not less than one hundred nor more than five hundred dollars. Each and every day such blind tiger is run or kept shall be a separate offense. A "blind tiger," within the meaning of this article, is any place in which intoxicating liquors are sold by any device whereby the party selling or delivering the same is concealed from the person buying or to whom the same is delivered. Upon complaint being filed with any justice of the peace, describing the place where any "blind tiger" is kept or run, such justice shall issue his warrant directed and commanding the sheriff or any constable of his county to search such place, and if the law is being violated to arrest the person so violating it; and it shall be the duty of the officer to whom such warrant is delivered to search the place described in the warrant, and to arrest and bring before the justice who issued the writ all persons found by him therein; and if admission into said place is refused, the officer executing said warrant is hereby authorized to force open the same. In prosecutions under this article, where it is proven that there is posted up at the place where such blind tiger is kept or run, United States internal revenue liquor or malt license, to any one it shall be prima facie proof that the person to whom such license is issued is keeping and running such blind tiger.

Repeal of law does not exempt offender; offender not an accomplice. (Added by Act March 30, 1887, p. 72.)

Art. 407. [378e] When the sale of intoxicating liquor has been prohibited in any county, justice precinct, city or town, the repeal of such prohibition shall not exempt from punishment any person who may have offended against any of the provisions of the law while it was in force, and the fact that a person purchases intoxicating liquor from any one who sells it in violation of the provisions of this chapter shall not constitute such person an accomplice.

Evidence when persons are jointly indicted. (Act Feb. 12, 1858, p. 168.)

Art. 408. [380] Where persons are jointly indicted, or otherwise prosecuted for selling liquor in violation of law, it shall be sufficient to show, by general reputation, that they are understood to be members of the firm.

Members of firm liable personally. (Act Feb. 12, 1858, p. 168.)

Art. 409. [381] Any one member of a firm may be separately prosecuted for the offense of selling liquor in violation of law.

If owner is unknown, persons selling liable. (Act Feb. 12, 1858, p. 168.)

Art. 410. [382] Where any establishment for the sale of liquor is conducted without the name of the owner being known, any and all persons who may be found selling liquor in such establishment, in violation of law, shall be subject to prosecution as separate offenders.

Procedure in case of firm. (Act Feb. 12, 1858, p. 168.)

Art. 411. [383] When a firm is prosecuted for a violation of the law relating to the sale of liquor, the fine shall be assessed against

the parties jointly, but each defendant shall be liable for the whole amount; and in cases of prosecution against a firm, if all the defendants be not arrested, a verdict and judgment for the full amount of the fine may be rendered against any one or more who may be tried.

CHAPTER SIX A.

VIOLATIONS OF THE LAW REGULATING THE SALE OF INTOXICATING LIQUORS.

<p>Selling without license..... 411a Selling except as authorized by license.. 411b Prima facie evidence of traffic..... 411c Selling to be drunk on premises without giving bond..... 411d "Open," "quiet" and "orderly" house defined 411e</p>	<p>Article</p>	<p>Surety on bond, how released; penalty for pursuing without new bond..... 411f Duties of certain officers..... 411g Official dereliction; penalty..... 411h Tax collector issuing illegal receipts.... 411i</p>	<p>Article</p>
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Article 411a. Any person or association of persons who shall engage in the sale of spirituous, vinous, or malt liquors, or medicated bitters, without having obtained license therefor, shall be fined in any sum not less than the amount of the taxes so due and not more than double that sum, or imprisoned in the county jail from ten to ninety days in the discretion of the jury.

Selling without license. (Acts 1893, p. 178, §6.)

Art. 411b. Any person or persons who shall sell spirituous, vinous, or malt liquors, or medicated bitters, in quantities not authorized by his or their license, or who shall sell in any other place than that designated in the license, or who shall sell otherwise than authorized by the license, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in any sum from fifty to one hundred dollars, or imprisoned in the county jail from ten to thirty days, in the discretion of the jury; provided, that each day any person, firm, or association of persons, in his or their employ, shall engage in the sale of spirituous, vinous, or malt liquors, or medicated bitters, in violation of this article, shall constitute a separate offense.

Selling except as authorized by license. Ib.

Art. 411c. The payment of the United States special tax as a seller of spirituous, vinous, or malt liquors shall be held to be prima facie evidence that the person or persons paying such tax are engaged in selling such liquors.

Prima facie evidence of traffic. Ib. p. 179.

Art. 411d. Any person, firm, or association of persons who shall sell liquors, in any quantity, to be drunk on the premises, without giving the first bond, or the new bond, as required by article 5060g of the Revised Statutes, shall be deemed guilty of a misdemeanor, and on conviction shall be fined the same amount provided for in cases where no license has been obtained.

Selling to be drunk on premises without first giving bond. Ib. 180, §9.

Art. 411e. An open house, in the meaning of article 5060g of the Revised Statutes, is one in which no screen or other device is used or placed either inside or outside of such house or place of business for the purpose of or that will obstruct the view through the open door or place of entrance into any such house or place where intoxicating liquors are sold to be drunk on the premises. A quiet house or place of business, in the meaning of said article, is one in which no music, loud or boisterous talking, yelling, or indecent or vulgar language is allowed, used, or practiced, or any other noise calculated to disturb or annoy any persons residing or doing busi-

"Open," "quiet," and "orderly" house defined. Ib.

ness in the vicinity of such house or place of business, or those passing along the streets or public highways. By an orderly house is meant one in which no prostitute or lewd woman or women are allowed to enter or remain; and it is further provided, that said house must not contain any vulgar or obscene pictures.

Surety on bond released how; penalty for pursuing without new bond. Ib.

Art. 411f. Any surety on the bond required by said article may relieve himself from further liability thereon by giving the principal in said bond notice in writing that he will no longer remain as surety on said bond and by filing with the county judge an affidavit that such notice has been given, and if within five days after such notice he fail to make a new bond, he shall cease to pursue said business until a new bond is given. And any person who shall continue to pursue said business after such affidavit is filed shall be guilty of a misdemeanor, and shall be punished as provided in cases where no license has been procured; provided, that where the sale is made in good faith, with the belief that the minor was of age, and there is good ground for such belief, that shall be a valid defense to any recovery on such bond.

Duties of certain officers. Ib.

Art. 411g. Any tax collector, sheriff, deputy sheriff, constable, or other peace officer, having knowledge of the violation of this chapter, shall report the same to the county attorney, who shall forthwith prosecute any person or persons violating the provisions of this chapter; and any tax collector whose attention has been called to an instance in which the provisions of this chapter appear to have been violated, shall investigate the particular case, and if it is found that this chapter has been violated, report the fact to the county attorney or district attorney.

Official dereliction; penalty. Ib.

Art. 411h. Any officer who shall willfully refuse or neglect to perform the duties required of him by the provisions of the act of 1893, articles 5060a to 5060i, Revised Statutes, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in any sum from one hundred to five hundred dollars, and may be dismissed from office.

Tax collector issuing illegal receipts. Ib.

Art. 411i. All receipts issued by tax collectors for taxes paid under this law shall be made on blanks prepared by the comptroller, and any tax collector who shall issue a manuscript receipt for taxes herein levied, or use any form of receipt other than that furnished him by the comptroller, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished as provided in the preceding article.

CHAPTER SEVEN.

VAGRANCY.

	Article	Article
Vagrancy punished	412	"Vagrancy" defined
		413

Vagrancy punished.

Article 412. [384] Every vagrant in this state shall, upon conviction, be fined in any sum not exceeding ten dollars.

Vagrancy defined.

Art. 413. [385] The following persons are vagrants within the meaning of the preceding article:

1. An idle person who lives without any means of support, and makes no exertions to obtain a livelihood by honest employment.

2. Any person who strolls idly about the streets of towns or cities, having no local habitation and no honest business or employment.
3. A person who strolls about to tell fortunes or to exhibit tricks not licensed by law.
4. A common prostitute.
5. A professional gambler.
6. Any person who goes about to beg alms who is not afflicted or disabled by a physical malady or misfortune.
7. An habitual drunkard who abandons, neglects or refuses to aid in the support of his family.

CHAPTER EIGHT.

MISCELLANEOUS OFFENSES.

Article	Article
Pawnbroker failing to comply with the law	Consolidation of railroad corporations rendered unlawful
Insurance agent doing business without authority	Penalty; officer, etc., not liable, when..
Any violation of insurance laws.....	"Railroad corporation" defined.....
Who are insurance agents.....	Venue of offense; duty of judge to give law in charge to grand jury.....
Penalty for acting as agent unlawfully..	

Article 414. [386] If any pawnbroker or person doing any business as such shall receive any article in pledge, or sell the same without complying with the laws regulating pawnbrokers in this state, he shall be punished by fine not less than twenty-five nor more than one hundred dollars.

Pawnbroker failing to comply with the law. (Act April 28, 1879, p. 154.)

Art. 415. [387] If any person shall transact the business of life, fire or marine insurance in this state, either as agent, solicitor or broker, without his, or the company or association he represents, first obtaining a certificate of authority therefor from the commissioner of agriculture, insurance, statistics and history, he shall be punished by fine not less than five hundred nor more than one thousand dollars, and by imprisonment in the county jail not less than three nor more than six months.

Insurance agent doing business without authority. (Act Feb. 17, 1875, p. 44.)

Art. 416. [388] If any person shall violate any provision of the laws of this state regulating the business of life, fire or marine insurance, he shall be punished by fine not less than five hundred nor more than one thousand dollars.

Any violation of insurance laws. (Act May 2, 1874, p. 200; Feb. 17, 1875, p. 44.)

Art. 417. [388a] Any person who solicits insurance on behalf of any insurance company, whether incorporated under the laws of this or any other state, or foreign government, or who takes or transmits other than for himself, any application for insurance, or any policy of insurance, to or from such company, or who advertises or otherwise gives notice that he will receive or transmit the same, or who shall receive or deliver a policy of insurance of any such company, or who shall examine or inspect any risk, or receive or collect or transmit any premium of insurance, or make or forward any diagram of any building or buildings, or do or perform any other act or thing in the making or consummating of any contract of insurance for or with any such insurance company other than for himself, or who shall examine into, or adjust or aid in adjusting, any laws for or on behalf of any such insurance company, whether any of such acts shall be done at the instance or request, or by the em-

Who are insurance agents. (Act July 9, 1879, extra session, ch. 36, §1.)

ployment of such insurance company, or of or by any broker or other person, shall be held to be the agent of the company for which the act is done, or the risk is taken as far as relates to all the liabilities, duties, requirements and penalties set forth in this act; provided, that the provisions of this act shall not apply to citizens of this state who arbitrate in the adjustment of losses between the insurers and assured, nor to the adjustment of particular or general average losses of vessels or cargoes, by marine adjusters, who have paid an occupation tax of two hundred dollars for the year in which the adjustment is made; provided further, that the provisions of this act shall not apply to practicing attorneys at law in the state of Texas acting in the regular transaction of their business as such attorneys at law and who are not local agents nor acting as adjusters for any insurance company.

Penalty for acting as agent unlawfully.
Ib. §2.

Art. 418. [388b] Any person who shall do or perform any of the acts or things mentioned in the preceding article for any insurance company hereinbefore referred to, without such company having first complied with the requirements of the laws of this state, or having received the certificate of authority from the commissioner of agriculture, insurance, statistics and history of the state of Texas, as required by law, shall be guilty of a misdemeanor, and, on conviction by any court of competent jurisdiction, for the first offense be fined five hundred dollars, and also a sum equal to the state, county and municipal licenses required to be paid by such insurance company for doing business in this state, and shall be imprisoned in the county jail, where the offense is committed, for the period of three months, unless the fine assessed against him and the sum of licenses herein mentioned and the cost of the court be sooner paid; and for any second or other offense such person shall be fined in the sum of one thousand dollars, and shall be imprisoned in the county jail for the period of six months, unless the fine assessed against him and the costs of the court be sooner paid.

Consolidation of railroad corporations declared unlawful.
(Act April 4, 1887, p. 137, §1.)

Art. 419. [388c] It shall be unlawful for any railroad corporation, or other corporation, or the lessees, purchasers or managers of any railroad corporation to consolidate the stocks, property, works or franchises of such corporation with, or lease or purchase the stocks, property, works or franchises of any other railroad corporation owning or having under its control or management a competing or parallel line; nor shall any officer, agent, manager, lessee or purchaser of such railroad corporation act, or become an officer, agent, manager, lessee or purchaser of any other corporation in leasing or purchasing any parallel or competing line.

Penalty; officer, etc., not liable, when.
Ib. §2.

Art. 420. [388d] Any officer, director, manager, superintendent, agent, purchaser or lessee of any such railroad corporation or other corporation, who shall violate, or aid in violating, any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than one thousand dollars nor more than four thousand dollars; provided, that no person shall be liable to punishment under this act who has not, by virtue of his office, agency or position, a voice in the management of the railway company, or who has not, by virtue of his office, agency or position, some power to prevent a violation of this act.

"Railroad corporation" defined.
Ib. §3.

Art. 421. [388e] Railroad corporation, or other corporation, as used in this act, is declared to mean any corporation, company, person or association of persons who own or control, manage or operate any line of railroad in this state.

Art. 422. [388f] Indictments and prosecutions under the provisions of this act may be found and made in any county through or into which the line of railroad may run, and it shall be the duty of district judges to charge the grand juries upon this law the same as in other cases.

Venue of offense; duty of judges to give law in charge to grand juries. Ib. §4.

TITLE XII.

Of Offenses Affecting Public Health.

CHAPTER ONE.

OCCUPATION AND ACTS INJURIOUS TO HEALTH.

	Article		Article
Offensive trades and nuisances.....	423	Leaving dead animals in road, etc.....	425
Pollution or obstruction of water courses	424		

Offensive trades and nuisances.

Article 423. [389] If any person shall carry on any trade, business or occupation injurious to the health of those who reside in the vicinity, or shall suffer any substance which has that effect to remain on premises in his possession, he shall be punished by fine not less than ten nor more than one hundred dollars; and each separate day of carrying on such business, trade or occupation, or of permitting such substance to remain on the premises, shall be considered a separate offense.

Pollution or obstruction of water courses. (Act Feb. 11, 1869, p. 97.)

Art. 424. [390] If any person shall in any wise pollute or obstruct any water course, lake, pond, marsh or common sewer, or continue such obstruction or pollution, so as to render the same unwholesome or offensive to the inhabitants of the county, city, town or neighborhood thereabout, he shall be fined in a sum not exceeding five hundred dollars.

Leaving dead animal in road. (Act April 7, 1874, p. 69.)

Art. 425. [391] If any person shall leave the dead carcass or body of any horse, mule, ox, steer, cow or other animal, which died in the actual possession of such person, in any public road or highway, or in any street or alley of any village, town or city in this state, or within fifty yards of such public road, highway, street or alley, he shall be fined not less than five nor more than one hundred dollars.

CHAPTER TWO.

SALE OF UNWHOLESOME FOOD, DRINK OR MEDICINE.

	Article		Article
Selling corrupt or unwholesome substance	426	"Adulteration" defined	432
Adulteration of food, liquor, etc.....	427	Duty of state health officer.....	433
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Selling corrupted or unwholesome substance.

Article 426. [392] If any person shall knowingly sell the flesh of any animal dying otherwise than by slaughter, or slaughtered when diseased, or shall sell any kind of corrupted, diseased or unwholesome substance, whether for food or drink, without making the same fully known to the buyer, he shall be fined not less than twenty nor more than one hundred dollars.

Art. 427. [393] If any person shall fraudulently adulterate, for the purpose of sale, any substance intended for food, or any spirituous, vinous or malt liquor intended for drink with any substance injurious to health, he shall be punished by fine not less than fifty nor more than five hundred dollars.

Adulteration of liquor, food, etc.

Art. 428. [394] If any person shall sell any spirituous, vinous or malt liquor intended for drink, knowing the same to be adulterated with any substance or liquid injurious to health, he shall be punished by fine not less than fifty nor more than five hundred dollars.

Selling adulterated liquor. (Act Feb. 11, 1860, p. 98.)

Art. 429. [395] If any person shall fraudulently adulterate, for the purpose of sale, any drug or medicine in such manner as to change the operation of such drug or medicine, or render the same worthless or injurious to health, he shall be punished by fine not less than fifty nor more than five hundred dollars.

Adulteration of medicine.

Art. 430. [395a] No person shall within this state manufacture, offer for sale or sell any article of food, wines, beers, fermented or distilled liquors or drugs, which is by him known to be adulterated, within the meaning of this law. Any person violating this provision shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars.

Manufacturing, etc., adulterated food, wines, etc. (Act April 10, 1883, p. 73, §1.)

Art. 431. [395b] The term food, as used in this law, shall include every article used for food or drink by man. The term drug, as used in this chapter, shall include all medicines for internal or external use.

"Food" and "drug" defined. Ib. §2.

Art. 432. [395c] An article shall be deemed adulterated within the meaning of this chapter—

"Adulteration" defined. Ib. §3.

(a) In the case of drugs—

1. If, when sold under or by a name recognized in the United States Pharmacopoeia, it differs from the standard of strength, quality or purity laid down therein.

2. If, when sold under or by a name not recognized in the United States Pharmacopoeia, but which is found in some other pharmacopoeia or other standard work on materia medica, it differs materially from the standard of strength, quality or purity laid down in such work.

3. If its strength or purity fall below the professed standard under which it is sold.

(b) In the case of food or drinks—

1. If any substance or substances has or have been mixed with it so as to reduce or lower, or injuriously affect its quality or strength.

2. If any inferior or cheaper substance or substances have been substituted, wholly or in part, for the article.

3. If any valuable constituent of the article has been wholly or in part abstracted.

4. If it be an imitation of or be sold under the name of another article.

5. If it consists wholly or in part of a diseased, or decomposed, or putrid or rotten animal or vegetable substance, whether manufactured or not; or in the case of milk, if it is the produce of a diseased animal.

6. If it be colored, or coated, or polished, or powdered, whereby damage is concealed, or it is made to appear better than it really is, or of greater value.

7. If it contains any added poisonous ingredient, or any ingredient which may render such article injurious to the health of a person consuming it.

Provided, that the state health officer may, with the approval of the governor, from time to time declare certain articles or preparations to be exempt from the provisions of this law; and provided further, that the provisions of this act shall not apply to mixtures or compounds recognized as ordinary articles of food; provided, that the same are not injurious to health, and that the articles are distinctly labeled as a mixture, stating the components of the mixture.

Duty of state health officer.
Ib. §4.

Art. 433. [395d] It shall be the duty of the state health officer to prepare and publish from time to time lists of the articles, mixtures or compounds declared to be exempt from the provisions of this law, in accordance with the preceding article. The state health officer shall also from time to time fix the limits of variability permissible in any article of food, or drug, or compound, the standard of which is not established by any national pharmacopœia.

Same subject.
Ib. §5.

Art. 434. [395e] The state health officer shall take cognizance of the interests of the public health, as it relates to the sale of food and drugs, and the adulterations of the same, and make all necessary investigations and inquiries relating thereto. He shall also have the supervision of the appointment of public analysts and chemists, and upon his recommendation, whenever he shall deem any such officers incompetent, the appointment of any and every such officer shall be revoked, and be held to be void and of no effect. The state health officer shall adopt such measures as may seem necessary to facilitate the enforcement of this law, and prepare rules and regulations with regard to the proper method of collecting and examining articles of food or drugs, and for the appointment of the necessary inspector and analysts; and the said health officer shall be authorized to expend an amount not exceeding two thousand dollars for the purpose of carrying out the provisions of this law; and the sum of two thousand dollars is hereby appropriated out of any money in the treasury not otherwise appropriated, for the purpose in this article provided.

Penalty for refusing to supply sample.
Ib. §6.

Art. 435. [395f] Every person selling, or offering, or exposing any article of food or drug for sale, or delivering any article to purchasers, shall be required to serve or supply any public analyst or other agent of the state, or local health officer appointed under this law, who shall apply to him for that purpose, and on tendering the value of the same, with a sample sufficient for the purpose of analysis of any article which is included in this law, and which is in the possession of the person selling, under a penalty not exceeding fifty dollars for a first offense, and one hundred dollars for each subsequent offense.

Violation a misdemeanor; hindering, etc., analyst, etc.
Ib. §7.

Art. 436. [395g] Any violations of the provisions of this law shall be treated and punished as a misdemeanor, and whoever shall impede, obstruct, hinder or otherwise prevent any analyst, inspector or prosecuting officer in the performance of his duty shall be guilty of a misdemeanor, and shall be fined in any sum not less than fifty nor more than five hundred dollars.

Regulations, etc., of health officer to be printed, etc.
Ib. §9.

Art. 437. [395i] All the regulations and declarations of the state health officer, made under this law from time to time and promulgated, shall be printed for general distribution.

CHAPTER THREE.

UNLAWFUL PRACTICE OF MEDICINE.

	Article		Article
Practicing without certificate of qualification	438	Practicing without filing certificate for record	440
What constitutes separate offense	439	Not applicable to what cases	441

Article 438. [396] If any person shall practice for pay, or as a regular practitioner, medicine, in this state, in any of its branches or departments, or offer or attempt to practice without first having obtained a certificate of professional qualification from some authorized board of medical examiners, or without having a diploma from some accredited medical college, chartered by the legislature of the state or its authority, in which the same is situated, he shall be punished by fine not less than fifty nor more than five hundred dollars.

Practicing without certificate of qualification. P. C. 396.

Art. 439. [397] Each patient visited or prescribed for, or each day's offer to practice, shall constitute a separate offense under the preceding article.

What constitutes separate offense.

Art. 440. [398] If any person shall hereafter engage in the practice of medicine in any of its branches or departments for pay, or as a regular practitioner, without having first filed for record with the clerk of the district court in the county in which such person may reside or sojourn, a certificate from some authorized board of medical examiners, or a diploma from some accredited medical college, he shall be punished as prescribed in article 438.

Practicing without filing certificate for record.

Art. 441. [399] The provisions of this chapter shall not apply to any person who has been regularly engaged in the general practice of medicine, in any of its branches or departments, in this state, for five consecutive years prior to January 1, 1875; nor to any person who may have legally qualified himself to practice medicine under the provisions of an act entitled "An act to regulate the practice of medicine," passed May 16, 1873; nor to any female who may follow the practice of midwifery strictly as such.

Not applicable, to what cases.

CHAPTER FOUR.

DENTISTRY.

	Article		Article
Makes it unlawful for any one not licensed therefor to practice dentistry; exceptions	442	Transcripts of record book evidence	448
For appointment of a board of examiners	443	Defines "quorum"	449
Such board to elect officers, adopt rules, etc.	444	Temporary licenses	450
Annual meetings of board	445	Penalty for violating provisions of this act	451
Applicants to be granted license	446	Disposition of fines	452
Record book to be kept	447	Licenses to be recorded	453
		Burden of proof in cases of indictment	454

Article 442. It shall be unlawful for any person to engage in the practice of dentistry in the state of Texas unless said person has obtained license from a board of examiners duly appointed and authorized by this law to issue such license; provided, that dentists who have been in the regular practice of dentistry in this state for three years next preceding the passage of this law shall not be required to submit to an examination and shall be entitled to a license

Unlawful to practice dentistry without license; exceptions. (Act March 27, 1889, pp. 90-91. §1.)

without fee, which shall be transmitted to him by mail or otherwise, upon his application accompanied by satisfactory evidence to the fact of his having been in the regular practice for the time required.

Appointment
of board.
Ib. §2.

Art. 443. The board of examiners shall be appointed by the judge of each judicial district and shall be composed of three reputable dentists residing in said district, who shall hold their offices two years from the date of appointment, and any vacancy shall be filled by the district judge as aforesaid.

Board to elect
officers, etc.
Ib. §3.

Art. 444. The board shall immediately after appointment select one of their number as president and one as secretary, and adopt all rules necessary for the transaction of the business that may come before them.

Annual meet-
ings.
Ib. §4.

Art. 445. Said board shall meet annually at some central point in their respective districts to conduct examinations and grant licenses. Notice of the time and place of such meeting shall be given for one month by publication in some newspaper published in the district.

Applicants
granted
license.
Ib. §5.

Art. 446. Any applicant who shall furnish satisfactory evidence of having graduated and received a diploma from any reputable dental college, and any applicants under the provisions of the first article of this chapter, and all other applicants who undergo a satisfactory examination as to their qualifications and shall pay to the said board a fee of five dollars, to be used for the advertising and incidental expenses, shall be granted license, which license shall entitle the person to whom granted to practice dentistry in any county where the same has been recorded as required by article 453.

Record book.
Ib. §6.

Art. 447. Said board shall keep a book, in which shall be registered the names of all persons licensed to practice dentistry by said board.

Transcript of
record book.
Ib. §7.

Art. 448. The book so kept shall be a book of record, and a transcript from it, certified to by the officer who has it in keeping, with the common seal of said board, shall be evidence in any court in this state.

Quorum.
Ib. §8.

Art. 449. Two members of said board shall constitute a quorum for the transaction of business, and should a quorum not be present on the day appointed for its meeting, the member present may adjourn from day to day until a quorum be present.

Temporary
license.
Ib. §9.

Art. 450. One member of said board may grant a license for an applicant to practice until the next regular meeting of the board, when he shall report the fact, at which time such temporary license shall expire, but such temporary license shall not be granted by a member of the board within one year after the board has rejected the applicant.

Penalty for
violations.
Ib. §10.

Art. 451. Any person who shall, in violation of the provisions of this law, practice dentistry in this state for a fee or reward shall be liable to indictment, and on conviction shall be fined not less than one hundred nor more than two hundred dollars, nor shall it be construed to prevent persons from extracting teeth, nor in any way interfere with physicians and surgeons in their practice as such.

Disposition
of fines.
Ib. §11.

Art. 452. All fines collected from prosecutions under this law shall be appropriated to the common school fund in the county where collected.

License to be
recorded.
Ib. §12.

Art. 453. Every person to whom license is issued by said board of examiners shall, within thirty days from the date thereof, present the same to the clerk of the county in which he resides, who shall officially record said license in a book in his office, and shall be

entitled to demand a fee of fifty cents for his services, but a temporary license issued under article 450 of this title need not be recorded.

Art. 454. On the trial of any person indicted under the provisions of this law it shall be incumbent upon the defendant, in order to exempt him from the penalties of this law, to show that he has authority under the law to practice dentistry in this state.

Burden of proof.
Ib. §13.

CHAPTER FIVE.

PHARMACY—PRACTICE OF.

Article	Article
Unlawful for any person, unless qualified, to conduct any pharmacy, etc. 455	Certificate of registration shall be conspicuously placed 465
Qualifications 456	Penalties for compounding prescriptions by persons not qualified. 466
Graduates 457	Penalties for procuring registration by deceit 467
Assistants—qualification of. 458	Temporary certificates may be granted. . 468
District judges to appoint board. 459	Courts to instruct grand juries. 469
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Duties of registrar. 461	When does not apply to physicians, etc.. 471
Examination of applicants, etc. 462	
Graduates shall apply for registration. . 463	
Herein as to proprietor engaged in business 464	

Article 455. It shall be unlawful for any person, unless a qualified pharmacist within the meaning of this law, to open or conduct any pharmacy or store for compounding medicines, or for any one not a qualified pharmacist to prepare physicians' prescriptions or compound medicines, except under the direct supervision of a qualified pharmacist as hereinafter provided.

Unlawful unless qualified to conduct any pharmacy.
(Act April 6, 1889, p. 125, §1.)

Art. 456. Any person, in order to be qualified, shall be twenty-one years old, and shall have passed a satisfactory examination before the board of pharmacy of Texas, or shall be a graduate in pharmacy or an assistant in pharmacy.

Qualifications.
Ib. §2.

Art. 457. Graduates in pharmacy shall be such as have obtained a diploma from a regular incorporated college of pharmacy, and that requires not less than two years' experience in stores where prescriptions of medical practitioners have been compounded before said diploma is issued.

Graduates.
Ib. §3.

Art. 458. Assistants in pharmacy must be twenty-one years old and have had two years' experience in stores where prescriptions of medical practitioners have been prepared, and shall have passed a satisfactory examination before the board of pharmacy of Texas.

Assistants.
Ib. §4.

Art. 459. The presiding judge of the district court of the several judicial districts shall, as soon as practicable, severally appoint a board of pharmaceutical examiners for their respective districts, who shall hold their office two years, which appointment shall be in writing and signed by the judge making the same and delivered to the person appointed. Said board of pharmaceutical examiners shall be composed of not less than three qualified pharmacists, who are residents of the districts of which they are appointed. If a vacancy occurs in said board another shall be appointed as aforesaid to fill the unexpired term. Said board shall have power to make by-laws and all the necessary regulations for the proper fulfillment of their duties under this act.

District judge to appoint board.
Ib. §5.

Art. 460. The board shall meet within ninety days after the passage of this law, and once a year thereafter, in as central portions of the district as practicable, and shall give one month's notice through

Meetings of board.
Ib. §6.

the public press of the time and place of such meeting. The board shall organize for business by electing a registrar of pharmacy. The duties of said board shall be to examine all applicants for registration, to direct the registration by the registrar of all persons properly qualified or entitled thereto.

Duties of registrar.
Ib. §7.

Art. 461. The duties of the registrar of pharmacy shall be to keep a book in which shall be entered, under the supervision of the board of pharmacy, the name and place of business of every person who shall apply for registration, and a statement, signed by the person making the application, of such facts in the case as may claim to justify his or her application. It shall also be the duty of the registrar to duly note the fact against the name of any qualified pharmacist who may have died or removed from the state, or disposed of or relinquished his business.

Examination of applicants.
Ib. §8.

Art. 462. Any person in order to become a qualified pharmacist within the meaning of this law, shall apply and appear for examination and registration, and shall pay to the board of pharmacy five dollars; and on passing the examination required shall be furnished free of cost a certificate of registration signed by the said board. Should said person fail to pass a satisfactory examination, he may at any other meeting of the board of pharmacy within twelve months be permitted to be examined without cost.

Graduates shall apply.
Ib. §6.

Art. 463. Graduates, as specified in article 457, shall apply for registration, and if they produce satisfactory evidence to the board of pharmacy that they have a right to be registered, shall, upon paying the said board three dollars, be furnished a certificate of registration without examination.

Proprietors engaged in business.
Ib. §10.

Art. 464. Proprietors who are actively engaged in the preparation of physicians' prescriptions and compounding and vending medicine in the state of Texas at the passage of this law, shall be exempt from examination; also assistants who are likewise engaged and have been so engaged for three years, and are twenty-one years old; provided, he, she or they will register as specified in this law at first meeting of the board of pharmacy, and upon paying the board three dollars shall be furnished with a certificate of registration; provided, that the provisions of this bill shall not prevent any person from engaging in the business herein described as proprietors or owners thereof; provided, such proprietor or owner shall have employed in his business some qualified pharmacist to fill prescriptions and compound drugs.

Certificate to be placed, etc.
Ib. §11.

Art. 465. All persons receiving a certificate of registration shall place it in a conspicuous place in their place of business. In failing to do this, the board of pharmacy shall cancel their registration and deprive them of their certificate.

Penalty for not complying with this act.
Ib. §12.

Art. 466. Any person not a qualified pharmacist, but who continues to compound prescriptions or retail medicines without complying with this law, shall, upon the first conviction, be sentenced to pay a fine of not less than fifty nor more than one hundred dollars; and upon the second and every subsequent conviction, shall be sentenced to a fine of not less than one hundred or more than two hundred dollars.

Any person who shall procure or attempt to procure registration by false representation, etc., guilty of misdemeanor.
Ib. §13.

Art. 467. Any person who shall procure or attempt to procure registration for himself or for another, under this law, by making or causing to be made any false representation, shall be deemed guilty of a misdemeanor, and shall be fined not less than twenty-five nor more than one hundred dollars, and the name of the person so fraudulently registered shall be stricken from the register.

Art. 468. Any member of the board of pharmacy may issue temporary certificates upon satisfactory proof that the applicant is competent; but said temporary certificate shall be null and void after the first regular or extra meeting of the board next after granting said temporary certificate; provided further, that not more than one temporary certificate shall ever be granted to any one person.

Temporary certificates.
Ib. §14.

Art. 469. All courts having jurisdiction in criminal causes are required to give this law in charge to each grand jury impaneled in such courts.

Act to be given in charge to the grand jury.
Ib. §15.

Art. 470. This law shall not apply to towns and cities containing less than one thousand inhabitants. Towns and cities that arrive at one or more thousand inhabitants on and after the passage of this law shall come within its provisions. The manner of ascertaining the census shall be the last official one, whether it be federal, state, town or city.

This act does not apply to towns and cities of less than 1,000 inhabitants.
Ib. §16.

Art. 471. Nothing in this law shall be construed to apply to any practitioner of medicine who does not keep open shop for compounding, dispensing and selling medicines, nor so construed as to prevent any person or persons from investing their means in a drug store or stores; provided, they keep employed qualified pharmacists for the direct supervision of vending and compounding medicines.

Not applicable to any practitioner of medicine, when.
Ib. §17.

CHAPTER SIX.

VIOLATIONS OF QUARANTINE.

Article	Article
Vessel landing from infected port..... 472	Leaving quarantine station..... 476
Passing station without permission..... 473	Officer, etc., disobeying, etc., quarantine law..... 477
Going ashore without permission..... 474	Evading quarantine guard, etc..... 478
Landing goods without permission..... 475	

Article 472. [400] After the legal establishment of any quarantine station on the coast of this state, if any vessel shall land or arrive at such station from any infected port without a clean bill of health from the proper officer of said port, the master or commanding officer of such vessel shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined not less than five hundred nor more than five thousand dollars.

Vessel landing from infected port.
(Act Aug. 13, 1870, p. 75.)

Art. 473. [401] Any master or commanding officer of a vessel that passes or attempts to pass any quarantine station on the coast of this state during the continuance of the quarantine without having first obtained permission from the health officer of such station so to do, shall be punished by imprisonment in the penitentiary not less than two nor more than five years, or by fine not less than five hundred nor more than ten thousand dollars.

Passing station without permission.
Ib.

Art. 474. [402] Any person belonging to or on board of a vessel placed under quarantine, who shall go ashore without the written permission of the health officer of the station, shall be fined not less than fifty nor more than five hundred dollars.

Going ashore without permission.
Ib.

Art. 475. [403] Any master or officer of a vessel placed under quarantine who shall land or permit to be landed from said vessel any goods, wares, merchandise or article whatsoever while the same is under quarantine, without the written permission of the health

Landing goods without permission.
Ib.

officer of the quarantine station, shall be fined not less than fifty nor more than one thousand dollars for each article so landed.

Leaving quar-
antine station.
(Act April 12,
1883, p. 81.)

Art. 476. [403a] Any person detained at any quarantine station who shall willfully absent himself without leave of the officer having charge thereof shall be deemed guilty of a misdemeanor, and on conviction thereof by any court of competent jurisdiction shall be punished by a fine of not less than ten dollars nor more than one thousand dollars.

Officer, etc.,
disobeying,
etc., quaran-
tine law.
Ib.
(Quarantine
law, Act 18th
Leg., p. 17.)

Art. 477. [403b] Any health officer, guard or other employe who shall knowingly and willfully disobey or in any manner knowingly neglect or fail to perform any duty imposed upon him by the provisions of quarantine laws, rules and regulations of this state, or who shall disobey knowingly an order emanating from superior authority, shall be fined upon conviction by a court of competent jurisdiction in a sum not exceeding one thousand dollars; provided, that in the meaning of this article the governor and state health officer shall alone be deemed superior authority.

Evading quar-
antine guards,
etc.
(Act April 11,
1883, p. 81.)

Art. 478. [403c] Any person coming from any port or district infected with yellow fever or any other infectious or contagious disease, who shall knowingly evade any guard or pass through any cordon of quarantine duly established, shall be deemed guilty of a misdemeanor, and upon conviction by any court of competent jurisdiction be punished by fine not exceeding one thousand dollars.

TITLE XIII.

Of Offenses Affecting Property Held in Common
for the Use of the Public.

CHAPTER ONE.

OBSTRUCTION OF NAVIGABLE STREAMS, ROADS,
STREETS AND BRIDGES.

	Article		Article
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Riding over bridges.....	481	Commissioners' court may control	
Destroying, etc.	482	streets, etc., when.....	485
Not applicable, when.....	483	Willful obstruction of ditch, etc.....	485a

Article 479. [404] If any person shall obstruct the navigation of any stream which can be navigated by steam, keel or flat boats, by cutting and felling trees, or by building on or across the same any dyke, mill-dam, bridge or other obstruction, he shall be fined not less than fifty nor more than five hundred dollars.

Obstruction of navigable streams.

Art. 480. [405] If any person shall willfully obstruct or injure, or cause to be obstructed or injured in any manner whatsoever, any public road or highway, or any street or alley in any incorporated town or city, or any public bridge or causeway, he shall be fined in a sum not exceeding five hundred dollars.

Of roads, streets or bridges.

Art. 481. [405a] If any person shall ride or drive over any bridge belonging to any county, or to any municipal or private corporation, faster than a walk, he shall be fined in any sum not exceeding one hundred dollars.

Riding or driving over bridges. (Act 22d Leg., p. 131.)

Art. 482. Any person who shall knowingly or willfully destroy, injure or misplace any bridge, culvert, drain, sewer, ditch, signboard, mile post or tile, or anything of like character placed upon any road for the benefit of the same, shall be guilty of a misdemeanor, and upon conviction thereof punished by fine of not more than five hundred dollars, and shall be liable to the county and any person injured for all damages caused thereby.

Destroy, injure or misplace bridge, culvert, ditch, signboard, etc. Ib. ch. 97, p. 149, §22.

Art. 483. [406] No person shall be punished under article 480 who places obstructions in the streets or alleys of an incorporated city or town for purposes of building or improvement under the sanction of the corporate authorities of such city or town.

Not applicable, when.

Art. 484. [407] Nothing in this chapter contained shall be so construed as to prevent the commissioners' courts of the several counties or the municipal authorities of towns or cities from adopting such regulations as they may deem proper relative to the removal of obstructions from public roads, streets or bridges, and to enforce the same by due process of law.

Commissioners may also regulate.

Art. 485. [407a] In all cities and incorporated towns in the state of Texas in which from any cause there is not a de facto municipal government in the active discharge of their official duties, the commissioners' court of the county in which such city or in-

Commissioners' court may control streets, etc., when. (Act March 4, 1885, p. 25.)

corporated town is situated shall assume and have control of the streets and alleys thereof, and shall have the same worked under the law and regulations for the working of public roads; and such streets and alleys, for the purposes of this law, shall be held and denominated public roads; provided, that all residents of any city or town having no de facto city government, not otherwise exempt from road duty, shall be liable to road service as in other cases.

Willful obstruction of public ditch, or diversion of water. (Acts of 1895, p. 155.)

Art. 485a. If any person shall willfully obstruct any public ditch or shall willfully divert the water from its proper channel, he shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than five nor more than five hundred dollars, and shall also be liable for any and all damages accruing to any person or persons or corporation or county for any such act.

CHAPTER TWO.

OFFENSES PERTAINING TO PUBLIC ROADS AND IRRIGATION.

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Failure of duty as overseer..... 487	Failure to open boundary lines..... 493
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Commissioner failing to comply..... 489	Violation of irrigation laws..... 495
Superintendent failing to comply..... 490	Injuring canal 496
Failure to attend when summoned, etc.. 491	

Refusal to serve as overseer. (Act July 29, 1876, p. 67.)

Article 486. [408] If any person subject to public road duty under the laws of this state shall willfully fail or refuse to serve as overseer of any road in his road district or precinct when duly appointed as such overseer by the commissioners' court of his county he shall be fined not less than ten nor more than fifty dollars.

Failure of duty as overseer. Ib. p. 68.

Art. 487. [409] If any overseer of a public road in this state shall willfully fail, neglect or refuse to perform any duty imposed upon him by law, or shall so fail, neglect or refuse to keep the road, bridges and causeways in his precinct or district clear of obstructions and in good order, or shall willfully suffer such road, bridges or causeways to remain uncleared and out of repair for twenty days at any one time, he shall be fined not less than ten nor more than twenty-five dollars.

Same subject. Ib. p. 67.

Art. 488. [410] If any overseer of a public road in this state shall fail, within six months after his appointment as such, to measure the road or roads in his precinct or district and set up posts of lasting timber at the end of each mile leading from the court house or some other noted place or town, and to mark on such posts in legible words and figures the distance in miles to such court house or other noted place, or shall fail, when any such post is destroyed or removed, to replace the same with another marked as the original, or shall fail to affix or set up at the forks of all public roads in his district or precinct index boards with the directions pointing toward the most noted places to which they lead, he shall be fined in the sum of five dollars.

Road commissioner failing to comply; penalty. (Act April 6, 1889, 21st Leg., ch. 111, §5.)

Art. 489. Any road commissioner who shall willfully fail to comply with any duty required of him shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by fine of not less than twenty-five nor more than two hundred dollars.

Art. 490. Any road superintendent who shall willfully fail or refuse to comply with any provision of law or order of the commissioners' court shall be guilty of a misdemeanor, and on conviction thereof punished by fine of not less than twenty-five nor more than two hundred dollars for each offense.

Road superintendent failing to comply, penalty. (Act 22d Leg., ch. 97, p. 148, §21.)

Art. 491. [411] If any person liable under the law to work upon the public roads shall willfully fail or refuse to attend, either in person or by substitute, at the time and place designated by the road overseer of his district or precinct, after being legally summoned, or shall fail, on or before the day for which he is summoned to attend, to pay to such overseer the sum of one dollar per day for each day he may have been notified to work on the road, or, having attended, shall fail to perform any duty required of him by law and such overseer, he shall be fined in any sum not exceeding ten dollars.

Failure to attend when summoned. (Act July 29, 1876, p. 60.)

Art. 492. If any person liable to work upon the public roads, after being legally summoned, shall willfully fail or refuse to attend either in person or by able and competent substitute at the time and place designated by the person summoning him, or pay to the superintendent or other person authorized by the commissioners' court to receive the same, the sum of one dollar per day for each day he may have been notified to work on the road, or having attended, shall fail to perform good service or any other duty required of him by law or the person under whom he may work, he shall be deemed guilty of a misdemeanor, and on conviction thereof fined in any sum not less than five nor more than twenty-five dollars.

Same subject. (Act 22d Leg., ch. 97, p. 148, §20.)

Art. 493. [412] Whenever the commissioners' court of any county in this state shall duly declare the boundary lines between the lands of different persons a public highway in accordance with law, if any person or owner shall fail, neglect or refuse, for twelve months after legal notice thereof, to leave open his land, free from all obstructions, for ten feet on his side of the line designated, he shall be fined not more than twenty dollars for each month after the twelve months aforesaid in which he may so fail, neglect or refuse.

Failure to open boundary lines. (Act July 29, 1876, p. 69.)

Art. 494. [413] Any person or persons placing a gate on or across any third class road, or on or across any road such as is designated in article 493 of the Penal Code, shall be required to keep said gate and the approaches to the same in good order, and the gate shall be ten feet wide and so constructed as to cause no unnecessary delay to the traveling public in opening and shutting the same; and provide a fastening to hold said gate open till the passengers go through, and such person or persons shall place a permanent hitching post and stile block on each side of and within sixty feet of such gate. Any person or persons who may hereafter place a gate on or across a third class road, or on or across any road such as is designated in article 493, who shall willfully or negligently fail to comply with the requirements of this article shall be deemed guilty of a misdemeanor, and on conviction may be fined in any sum not less than five nor more than twenty dollars for each offense, and each week of said failure shall constitute a separate offense. Any person or persons who shall willfully or negligently leave open any gate on or across any third class road, or on or across any road such as is designated in article 493, shall be deemed guilty of a misdemeanor, and on conviction may be fined in any sum as above provided for.

Leaving gates open on third-class roads. (Amended by Act Feb. 2, 1874, S. S., p. 18.)

Violation of irrigation laws. (Act Dec. 20, 1861.)

Art. 495. [414] If any person amenable to the laws governing irrigation shall fail or refuse to work on any ditch or aqueduct when summoned so to do by the proper authority, he shall be fined not less than one nor more than five dollars.

Injuring irrigation canal, etc. (Act March 19, 1889, p. 100, §14.)

Art. 496. Any person who shall willfully or through gross negligence injure any irrigating canal or its appurtenances, wells or reservoirs, or who shall waste the water thereof, or shall take the water therefrom without authority, shall be deemed guilty of a misdemeanor, and for each offense shall be liable to a fine not exceeding five hundred dollars.

CHAPTER THREE.

OFFENSES RELATING TO FERRIES.

	Article		Article
Keeping ferry without license.....	497	Failure to keep good boats, etc.....	498

Keeping ferry without license. (Act Feb. 11, 1860, p. 98.)

Article 497. [415] If any person or firm shall keep any ferry over any water course, navigable stream, lake or bay in this state, and shall charge or receive any money, property, or other valuable thing for crossing passengers or property at such ferry, without first obtaining license, as is now or as may hereafter be required by law, such person or firm shall be punished by fine not less than fifty nor more than two hundred dollars.

Failure to keep good boats. (Act March 4, 1875, pp. 58-59.)

Art. 498. [416] If the owner of any licensed ferry in this state shall fail to keep at all times good, safe and substantial boats, sufficient in number for the ready accommodation of the public, or shall fail to keep the banks on each side of the ferry in good repair, and so graded that the ascent shall not exceed one foot in every seven feet from the water's edge to the top of the bank; or shall fail to give ready attendance on all passengers desiring to cross with their animals, wagons, or other property; or shall charge higher rates of ferriage than those fixed by the proper authority, he shall be fined not less than ten nor more than one hundred dollars.

CHAPTER FOUR.

OFFENSES RELATING TO PUBLIC GROUNDS AND BUILDINGS.

	Article		Article
Injuring or defacing a public building..	499	Not applicable, when.....	506
"Public building" defined.....	500	Purchaser turning loose too many stock upon leasehold land	507
All officers to report violations.....	501	Failure to provide gateways.....	508
Driving in capitol grounds, etc.....	502	Other statutes relating to public lands..	509
Hitching in same.....	503	Turning loose excess of stock on leased land	509a
Pass-keys to state capitol.....	503a	Illegal fencing, etc., of public lands....	509b
Taking property from public grounds..	504		
Unlawful fencing, using, etc., public land	505		

Injuring or defacing a public building. (Act May 14, 1888, p. 5, §5.)

Article 499. [417] If any person shall willfully injure or deface any public building or the furniture therein in this state he shall be fined not less than five nor more than five hundred dollars. The word deface in this chapter shall be held to apply to writing, carving or scratching on the walls or plastering or furniture of said building, or staining the same with paint or any other article which will produce a discoloration of the same.

Art. 500. [418] The term "public building" as used in the preceding article means the capitol and all other buildings in the capitol grounds at the seat of government, including the general land office and the executive mansion, the various state asylums and all buildings belonging to either, all college or university buildings erected by the state, all court houses and jails and all other buildings held for public use by any department or branch of government, state, county or municipal; and the specific enumeration of the above shall not exclude other buildings not named properly coming within the meaning and description of a public building.

Art. 501. [419] It is the especial duty of all executive officers of the state and the county officers of the various counties to aid in the execution of the two preceding articles, and to report all violations thereof to the proper authorities for immediate prosecution.

Art. 502. [420] If any person shall drive, ride or lead, or cause to be driven, ridden or led, any horse or other animal to the capitol grounds at the seat of government, or into the inclosure of the state cemetery without the consent of the keeper or superintendent of said grounds or cemetery, he shall be fined not exceeding twenty-five dollars.

Art. 503. [421] If any person shall hitch any animal to any tree or shrub in the capitol grounds or state cemetery, he shall be punished as prescribed in the preceding article.

Art. 503a. It shall not be lawful for any person to make or have made, or to keep in his possession, a pass or master key to the rooms and apartments in the state capitol, unless authorized to do so by the superintendent of public buildings and grounds, and any person violating the provisions of this article shall be deemed guilty of a misdemeanor, and on conviction shall be fined in any sum not exceeding one hundred dollars.

Art. 504. [422] If any person shall take, remove, injure or destroy any species of public property pertaining to any public building, as defined in article 500, or to the grounds belonging to such building, he shall be fined not less than twenty-five nor more than one hundred dollars.

Art. 505. [422a] It shall be unlawful for any person to fence, use, occupy or appropriate, by herding or line-riding, any portion of the public lands of the state, or of the lands belonging to any particular fund specified in this act, without having first obtained a lease of such lands in accordance with the provisions of this act. Any person, whether owner of stock, manager, agent, employe or servant, who shall fence, use, occupy or appropriate, by herding or line-riding, any portion of such lands without a lease thereof, shall be deemed guilty of a misdemeanor, and shall, upon conviction, be fined not less than one hundred nor more than one thousand dollars, and in addition thereto shall be imprisoned in the county jail for a period of not less than three months nor more than two years. Each day of such fencing, using, occupying or appropriating, by herding or line-riding, shall be deemed a separate offense, and any person so offending may be prosecuted, by indictment or information, in the proper court of the county where any portion of the land lies or to which it may be attached for judicial purposes, or in the county of Travis, and jurisdiction of such offenses is hereby vested in said courts; and in case any indictment or information is preferred or filed against a non-resident of this state for a violation of this article, it shall be the duty of the governor to demand the extradition

"Public building" defined.

All officers to report violations. (Act Jan. 4, 1862, p. 51.)

Driving in capitol grounds. (Act April 29, 1874, p. 165.)

Hitching in same. Ib.

Pass-keys to state capitol. (Acts of 1895, p. 79.)

Taking property from public grounds.

Unlawful fencing, using, etc., public lands. (Act April 1, 1887, p. 89, §18.)

of the defendant from the proper officer of any state or territory where he may be found, in order that he may be brought to trial. "Fencing," within the meaning of this article, is the erection of any structure of wood, wire, or both, or any other material intended to prevent the passage of cattle, horses, mules, asses, sheep, goats or hogs, whether the same shall inclose lands on all sides or be erected on one or more sides. Any appropriation of land belonging to any particular fund specified in this act, or of the public lands of this state, without having first obtained a lease thereof, by fencing of any kind, or by inclosures consisting partly of fencing and partly of natural obstacles, or impediments to the passage of live stock, shall be deemed an unlawful appropriation, punishable as provided in this article for appropriating such lands, and each day said land is so appropriated shall be deemed a separate offense.

Not applica-
ble, when.
Ib. §19.

Art. 506. [422b] The provisions of this act as set forth in the preceding article shall not apply to persons who are moving or gathering or holding for shipment any stock mentioned in said article; provided, the said persons have not erected any fence on such lands or continue on said lands longer than one week.

Turning loose
too many stock
on leasehold
land.
(Act April 1,
1887, p. 88, §15;
amended by
Act April 28,
1891, p. 181.)

Art. 507. Any person desiring to lease any portion of public lands belonging to any of the funds mentioned in this act, the sale and lease of which is not provided for by any other law, shall make application in writing to the commissioner of the general land office, specifying and describing the particular lands he desires to lease. Thereupon the commissioner, if satisfied that the lands are not in demand for purposes of actual settlement, and that such lands can be leased without detriment to the public interest, shall notify the applicant in writing that his proposition to lease is accepted, and thereupon he shall execute and deliver to the lessee in the name of the state a lease of said land for such term as may be agreed upon, not longer than the period of time fixed by this act, according to its location, and deliver the same to such lessee when satisfied that the lessee has paid to the treasurer of the state the rental for one year in advance. No lands which are now or which may hereafter be classified as grazing lands within the territory where ten years' lease is authorized, as set forth in the preceding article of this chapter, shall be subject to sale during the term of the lease contract thereof, and the possession of the lessee shall not be disturbed during the term of his lease. All lands the lease of which is fixed by this act at not exceeding five years shall be leased subject to sale; provided, that if any lessee has actually settled upon any section of land included in his lease and erected thereon his residence and substantial improvements for permanent settlement such section shall not be sold, nor shall such settler be disturbed during the term of his lease, and all leases of agricultural lands embraced in the territory where a lease not exceeding ten years is provided for in this act, shall be subject to sale to actual settlers, except when settlement and improvements are made as hereinbefore provided for in this article, by the lessee. In all cases when an actual settler may desire to settle on any grazing land, which may have been leased under a five years' contract of lease, such actual settler shall first erect thereon substantial improvements of the value of not less than one hundred dollars within four months after making his application to purchase, satisfactory proof of which shall be made under such regulations as the commissioner of the general land office may require. Thereupon the land shall be awarded

to him. In such case the lessee shall have a pro rata credit on his next year's rental of any other lands which may be included in his lease contract, or the money for the unexpired year of the lease of such purchased portion of his leased lands refunded to him by the treasurer of the state, as he may elect. No purchaser or other person than the lessee shall be permitted to turn loose within such leasehold more than one head of horses or mules or cattle for any ten acres of land purchased, owned or controlled by him and uninclosed, or in lieu thereof four head of sheep or goats to every ten acres so purchased, owned or controlled and uninclosed. Each violation of this provision of this article which restricts the number of stock that may be turned loose on lands leased from the state shall be an offense, and the owner, on conviction, shall be punished by a fine of not less than one dollar for each head of stock he may so turn loose, and each thirty days' violation of the provisions of this article shall constitute a separate offense. None of the requirements for improvements to be made by an applicant to purchase shall be required of any person who shall desire to buy and settle upon any agricultural lands under lease made under the provisions of this act. In all cases where any lessee shall forfeit his contract of lease by failure to pay annually in advance the money due on his lease, whether such lease was heretofore or may hereafter be made, and whether for a ten or five years' lease, the lands embraced in any such contract shall thereafter be leased subject to sale as hereinbefore provided for.

Art. 508. [422d] It shall be unlawful for any person or corporation who may have used any of the lands, by joining fences or otherwise, to build or maintain more than three miles, lineal measure, of fence running in the same general direction without a gateway in the same, which gateway must be at least ten feet wide, and shall not be locked or kept closed so as to obstruct free ingress and egress; provided, that all persons who have fences already constructed in violation of the provisions of this law shall have two months from the time this act takes effect within which to conform with the provisions thereof; provided further, that if any person or persons shall build or maintain more than three miles, lineal measure, running in the same direction without providing such gateway he shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than two hundred nor more than one thousand dollars, and each day that such fence remains without such gateway shall constitute and be punished as a separate offense; provided further, that the construction of gates as provided for in this article shall apply only to pasture lands; provided further, that when herds of cattle, horses, sheep or goats are driven through this state from one place to another place in this state, and it becomes necessary for such stock to pass through any inclosed pasture of any person who has leased any of the aforesaid lands, such lessees of such inclosure shall permit such stock to pass through such pasture; provided, that the owner of such stock so driven through any such inclosure shall move the same as expeditiously and with as little delay as practicable through such inclosure.

Failure to provide gateways. (Act April 1, 1887, p. 90, §21.)

Art. 509. The act of April 17, 1879, pages 101 and 102, is as follows:

Other statutes relating to public lands. (Act April 17, 1879, pp. 101-2.)

1. Each and every person who shall have inclosed, by fencing or otherwise, any of the public free school lands belonging to the state, and shall use the same to the exclusion of the public, shall

pay an annual rental value therefor of the sum of twenty-five dollars for each section so inclosed.

2. And it shall be the duty of the surveyor of each county to make a report to the county commissioners' court on the first Monday in June each year of the number of sections of public school lands in his county inclosed during the past year, and the names of the person or persons controlling such inclosed lands, and the number of sections controlled by him or them respectively.

3. And the said court, at the first regular term thereafter, shall make a list of the names of the persons controlling such public free school lands, the number of sections so controlled by each person, and the aggregate amount due from each person, at the rate of twenty-five dollars for each section so inclosed and controlled, which list shall be recorded by the clerk of said court and a certified copy thereof forwarded by him to the comptroller of public accounts, and a like copy delivered to the collector of taxes for said county.

4. The collector of taxes, on receipt of such list, shall proceed to collect the same under the same provisions and penalties as is imposed by law for the collection of taxes.

5. All moneys collected under the provisions of this act shall be paid by the collector into the state treasury and constitute a part of the available school fund; provided, that the state may resume control of said land at any time.

6. Any person who shall control inclosed lands belonging to the public free schools and fail to pay the rental value as specified under the provisions of this act upon the demand of the collector, shall be subject to prosecution upon complaint, information or indictment, and fined in the sum of one hundred dollars for each section so inclosed.

Permitting
fence to re-
main standing
round land of
another, etc.
(Act Feb. 7,
1884, pp. 68-69.)

The act of February 7, 1884, pages 68 and 69, is as follows:

1. If any person or corporation shall knowingly make or permit to remain standing any fence on or around the land of another, or the public, public school, university or asylum lands of this state, without the written consent of the owner thereof duly acknowledged, or a duly executed lease of such land from the proper authority in a case of public, public school, university or asylum lands, as the case may be, duly recorded in the county where the land lies or to which it is attached for judicial purposes, he shall be deemed guilty of a misdemeanor, and upon conviction thereof fined in any sum not less than fifty cents nor more than one dollar per acre per month for each month so inclosed, or fined and imprisoned in the county jail for any period not over two years. Within the meaning of person, as used in this act, is included every man managing or controlling for a corporation, firm or joint stock company, and any and every individual or person who shall aid, assist or direct in the violation of this act. Half of all fines collected under the provisions of this act shall be paid to the person or persons informing on the person or corporation who shall unlawfully inclose any land; provided, that each three months said land is so inclosed shall constitute a separate offense. A fence within the meaning of this act is any structure of wood, wire, or both, or any other material intended to prevent the passage of cattle, horses, mules, asses, sheep, goats or hogs. Where persons or corporations have unlawfully fenced land belonging to the state, or public school, university or asylum lands, it shall be the duty of the attorney-general, either in person or by proxy, to institute proceedings in the name of the state against any

person or incorporation so unlawfully inclosing said lands; and the expense incurred in employing counsel to prosecute such cases shall be deducted from the fine or fines collected from any person or corporation violating the provisions of this act, the balance to be paid to the fund to which it belongs.

2. All persons or corporations who have already fenced lands within the prohibition of this act shall have six months from and after the time that this act goes into effect to conform to the provisions thereof; provided, that the provisions of this act shall not apply to any person or corporation who has heretofore or may hereafter in good faith fence land not their own.

3. In all prosecutions under this act the provisions of articles 826 and 827 of the Penal Code of the State of Texas shall apply.

4. This act shall not apply to persons who have heretofore settled upon lands not their own, where the inclosure is two hundred acres or less, and where the principal pursuit of such person upon the land is that of agriculture.

5. That any person who owns or controls land surrounding land of another may fence his own land by fencing the inner boundaries of his survey and leaving a way or lane sixty feet wide (unobstructed by gates or otherwise), to the outer boundaries of the surrounding land, at such place as the owner or agent of the inner survey may demand; and providing two gates at such places on the inner and outer fences as the owner of the inner survey shall demand; and they shall be kept in condition convenient for opening and closing by the owner of the fence; or if no demand is made, the opening and gates shall be at such place as the owner of the outer survey may select. When the way or lane and gates are once located they shall not be changed, except by consent of the owners of both the inner and outer surveys.

6. It shall be unlawful for any person, firm or corporation to herd or aid in herding, or cause to be herded, loose herded or detained for grazing by line-riding, any cattle, horses, mules, asses, sheep or goats on any vacant public domain, school, university or asylum lands within this state, unless the same shall have been leased from the proper authority; provided, that this section of this act shall not apply to persons herding such stock, in gathering for or carrying to and from market, or in moving the same from one section of the country to another.

7. Any person who shall knowingly violate any of the provisions in section 6 of this act shall be guilty of a misdemeanor, and upon conviction shall be fined one hundred dollars for each year or part of a year, for each section or part of a section (meaning six hundred and forty acres of land or less, whether surveyed in sections or not), which shall be used contrary to the provisions of this act.

8. The owner of the cattle, horses or sheep shall be liable to the state in the sum of one hundred dollars for each year or part of a year, for each six hundred and forty acres of land or tract of less size, that may be used contrary to the provisions of this act, which may be recovered in a civil action without affecting the criminal prosecutions prescribed herein.

9. Where such unleased land, now herded upon contrary to the provisions of this act, belongs to the unappropriated domain, public school, university or asylum lands, it shall be a bar to the criminal and civil prosecution hereinbefore provided for, for any violation prior to January 1, 1885, if the violator of this act, or the owner

of the cattle, horses or sheep shall, prior to the first day of September, A. D. 1884, pay into the state treasury thirty-two dollars for each section of six hundred and forty acres (or tract of less size) used contrary to this act, for the benefit of the fund to which the land belongs.

Turning loose
excess of stock
on leased
lands.
(Acts of 1895,
p. 71.)

Art. 509a. Each violation of the provisions of this act (of 1895, p. 71, chap. 12a, title 87, of the Revised Statutes), which restricts the number of stock that may be turned loose on lands leased from the state shall be an offense, and the offender, on conviction, shall be punished by fine of one dollar for each head of stock he may so turn loose, and each thirty days' violation of the provisions of this article shall constitute a separate offense.

Illegal fencing,
etc., of
public lands.
Ib. p. 74.

Art. 509b. It shall be unlawful for any person to fence, use, occupy or appropriate by herding or line-riding, any portion of the public lands of the state, or of the lands belonging to any particular fund specified in this act (of 1895, p. 63, chap. 12a, title 87, of the Revised Statutes), without having first obtained a lease of such lands in accordance with the provisions of said act. Any person, whether owner of stock, manager, agent, employe or servant, who shall fence, use, occupy or appropriate by herding or line-riding any portion of such lands without a lease thereof, shall be deemed guilty of a misdemeanor, and shall, upon conviction, be fined not less than one hundred nor more than one thousand dollars, and in addition there-to shall be imprisoned in the county jail for a period of not less than three months nor more than two years. Each day of such fencing, occupying, using or appropriating by herding or line-riding shall be deemed a separate offense, and any person so offending may be prosecuted by indictment or information in the proper court of the county where any portion of the land lies, or to which it may be attached for judicial purposes, or in the county of Travis, and jurisdiction of such offenses is hereby vested in said courts; and in case any indictment or information is preferred or filed against a non-resident of this state for a violation of this article, it shall be the duty of the governor to demand the extradition of the defendant from the proper officer of any state or territory where he may be found, in order that he may be brought to trial. "Fencing," within the meaning of this article, is the erection of any structure of wood, wire, or both, or any other material intended to prevent the passage of cattle, horses, mules, asses, sheep, goats or hogs, whether the same shall enclose lands on all sides or be erected on one or more sides. Any appropriation of land belonging to any particular fund specified in said act or of the public lands of this state, without having first obtained a lease thereof, by fencing of any kind, or by enclosures consisting partly of fencing and partly of natural obstacles or impediments to the passage of live stock, shall be deemed an unlawful appropriation, punishable as provided in this article for appropriating such lands, and each day said land is appropriated shall be deemed a separate offense.

CHAPTER FIVE.

OFFENSES RELATING TO THE PROTECTION OF FISH,
BIRDS AND GAME.

Article	Article		
Trapping fish out of season.....	510	Oysters—planting	526
Setting fixed net, trap, etc.....	511	Penalty	527
Taking fish by poison.....	512	Raking and dredging.....	528
Failing to construct fish-ladders, etc.....	513	Injury to corners.....	529
Fishing in certain waters except with		Commissioner failing to make report.....	529a
pole, hook and line.....	513a	Unlawful fishing	529b
Net or trap fishing.....	513b	Fishing by poison or explosives.....	529c
By poison, explosives, etc.....	513c	Penalty for failure to take out license.....	529d
Failure to construct fish-ladders.....	513d	Unlawful to ship or sell certain fish..	529e
Killing wild deer in certain months..	514	Or certain turtle or terrapin.....	529f
Killing wild turkey in certain months..	515	Fishing on breeding grounds unlawful..	529g
Killing prairie chickens in certain		Refuse fish to be returned to water....	529h
months	516	Charts as evidence.....	529i
Killing quail, etc., in certain months..	517	Taking oysters at certain seasons.....	529j
Killing certain harmless birds.....	518	Who may take oysters.....	529k
Same subject	519	Taking oysters with tongs.....	529l
Certain counties exempt.....	520	Catch must be culled.....	529m
Regulating tidewater fishing.....	521	Selling unculled cargoes.....	529n
Crab and shrimp fishing regulated....	522	Duty of commissioner	529o
Penalty	523	Unlawful taking, theft.....	529p
Oysters—preservation of	524	Unlawful to rake public reef.....	529q
Oysters—culled	525	Injuring buoy	529r

Article 510. [423] No person shall throw, drag or haul any fish net, seine or other contrivance for the purpose of catching fish (except the ordinary pole, line and hook, or trot line) in any stream, lake or pool of water within this state, not his own, above tide water, between the first day of February and the first day of July of each year; and at no time of the year in such waters shall any one be permitted to drag or haul any fish net or seine with meshes less than two and a half inches square; and any one violating the provisions of this article shall, upon conviction, be fined in a sum of not less than five nor more than fifty dollars.

Art. 511. [424] For the purpose of thoroughly protecting the fish now being propagated in our brooks, tanks, ponds, lakes, creeks, rivulets and rivers, not private and individual property, no person shall be permitted to set, place or use any fixed net, trap or other contrivances for trapping fish in said waters; and any one violating the provisions of this article shall be deemed guilty of a misdemeanor, and, upon conviction thereof before any justice of the peace or other court of competent jurisdiction, shall be fined in a sum of not less than fifteen dollars nor more than seventy-five dollars, together with all costs in the case accruing, which fine shall go to the common school fund; and each day that any fixed net, trap or other contrivance for trapping fish, as contemplated by this article, shall remain set or placed shall constitute a separate offense under this article; provided, that nothing in this chapter shall be construed as to prohibit the fish commissioner of this state from taking any and all fish at any time and by any means for breeding and scientific purposes, and for stocking other waters.

Art. 512. [425] Whoever shall catch or take, or attempt to catch or take, any fish in this state, by the use of lime, china berries, India berries or other poisonous substances placed in the water, or by the exploding of dynamite, giant powder, nitro-glycerine or other compounds of an explosive nature in the form of a cartridge or other forms, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than fifty nor more than one

hundred and fifty dollars. And any court, officer or tribunal having jurisdiction of the offense set forth in this article, or any district or county attorney, may subpoena persons and compel their attendance as witnesses to testify as to violations of any of the provisions of this article; and any person so summoned and examined shall not be liable to prosecution for any of the violations of this article about which he may testify, and a conviction for said offense may be had upon the unsupported evidence of an accomplice or participant.

Falling to construct fish-ladders. (Act March 31, 1881, p. 83.)

Art. 513. [425a] It shall be the duty of all persons, firms or corporations who have erected or who may hereafter erect any mill-dam, water-weir or other obstructions or weirs on streams within the waters of this state, within six months after the passage of this act, to construct and keep in repair fish-ways or fish-ladders at such mill dam, water weirs or obstructions, so that at all seasons of the year fish may ascend above such dam, weirs or obstructions to deposit their spawn. Any firm, corporation or person owning such mill-dam or obstructions who shall fail or refuse to construct or keep in repair such fish-ways or fish-ladders, after having been notified and required by the county judge to do so, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding one hundred nor less than twenty-five dollars for every such neglect or refusal.

Fishing in certain waters except by pole, hook and line; penalty. (Act of 1893, amend. of 1895, p. 184.)

Art. 513a. Hereafter no person or persons shall throw, drag or haul any fish net, seine or other contrivance for the purpose of catching fish (except the ordinary hook, line and pole, or trot line) in any stream, lake or pool of water within the counties of Burnet, Hardin, Liberty, Tyler, Harrison, Tom Green, Bexar, Travis, Austin, Jefferson, San Augustine, Jasper, Newton and Marion, state of Texas, above tide water, at any time of the year; and any one violating the provisions of this article, shall, upon conviction, be fined in a sum of not less than twenty-five nor more than fifty dollars, with all costs.

Net or trap fishing in certain waters; penalty. Ib.

Art. 513b. No person or persons shall be permitted to set, place, or use any fixed net, trap or other contrivance for catching or trapping fish in any waters in the counties of Burnet, Hardin, Liberty, Tyler, Harrison, Tom Green, Bexar, Travis, Austin, Jefferson, San Augustine, Jasper, Newton and Marion; and any one violating the provisions of this article shall be deemed guilty of a misdemeanor, and upon conviction thereof in any court of competent jurisdiction shall be fined in any sum not less than twenty-five nor more than seventy-five dollars, together with all costs in the case, and each day that any net, trap or other contrivance for trapping or catching fish as contemplated by this article shall remain set or placed shall constitute a separate offense under this article; provided, that nothing in this article shall be construed so as to prevent or prohibit the fish commissioner of this state from taking any fish at any time for breeding and scientific purposes, and for stocking waters.

Taking fish by poison, etc., in certain waters. (Act 1893, p. 114.)

Art. 513c. Whoever shall catch or take, or attempt to catch or take, any fish in these counties by the use of lime, china berries, India berries, or other poisonous substances, placed in the waters of the counties of Cherokee, Burnet, Hardin, Liberty, Tyler, Harrison, Nacogdoches, Tom Green, Bexar, Navarro, Travis, Austin, Jefferson, San Augustine, Jasper, Newton, Denton and Marion, state of Texas, or by the exploding of dynamite, giant powder, nitroglycerine, or other compounds of an explosive nature, in the form

of a cartridge or other forms, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than fifty nor more than one hundred and fifty dollars, and all costs.

Art. 513d. It shall be the duty of all persons, firms or corporations, who have created or who may hereafter erect any mill dam, water weir, or other obstructions or weirs on any stream within the waters of the counties of Cherokee, Burnet, Hardin, Liberty, Tyler, Harrison, Nacogdoches, Tom Green, Bexar, Navarro, Travis, Austin, Jefferson, San Augustine, Jasper, Newton, Denton and Marion, after the passage of this law, to construct and keep in repair fish ways or fish ladders at such mill dam, water weirs or obstructions, so that at all seasons of the year fish may ascend above such dam, weirs, or obstructions. Any firm, corporation, or person owning such mill dam or obstruction, who shall fail or refuse to construct or keep in repair such fish-ways or fish-ladders, after the passage of this law, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding one hundred nor less than fifty dollars for each and every such neglect or refusal. Any court, officer, or tribunal having jurisdiction of the offenses set forth in articles 513a, 513b, 513c and 513d, or any district or county attorney, may subpoena persons and compel their attendance as witnesses to testify as to the violations of any of the provisions of this law; and any person so summoned and examined shall not be liable to prosecution for any of the violations of this law about which he may testify, and a conviction for said offenses may be had upon the unsupported evidence of any accomplice or participant; and all fines inflicted for the violation of articles 513a, 513b, 513c and 513d shall go to the road and bridge fund of the counties of Cherokee, Burnet, Hardin, Liberty, Tyler, Harrison, Nacogdoches, Tom Green, Bexar, Navarro, Travis, Austin, Jefferson, San Augustine, Jasper, Newton, Denton and Marion; provided, however, that the provisions of this law shall not be so construed as to prevent the use of minnow seines for the catching of minnows for bait. Said minnow seines shall not be of a depth greater than three feet, nor of a greater length than fifteen feet. The provisions of this law shall not apply to any lake, pond or pool entirely within the lands of any person, company, or association of persons, so as to prevent the owner or proprietor from taking fish therefrom in any manner except as prohibited in article 513c.

Failing to construct fish-ladders.
Ib.

Art. 514. [426] It shall hereafter be unlawful for any person to kill, ensnare, trap or in any way destroy any wild deer in the period of time embraced between the twentieth day of January and the first day of August in each year, and any violation of this provision shall be considered a misdemeanor, and upon conviction before any court of competent jurisdiction shall be fined in any sum of not less than twenty-five nor more than fifty dollars, together with the costs of suit, which fine shall go to the common school fund, and upon conviction of said offense, as well as those provided against in articles 511 and 512 of this chapter, the person so offending and convicted shall stand committed to jail until such fine and costs are paid; and any butcher, huckster, marketer, carrier or express agent or any person found in possession of fresh-killed venison one day before the above specified open season begins or ten days after the open season is closed shall be deemed equally guilty of the violations of the provisions of this article, and be liable to the same proceedings and penalties herein provided or provided in articles 511 and 512.

Killing wild deer in certain months.
(Amended by Act April 11, 1883, p. 79.)

Killing wild turkeys in certain months. (Act March 15, 1881, p. 29.)

Art. 515. [426½] It shall be unlawful for any person to kill or to trap for immediate use or for market any wild turkey in the period of time of each year between the fifteenth day of May and the first day of September, and any one so offending shall be proceeded against as provided in article 514 of this act, and upon conviction fined in the sum of twenty-five dollars, the same to be used in accordance with the provisions of that article.

Killing prairie chickens in certain months. (Act March 15, 1881, p. 29.)

Art. 516. [427] If any person shall in any manner catch or kill any pinnated grouse (prairie chickens) in this state in the months of March, April, May, June and July, he shall be deemed guilty of a misdemeanor, and upon conviction thereof before any justice of the peace or other court of competent jurisdiction, shall be fined in the sum of ten dollars, together with the cost of the suit, the fine to be disposed of in accordance with the provisions on that subject in article 514 of this chapter.

Killing quail, etc., in certain months. (Act March 25, 1887, p. 42.)

Art. 517. [428] If any person shall in any manner catch or kill any quail or partridges in this state in the months of April, May, June, July, August and September of any year, he shall be deemed guilty of a misdemeanor, and upon conviction thereof before any justice of the peace or other court of competent jurisdiction, shall be fined the sum of ten dollars, together with all costs of suit, which fine shall go to the common school fund, and the person so convicted shall stand committed to jail until such fine and costs are paid; and the netting of partridges and quail is hereby entirely prohibited, under a like penalty for the infraction of this provision and under the proceedings governing this article.

Killing certain harmless birds. (Act March 15, 1881, p. 30.)

Art. 518. [429] If any person shall willfully kill or in any manner injure any mocking bird, whippoorwill, night hawk, blue bird, red bird, finch, thrush, linnet, wren, martin, swallow, bobolink, cat bird, nonpareil, scissortail, sparrow, buzzard or carrion crow, he shall be deemed guilty of a misdemeanor, and upon conviction before a justice of the peace or other court of competent jurisdiction he shall be fined a sum of not less than five nor more than fifteen dollars.

Killing certain birds; penalty and exception. (Act April 13, 1891, 22d Leg., p. 90.)

Art. 519. If any person shall willfully kill any seagull, tern, shear-water, egret, heron or pelican, or shall willfully take from their nests or in any manner destroy any egg or eggs of any seagull, tern, shear-water, egret, heron or pelican, he shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than five nor more than twenty-five dollars; provided, that the killing of any of the birds above enumerated, or taking of their eggs with intent to preserve the same for scientific purposes, shall not be construed to be a violation of this act.

(Amended by Act 1895, p. 158.)

Art. 520. [430] The following counties are hereby exempted from the provisions of articles 514, 515, 516, 517 and 518 of this chapter (old articles 426, 426½, 427, 428 and 429), to-wit: Cherokee, Shelby, Franklin, Rockwall, Hopkins, Williamson, Coryell, Mills, Comanche, Runnels, Cooke, Wise, Madison, Clay, Jack and the unorganized counties attached to the same for judicial purposes, Stephens, Polk, Throckmorton, Callahan, Taylor, Jones, Kent, Garza, Lynn, Terry, Yoakum, Trinity, Archer, Lamar, Cass, San Jacinto, Camp, Dimmit, Jackson, Kaufman; provided, the exemption from the operation of this law shall not apply to article 512; and provided, that the counties of Angelina and Sabine are hereby exempted from articles 515, 516, 517 and 518; and provided that the counties of Walker, Trinity, Panola, Jack and Young are hereby exempted from

articles 512, 514, 515, 516, 517 and 518 of this act; and provided, that the counties of Fannin, Delta and Hopkins are hereby exempted from the provisions of articles 514 and 515; and provided, that the county of Lee is exempted from the provisions of articles 514 and 518; and provided, that the counties of Bastrop, Brazos, Wilson, Freestone, Lampasas and Brazoria are hereby exempted from the provisions of article 518; and provided, that the counties of Gonzales, Palo Pinto, Eastland and Morris are hereby exempted from the provisions of articles 514, 515, 516 and 517; and provided, that the counties of Nacogdoches, Hill and Rusk are hereby exempted from the provisions of articles 516, 517 and 518; provided, further, that the counties of Franklin, Palo Pinto, Cass and Williamson shall be exempted from the provisions of article 510, and the counties of Tyler, Leon and Anderson shall be exempted from the provisions of article 514; provided further, that the county of Burnet is hereby exempted from the game and fish laws of this state; provided, that the counties of Karnes and Atascosa shall be exempted from the provisions of articles 510, 511, 515 and 518; provided, that the counties of Camp and Hill shall be exempt from articles 510 and 511; provided, that the counties of Shelby, Wise and Montague shall be exempt from the provisions of article 511; provided, that the county of Bell is hereby exempted from the provisions of this article; provided, that the counties of Wood and Rains are hereby exempted from articles 510, 514, 515, 516, 517 and 518 of this chapter; provided, San Augustine county shall be exempt from the provisions of articles 510, 511, 513, 515, 516, 517, 518, 521, 522 and 523.

Art. 521. [430a] It shall not be lawful for any person or persons who take, capture or catch fish in the waters of any of the bays or any of the tributaries of tide water within the limits of Texas, or from the waters of the Gulf of Mexico along the coast of Texas, by seines, dragnets, setnets, fish baskets, fish pots, weirs, poundnets, fykes or any other means or contrivance whatsoever, which is now known or used in the capturing or destroying of fish, or which may hereafter be invented for that purpose, to empty their seines, dragnets, setnets, fish baskets, fish pots, weirs, poundnets, fykes or any other means or contrivance used, or which may hereafter be used, for capturing and catching fish, on the beach or shores, at any time whilst so fishing, as to leave the smaller fish to perish, but to empty the same in water of sufficient depth that the smaller fish may live and grow; provided, that all fish not over eight inches in length shall be emptied back into water of sufficient depth to live and grow, croakers excepted.

Regulating
tide-water
fishing.
(Act April 2,
1887, p. 103, §1.)

Art. 522. [430d] It shall be unlawful for any person or persons to take, capture or catch, by any means whatever, within any of the waters of this state, and offer them for sale, either crab or shrimp, except those that are grown; and whenever, in capturing or catching crabs and shrimps, any caught not grown shall be emptied back into water of sufficient depth that they may live and grow.

Crab and
shrimp fishing
regulated
Ib. §4.

Art. 523. [430e] Any person or persons who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than twenty-five dollars nor more than one hundred dollars; provided, that all fines so collected shall be paid into the common school fund in each county where such conviction is had.

Penalty.
Ib. §5.

Preservation of oysters and oyster beds; public and private beds defined; time for taking; penalty. (Acts 22d Leg., 1891, p. 155, §1.)

Art. 524. Oyster beds shall be public and private; all those not designated as private shall be public; all natural oyster beds and oyster reefs shall be deemed public. No person shall take or catch oysters from any public beds for market or sale or planting from the first day of May to the first day of September in any year. Any person offending against the provisions of this article shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined for each offense not less than ten dollars nor more than fifty dollars.

Oysters culled from public beds, etc.; penalty. Ib. §2.

Art. 525. When oysters are culled or selected from public beds, those not wanted for market or sale or for family use shall be planted while alive, by the person or persons taking them on the beds from which they were taken, or some other bed, public or private, and any person violating the provisions of this article shall be guilty of a misdemeanor, and upon conviction thereof shall be fined for each offense not less than ten dollars nor more than fifty dollars.

Planting prohibited when. Ib. §6.

Art. 526. It shall not be lawful for any person to plant or purchase oysters for planting, bedding or depositing or for marketing, or for any other purpose whatever, from the first day of May to the first day of September in any year, and if any person shall violate the provisions of this article, or either of them, he shall be deemed guilty of a misdemeanor, and on conviction he shall be fined for each offense not less than ten nor more than one hundred dollars.

Penalty for theft of oysters. Ib. §7.

Art. 527. If any person shall willfully take oysters from a private bed or shall take oysters deposited by one making up a cargo for market or for family use without the consent or permission of the owner thereof, he shall be deemed guilty of theft, and upon conviction shall be fined in any sum not less than fifty nor more than two hundred dollars, and by confinement in the county jail for a term of not less than twenty days nor more than twelve months.

Unlawful to rake, dredge, etc.; penalty. Ib. §8.

Art. 528. It shall be unlawful for any person or persons to rake, dredge or excavate with machinery any public oyster bed or oyster reefs in the waters of this state. Any person or persons who shall violate the provisions of this article shall on conviction be fined in any sum not less than five hundred nor more than one thousand dollars. Each day's violation of any of the provisions of this article will constitute a separate offense.

Injury or destruction of corners, etc. Ib. §9.

Art. 529. Any person who shall willfully deface, injure or destroy or remove any post or buoy, or any part thereof, used to designate the corners or boundaries of any private oyster bed, without the consent of the owner of said private oyster bed, shall be deemed guilty of malicious mischief and punished accordingly.

Commissioner failing to make report. (Acts of 1895, p. 171.)

Art. 529a. The fish and oyster commissioner shall have until October first to make such report (the report required by article 2516 of the Revised Statutes), and failing to make such report within the time specified he shall be deemed guilty of contempt, and may be punished by a fine of not less than twenty-five dollars nor more than two hundred and fifty dollars, or dismissed from office, or both such fine and dismissal, at the discretion of the court having jurisdiction.

Unlawful fishing. Ib. p. 172.

Art. 529b. It shall be unlawful for any person to catch fish, green turtle or terrapin in the bays or coast waters of this state by drag seines or set nets, except as provided for in title XLVIII of the Revised Statutes.

Fishing by poison or explosives. Ib.

Art. 529c. The catching of fish, green turtle and terrapin in said waters by poison, dynamite, nitro glycerine, giant powder or other

explosives is hereby prohibited. Any person so offending shall upon conviction be fined not less than twenty-five dollars nor more than five hundred dollars, and each day shall constitute a separate offense.

Art. 529d. Any person shall be entitled to hold a license to catch fish, green turtle or terrapin, for sale or market, who is a citizen of the United States and a resident and tax payer of the state. Any one offending against this article shall, upon conviction, be fined not less than twenty-five dollars nor more than five hundred dollars.

Penalty for failure to take out license as a fisherman.
Ib. p. 173.

Art. 529e. It shall be unlawful for any person to sell or ship any redfish of more than twelve pounds in weight, or less than one and one-half pounds in weight, any trout of less than one pound in weight, or any sheephead of less than one pound in weight. Any person offending against this article shall, upon conviction, be fined in any sum not less than ten dollars nor more than two hundred and fifty dollars.

Unlawful to sell or ship certain fish of underweight.

Art. 529f. It shall be unlawful for any person to sell or ship any green turtle of less than twelve pounds in weight, or terrapin of less than six inches in length of under shell; or to catch or sell any terrapin from the first day of May to the first day of August. Any person offending against this article shall, upon conviction, be fined in any sum not less than ten dollars nor more than two hundred and fifty dollars.

Unlawful to sell or ship underweight green turtle, or terrapin.
Ib.

Art. 529g. It shall be unlawful for any person during the breeding season, consisting of the months intervening between April first and October first, to catch any fish, green turtle, or terrapin by drag seine or set net in these waters, which are hereby declared to be breeding grounds for fish, green turtle and terrapin, to-wit:

Fishing on breeding grounds unlawful; grounds defined.
Ib.

1. All that portion of water in Cameron and Nueces counties lying west of a line starting from Griffin's Point and running in a northerly direction to the northeast bank of Laguna Madre, and marked on the United States coast survey chart as Baffin's Bay and Aqua Dulce.

2. All that portion of water in Nueces county lying north of the San Antonio and Aransas Pass railroad bridge, and marked on the United States coast survey chart as Nueces Bay.

3. All that portion of water in Aransas county north of a line starting from the town of Lamar and running south to the north end of Goose Island; thence in a southwesterly direction to the extreme southeast point of Live Oak Peninsula, and marked on the United States coast survey chart as Copano Bay, Puerto and Mission Bay.

4. All that portion of water in Aransas county marked on the United States coast survey chart as St. Charles Bay.

5. All that portion of water in Refugio and Calhoun counties marked on the United States coast survey chart as Hynes Bay.

6. All that portion of water in Calhoun county north of a line starting from Marsh Point and running due east to the east bank of San Antonio Bay, and marked on the United States coast survey chart as Mission Bay and San Antonio Bay.

7. All that portion of Lavaca Bay in Calhoun county north and west of a line starting from Gallinipper Point on the south bank of said bay, running in a northerly direction along Gallinipper Bar to Point Comfort, or sometimes called Mitchell's Point.

8. All that portion of water in Calhoun county marked on the United States coast survey chart as Carankaway Bay.

9. All that portion of water in Matagorda county north of a line starting from Well Point and running east to Palacios Bayou, and

marked on the United States coast survey chart as Turtle Bay and Trespalacious Bay.

10. All that portion of water in Brazoria county north and east of Mud Island Pass, and marked on the United States coast survey chart as Bastrop Bay and Oyster Bay.

11. All that portion of water in Galveston county north of a line starting from Red Bluff on the west bank of Galveston Bay and running in an easterly direction to the first beacon south of Morgan's Point; thence in a northeasterly direction to Mesquite Point.

12. All that portion of water in Chambers county marked on the United States coast survey chart as Turtle Bay.

Penalty.

Any person offending against this section shall, upon conviction, be fined not less than twenty-five dollars nor more than two hundred and fifty dollars, and each day shall constitute a separate offense; and in all prosecutions under this section the identification of the boat from which such violation occur shall be prima facie evidence against the owner, lessee, person in charge or master of such boat.

Refuse fish to be returned to water; seines, etc.; penalty. *Ib.* p. 174.

Art. 529h. Any person dragging a seine on shore shall return all fish not wanted for market to the water while they are yet alive, except sharks, gars, rays, sawfish and catfish. And the size of the meshes of any seines used shall not be less than one and one-half inches square. Any person offending against this section shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than ten dollars nor more than two hundred and fifty dollars.

Charts as evidence. *Ib.*

Art. 529i. The United States coast survey charts numbers 203, 204, 205, 206, 207, 208, 209, 210, 211 and 212, covering the coast of Texas, shall be evidence in all prosecutions under this act.

Unlawful to take oysters from public reefs at certain seasons. *Ib.*

Art. 529j. It shall be unlawful for any person to take or catch oysters from any public beds or reefs for sale or planting from the thirtieth day of April to the first day of September of each year; provided, that part of Laguna Madre west of Baffin's Bay be exempted from the operation of this article. Any person offending against this section shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than ten dollars nor more than two hundred and fifty dollars, and each day shall constitute a separate offense.

[Note.—For public and private beds defined, see Revised Statutes, Article 2518l.]

Bona fide citizens only may take oysters from public reefs. *Ib.* 175.

Art. 529k. It shall be unlawful for any person to catch or take oysters from the public beds and reefs for sale who is not a bona fide citizen of the United States and a resident and tax payer of the state. Any person offending against this section shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than ten dollars nor more than two hundred and fifty dollars.

Taking oysters with tongs, except, etc. *Ib.*

Art. 529l. It shall be unlawful for any person to gather oysters with tongs or otherwise from the public beds and reefs of this state for sale without a license from the fish and oyster commissioner or his deputy for each and every pair of tongs that shall be used on his boat, and for such license he must pay to the fish and oyster commissioner or his deputy the sum of five dollars for each pair of tongs, and any person shall be entitled to hold such license who is a citizen of the United States and a resident and tax payer of the state of Texas. Such license shall be good from day of issuance until April

30th next; such license shall be signed by the fish and oyster commissioner or his deputy, and stamped with the seal of his office, and shall state the name of applicant and date of issuance; provided, that any person holding such license in his own name may take or catch oysters from any boat. Any one offending against this article shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than ten dollars nor more than two hundred and fifty dollars, and each day shall constitute a separate offense.

Art. 529m. When oysters are gathered from the public beds they must be culled and the young oysters and dead shells must be returned to the original bed while the young ones are yet alive; and any person offending against this article shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than ten dollars nor more than two hundred and fifty dollars for each and every offense.

Catch must be
culled.
Ib.

Art. 529n. Any person offering for sale or who shall sell any cargo of oysters which shall contain more than five per cent of young oysters shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than ten dollars nor more than two hundred and fifty dollars. Any oyster that measures two and one-half inches or less from hinge to mouth shall be deemed a young oyster for the purpose of this and the preceding article.

Selling un-
culled cargoes
of oysters.

Art. 529o. It shall be the duty of the fish and oyster commissioner or his legal deputy, when he thinks that any cargo of oysters offered for sale contain more than five per cent of young oysters, to take as many as he may deem necessary from such cargo, cull them, and measure the marketable oysters and then measure the young oysters, or those that measure less than two and one-half inches from hinge to mouth, and ascertain to the best of his ability the proportion of the young oysters to the marketable oysters, and if the young oysters be in greater proportion than five per cent, the cargo shall be deemed unculted, and the owner shall be guilty of the offense prescribed in article 529n.

Duty of com-
missioner, etc.
Ib.

Art. 529p. It shall be unlawful for any person to take oysters from a private bed or to take oysters deposited by one making up a cargo for market or family use without the consent or permission of the owner thereof, and any one offending any provisions of this article shall be deemed guilty of theft, and upon conviction shall be punished by fine of not less than fifty dollars nor more than two hundred and fifty dollars, or by confinement in the county jail of not less than twenty days nor more than twelve months, or by both such fine and such imprisonment.

Unlawful tak-
ing of oysters,
theft.
Ib. p. 177.

Art. 529q. In gathering oysters for market from the public oyster beds or reefs it shall be unlawful for any person to use a rake or dredge. Any person offending against this section shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum of not less than five hundred dollars nor more than one thousand dollars.

Unlawful to
rake or dredge
public oyster
beds.
Ib.

Art. 529r. Any person who shall willfully deface, injure, destroy or remove any buoy or any part thereof used to designate the corners or boundary of any private oyster bed, without the consent of the owner thereof, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than fifty dollars nor more than two hundred and fifty dollars.

Injuring buoy.
Ib.

TITLE XIV.

Of Offenses Against Trade, Commerce and the Current Coin.

CHAPTER ONE.

OF FORGERY AND OTHER OFFENSES AFFECTING WRITTEN INSTRUMENTS.

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All participants guilty	538	Same in acknowledgments	549
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Person not guilty, when	540		
Altering teacher's certificate is forgery	540a		

"Forgery" defined.

Article 530. [431] He is guilty of forgery who, without lawful authority, and with intent to injure or defraud, shall make a false instrument in writing, purporting to be the act of another, in such manner that the false instrument so made would (if the same were true) have created, increased, diminished, discharged or defeated any pecuniary obligation, or would have transferred, or in any manner have affected any property whatever.

Alteration also forgery.

Art. 531. [432] He is also guilty of forgery who, without lawful authority, and with intent to injure or defraud, shall alter an instrument in writing, then already in existence, by whomsoever made, in such manner that the alteration would (if it had been legally made) have created, increased, diminished, discharged or defeated any pecuniary obligation, or would have transferred, or in any manner have affected any property whatever.

Intent to injure, etc., necessary.

Art. 532. [433] The false making or alteration, to constitute forgery, must be done with intent to injure or defraud, and the injury must be such as affects one pecuniarily, or in relation to his property.

"Instrument in writing" defined

Art. 533. [434] The words "instrument in writing," as used in articles 530 and 531, and elsewhere in this chapter, include every writing purporting to make known or declare the will or intention of the party whose act it purports to be, whether the same be of record or under seal or private signature, or whatever other form it may have. It must be upon paper or parchment, or some substance made to resemble either of them. The words may be written, printed, stamped or made in any other way, or by any other device. And the words "in writing," "write," "written," include all these modes of making. An instrument, partly printed or stamped, and partly written, is an instrument in writing. In order to come within the defini-

tion of forgery, the signature, when made otherwise than by writing, must be made to resemble manuscript.

Art. 534. [435] The word "alter," in the definition of forgery, means to erase or obliterate any word, letter or figure, to extract the writing altogether, or to substitute other words, letters or figures for those erased, obliterated or extracted, to add any other word, letter or figure to the original instrument; or to make any other change whatever which shall have the effect to create, increase, diminish, discharge or defeat a pecuniary obligation, or to transfer, or in any other way affect any property whatever.

Art. 535. [436] The instrument must purport to be the act of "another," and within the meaning of this word, as used in defining forgery, are included this state, the United States, or either of the states or territories of the Union; all the several branches of the government of either of them; all public or private bodies, politic and corporate; all courts; all officers, public or private, in their official capacity; all partnerships in professions or trades; and all other persons, whether real or fictitious, except the person engaged in the forgery.

Art. 536. [437] "Pecuniary obligation" means every instrument having money for its object, and every obligation for the breach of which a civil action for damages may be lawfully brought.

Art. 537. [438] By an instrument which would "have transferred or in any manner have affected" property, is meant every species of conveyance, or undertaking in writing, which supposes a right in the person purporting to execute it, to dispose of or change the character of property of every kind, and which can have such effect when genuine.

Art. 538. [439] He is guilty of making or altering, as the case may be, under articles 530 and 531, who, knowing the illegal purpose intended, shall write, or cause to be written, the signature, or the whole or any part of a forged instrument. All persons engaged in the illegal act are deemed guilty of forgery.

Art. 539. [440] It is forgery to make, with intent to defraud or injure, a written instrument, by filling up over a genuine signature, or by writing on the opposite side of a paper so as to make the signature appear as an indorsement.

Art. 540. [441] When the person making or altering an instrument in writing acts under an authority which he has good reason to believe, and actually does believe, to be sufficient, he is not guilty of forgery, though the authority be in fact insufficient and void.

Art. 540a. Any person who shall unlawfully and willfully raise, change, or alter any teacher's certificate or diploma, or other instrument having the force of a teacher's certificate, shall be deemed guilty of forgery, and upon conviction thereof shall be punished by confinement in the penitentiary for a term of not less than two nor more than seven years.

Art. 541. [442] If any person be guilty of forgery he shall be punished by confinement in the penitentiary not less than two nor more than seven years.

Art. 542. [443] If any person shall knowingly pass as true or attempt to pass as true any such forged instrument in writing as is mentioned and defined in the preceding articles of this chapter he shall be punished by imprisonment in the penitentiary not less than two nor more than five years.

"Alter" defined.

"Another" includes, what.

"Pecuniary obligation" defined.

"Transferred or in any manner have affected" defined.

All participants guilty.

Filling up over signature.

Person not guilty, when.

Altering teacher's certificate is forgery. (Acts of 1893, p. 205.)

Penalty.

Passing forged instrument.

Preparing im-
plements for
forgery.

Art. 543. [444] Whoever shall prepare in this state any imple-
ments or materials, or engrave any plate for the purpose of being
used in forging the notes of any bank, whether within this state or
out of it, and whether the same be incorporated or not, or who shall
have in his possession in this state any such implements, materials
or engraved plate, with intent to be used for the purpose above men-
tioned, shall be imprisoned in the penitentiary not less than two nor
more than five years.

Possession of
forged instru-
ment with in-
tent to pass.
(Act Feb. 12,
1859, p. 169.)

Art. 544. [445] If any person shall knowingly have in his pos-
session any instrument of writing, the making of which is by law an
offense, with intent to use or pass the same as true, he shall be pun-
ished by confinement in the penitentiary not less than two nor more
than five years.

Evidence in
case of bank
bills.

Art. 545. [446] Upon the trial of any indictment for the forgery
of any bank bill, or for passing or attempting to pass any such bill as
true, or for knowingly having in possession any such forged bank
bill, evidence that bills or notes, purporting to be issued by any
bank, are commonly received as currency, or proof of the existence
of such bank by parol testimony, shall be deemed sufficient to show
its legal establishment and existence.

Falsely read-
ing instru-
ment.

Art. 546. [447] If any one, with intent to defraud, shall, either
by falsely reading or falsely interpreting any pecuniary obligation
or instrument in writing, which would in any manner affect prop-
erty, or by misrepresenting its contents, induce any one to sign such
instrument as his act, or give assent to it in such manner as would
make it his act, if not done under mistake, the person so offending
shall be imprisoned in the penitentiary not less than two nor more
than five years.

Substituting
one instrument
for another.

Art. 547. [448] If any person with intent to defraud shall sub-
stitute one instrument of writing for another, and by this means in-
duce any person to sign an instrument materially different from that
which he intended to sign, he shall be punished by imprisonment in
the penitentiary not less than two nor more than five years.

Falsely per-
sonating an-
other.

Art. 548. [449] If one shall falsely personate another, whether
bearing the same name or not, and, in such assumed character, shall
give authority to any person to sign such assumed name to any in-
strument in writing which, if genuine, would create, increase, di-
minish or discharge any pecuniary obligation, or would transfer or
in any way affect any property, he shall be imprisoned in the peni-
tentiary not less than two nor more than seven years.

Same in ac-
knowledg-
ments.

Art. 549. [450] If any person shall falsely personate another,
whether bearing the same name or not, and in such assumed charac-
ter shall, before any officer authorized by law to authenticate in-
struments of writing for registration, acknowledge the execution of
an instrument of writing purporting to convey or in any manner af-
fect an interest in property, such instrument purporting to be the act
of the person whose name is so assumed, and the acknowledgment
thereof being such as would entitle the instrument to be registered,
he shall be punished by confinement in the penitentiary not less than
two nor more than ten years.

Prosecutions
under one bill
of indictment.
(Acts of 1895,
p. 106.)

Art. 549a. [450a] A conviction for any of the offenses men-
tioned in articles 530, 542 and 544 of this code shall be a bar to any
other prosecution under said articles based upon the same trans-
action or same forged instrument of writing; provided, that one or
more of said several offenses may be charged by separate counts in
the same bill of indictment, and prosecuted together to final judg-

ment without election by the state as to which it relies upon for conviction; and provided further, a judgment of conviction shall specify which offense or under which count the defendant is found guilty, and shall assess but one penalty not exceeding the greatest punishment fixed by law to the highest grade of offense of which defendant is convicted; and it is hereby declared unlawful for any county or district attorney or any person acting as such to willfully or knowingly demand or receive fees for more than one prosecution that could have been combined or prosecuted in one bill of indictment, and subject to the penalties prescribed by law for the punishment of extortion of illegal fees.

CHAPTER TWO.

FORGERY OF LAND TITLES, ETC.

Article	Article
"Forgery of patents," etc., defined..... 550	Proof and allegations necessary in indictment; proof of intent to defraud United States, etc., no variance..... 554
False certificate by officers, forgery.... 551	Venue 555
Knowingly uttering forged instrument.. 552	Rules in forgery applicable..... 556
Non-residents may commit; venue..... 553	

Article 550. [451] Every person who falsely makes, alters, forges or counterfeits, or causes or procures to be falsely made, altered, forged or counterfeited, or in any way aids, assists, advises or encourages the false making, altering, forging or counterfeiting of any certificate, field-notes, returns, survey, map, plat, report, order, decree, record, patent, deed, power of attorney, transfer, assignment, release, conveyance or title paper, or acknowledgment, or proof of record, or certificate of record belonging or pertaining to any instrument or paper, or any seal, official or private stamp, scroll, mark, date, signature, or any paper, or any evidence of any right, title, or claim of any character, or any instrument in writing, document, paper or memorandum, or file of any character whatsoever in relation to or affecting lands, or any interest in lands in this state, with the intent to make money or other valuable thing thereby, or with intent to set up a claim or title, or aid or assist any one else in setting up a claim or title to lands or any interest in lands, or to prosecute or defend a suit, or aid or assist any one else in prosecuting or defending a suit with respect to lands, or to cast a cloud upon the title, or in any way injure, obtain the advantage of or prejudice the rights or interests of the true owners of lands, or with any fraudulent intent whatever, shall be deemed guilty of forgery and be punished by imprisonment in the state penitentiary at hard labor not less than five nor more than twenty years.

Art. 551. [452] If any person authorized by law to take the proof or acknowledgment of any instrument, document or paper whatsoever, affecting or relating to the title of lands in this state, willfully and falsely certify that such proof or acknowledgment was duly made; or if any person fraudulently affixes a fictitious or pretended signature purporting to be that of an officer or any other person, though such person never was an officer or never existed, he shall be deemed guilty of forgery and punished as provided in article 550 of this chapter.

Art. 552. [453] Every person who knowingly utters, publishes, passes or uses, or who in any way aids, assists in or advises the

"Forgery of patents," etc., defined. (Act July 28, 1876, p. 59.)

False certificate by officers forgery. Ib.

Knowingly uttering forged instruments. Ib.

uttering, publishing, passing or using as true and genuine any false, forged, altered or counterfeited certificate, field-notes, returns, survey, map, plat, report, order, decree, record, patent, deed, power of attorney, transfer, assignment, release, conveyance, title papers, acknowledgment or proof for record or certificate of record belonging or pertaining to any instrument or paper, or any evidence of any right, title or claim of any character whatsoever, or any instrument in writing, document, paper, memorandum or file, or any official or private seal, or any scroll, mark, date or signature in any way relating to or having any connection with land, or any interest in land in this state, with the intent mentioned in article 550 of this chapter, or with any other fraudulent intent whatsoever, shall be deemed guilty and be punished in like manner as is provided in article 550 of this chapter. And the filing or causing or directing to be filed, or causing or directing to be recorded in the general land office of the state, or in any office of record or in any court in this state, or the sending through the mails or by express, or in any other way, for the purpose of filing or record of any such false, altered, forged or counterfeited matter, documents, conveyances, papers or things, knowing the same to be false, altered, forged or counterfeited, shall be an uttering, publishing and using within the meaning of this article.

Non-residents
may commit,
venue.
Ib.

Art. 553. [454] Persons out of the state may commit and be liable to indictment and conviction for committing any of the offenses enumerated in this chapter, which do not in their commission necessarily require a personal presence in this state—the object of this chapter being to reach and punish all persons offending against its provisions, whether within or without the state; an indictment, under this chapter, may be presented by the grand jury of Travis county, in this state, or in the county where the offense was committed, or in the county where the land lies about which the offenses named in this chapter were committed.

Proof and allegations necessary in indictments; proof of intent to defraud the United States, etc.
Ib.

Art. 554. [455] Upon indictment under this chapter, to warrant a conviction, it shall only be necessary to prove that the person charged took any one step, or did any one act or thing in the commission of the offense, if from such step, act or thing any of the intentions hereinbefore mentioned, or any other fraudulent intention, may be reasonably inferred; nor shall it be any defense to a prosecution under this chapter that the matter, act, deed, instrument or thing was in law, either as to substance or form, void, or that the same was not in fact used for the purpose for which it was made or designed; and it shall only be necessary in an indictment under this chapter to state with reasonable certainty the act constituting the offense, and charge, in connection therewith, in general terms, the intention to defraud, without naming the person or persons it was intended to defraud; and, on trial of such indictment, it shall be sufficient and shall not be deemed a variance if there appears to be an intent to defraud the United States, or any state, territory, county, city, town or village; or any body corporate, or any public officer in his official capacity, or any copartnership or member thereof, or any particular person.

Venue.
Ib.

Art. 555. [456] Indictments under this chapter may be presented and the offenses prosecuted in any of the counties prescribed in this chapter of the Code of Criminal Procedure.

Rules in forgery applicable.
Ib.

Art. 556. [457] The rules prescribed in chapter one of this title relative to the offense of forgery, so far as the same are applicable, shall apply to the various offenses enumerated in this chapter.

CHAPTER THREE.

OF COUNTERFEITING AND DIMINISHING VALUE OF CURRENT COIN.

Article	Article		
“Counterfeiting” defined	557	Making dies, etc., and having them in possession	562
“Altering” also counterfeiting.....	558	Passing coin of diminished value.....	563
Resemblance need not be perfect.....	559	“Gold and silver coin” defined.....	564
Punishment	560	What sufficient to constitute passing....	565
Passing counterfeit coin.....	561		

Article 557. [459] He is guilty of counterfeiting who makes, in the semblance of true gold or silver coin, any coin of whatever denomination, having in its composition a less proportion of the precious metal of which the true coin intended to be imitated is composed, than is contained in such true coin, with intent that the same should be passed in this state or elsewhere. “Counterfeiting” defined.

Art. 558. [460] He is also guilty of counterfeiting who, with like intent, alters any coin of lower value so as to make it resemble coin of higher value. “Altering” also counterfeiting.

Art. 559. [461] The resemblance between the true and the false coin need not be perfect to constitute the offense of counterfeiting. Resemblance need not be perfect.

Art. 560. [462] Any person who shall counterfeit any gold or silver coin shall be punished by imprisonment in the penitentiary not less than five nor more than ten years. Punishment.

Art. 561. [463] If any person, with intent to defraud, shall pass, or offer to pass, as true, or bring into this state, or have in his possession, with intent to pass as true, any counterfeit coin, knowing the same to be counterfeit, he shall be punished by imprisonment in the penitentiary not less than two nor more than five years. Passing counterfeit coin.

Art. 562. [464] If any person, with the intention of committing the offense of counterfeiting or of aiding therein, shall make or repair, or shall have in his possession any die, mould or other instrument whatever, designed or adapted, or usually employed for making coin, or shall prepare, or have in his possession, any base metal prepared for coinage, with intent that the same may be used for the purpose of counterfeiting, he shall be punished by imprisonment in the penitentiary not less than two nor more than five years. Making dies, etc., and having them in possession.

Art. 563. [465] If any person shall, with intent to profit thereby, diminish the weight of any gold or silver coin, and shall afterward pass it for the value it would have had before it was so diminished, or send it to any place, whether in the state or out of it, with the intent that the same may be passed, he shall be punished by imprisonment in the penitentiary not less than two nor more than five years. Passing coin of diminished value. (Act Feb. 12, 1858, p. 169.)

Art. 564. [466] By the gold or silver coin mentioned in this chapter is meant any piece of gold or silver of which one of these metals is the principal component part, and which passes as money in the United States, either by law or usage, whether the same be of the coinage of the United States or of any foreign country. “Gold and silver coin” defined.

Art. 565. [467] It is sufficient to constitute the offense of passing, or attempting to pass, under the provisions of this chapter, if the counterfeit coin be delivered or offered to another, with the intention of defrauding, or enabling such other person to defraud, although such counterfeit coin be not delivered or offered at the full value which it would bear if genuine. What sufficient to constitute passing.

CHAPTER FOUR.

OF OFFENSES WHICH AFFECT FOREIGN COMMERCE.

	Article		Article
Shipping articles without inspection....	566	Same subject	569
Altering marks, etc.....	567	Fraudulent insurance.....	570
False packing	568	Harboring deserting seamen.....	571

Shipping articles without inspection. Article 566. [468] If any person shall export from this state, or ship for the purpose of exportation to any one of the United States or to any foreign port, any article of commerce which, by any law of the state, may be required to be inspected by a public inspector, without having caused such inspection to be made according to law, he shall be fined not exceeding one hundred dollars.

Altering marks, etc. Art. 567. [469] If any person shall counterfeit or alter the mark, brand or stamp directed by any law of the state to be put on any article of commerce, or on the box, cask or package containing the same, he shall be punished by fine not exceeding one thousand dollars, or by imprisonment in the county jail not exceeding one year.

False packing. Art. 568. [470] If any person shall, with intent to defraud, put into any hogshead, barrel, cask or keg, or into any bale, box or package containing merchandise or other commodity usually sold by weight, any article whatever of less value than the merchandise with which such bale, box, package, hogshead, barrel, cask or keg is apparently filled, or, with intent to defraud, shall sell or barter, give in payment, or expose to sale, or ship for exportation, any such hogshead, barrel, cask, keg, box, bale or package of merchandise, or other commodity, with any such article of inferior value concealed therein, he shall be punished by confinement in the county jail not exceeding one year, or by fine not exceeding one thousand dollars.

Same subject. (Act Feb. 12, 1858, p. 170.) Art. 569. [471] If any person shall, with intent to deceive and defraud, conceal within any hogshead, cask, barrel, box, bale, keg or package containing merchandise or other commodity any merchandise or commodity of a quality inferior to that which such hogshead, cask, barrel, bale, keg or package is filled, or any substance of less value, he shall be fined not exceeding five hundred dollars.

Fraudulent insurance. Art. 570. [472] If any person shall cause insurance to be made in this state upon any merchandise or other commodity represented to be already shipped, or about to be shipped, at any place, whether within this state or out of it, and shall, with the intent to defraud the insurer, ship articles of value less than one-half the represented value of those insured, or of a different kind from those insured, he shall be punished by fine in a sum not exceeding the amount for which such merchandise or commodity may be insured.

Harboring deserting seamen. Art. 571. [473] The municipal authorities of incorporated towns and cities being shipping ports, may make such regulations as are deemed proper for the punishment of keepers of boarding houses and others who knowingly lodge, entertain or conceal seamen who have deserted from any merchant vessel in their respective ports; but they shall not affix a higher penalty for such offense than a fine of fifty dollars, or imprisonment in jail for thirty days.

CHAPTER FIVE.

FALSE WEIGHTS AND MEASURES.

	Article		Article
Penalty for using.....	572		Destruction of, on conviction.....
Definition	573		574

Article 572. [474] If any person shall use a false balance, weight or measure in weighing or measuring anything whatever, purchased or sold by himself, or bartered, shipped or delivered by him for sale, or bartered, or pledged, or given in payment, knowing the same to be false, and with intent to defraud, he shall be punished by fine not exceeding three hundred dollars. Penalty for using.

Art. 573. [475] A false weight or measure is such as is not in conformity with the standard which is or may be established by a law of this state. Definition.

Art. 574. [476] When a warrant of arrest is issued in case of offenses under this chapter, the magistrate shall direct the false balances, weights or measures to be seized and kept by the sheriff until the trial of defendant, and, in case of conviction, the same shall be destroyed. Destruction of, on conviction.

CHAPTER SIX.

OF OFFENSES BY PUBLIC WEIGHERS.

	Article		Article:
Use of false balances.....	575		Factor, etc., shall not employ private
Giving false certificate.....	576		weigher
Other than public weigher shall not weigh, etc.	577		Person may weigh his own produce.....
			578 579

Article 575. [477] If any person appointed public weigher by authority of any law of this state shall fraudulently use any false balance or instrument for weighing, or shall, in exercise of his official duties, fraudulently give the wrong weight of any article weighed by him, he shall be punished by fine not less than one hundred nor more than five hundred dollars, or by imprisonment in the county jail not exceeding one year. Using of false balance.

Art. 576. [478] If any public weigher in this state, or his deputy, shall willfully certify to any false weight of cotton, sugar, wool or hides, he shall be punished by confinement in the penitentiary not less than two nor more than three years. Giving false certificate. (Act March 15, 1875, p. 164.)

Art. 577. [478a] It shall not be lawful for any person other than a regularly appointed weigher, or his deputy, to weigh any cotton, wool, sugar or hides required to be weighed, sold or offered for sale in any city having a public weigher duly qualified. Any person or persons so offending shall be deemed guilty of a misdemeanor, and, upon conviction before any court of competent jurisdiction, shall suffer a fine of five dollars for each and every bale of cotton, bale or sack of wool, hogshead or barrel of sugar, bale or loose hide so weighed. Other than public weigher shall not weigh. (Act April 19, 1879, p. 116, §7.)

Art. 578. [478b] It shall not be lawful for any factor, commission merchant or any other person or persons to employ any one other than a regularly appointed and qualified public weigher, or his Factor, etc., shall not employ private weigher. Ib. §8.

deputy, to weigh any cotton, wool, sugar or hides required to be weighed, sold or offered for sale in any city having a public weigher duly qualified, and any person or persons violating this provision shall be liable, at the suit of the public weigher of such city, or either of such public weighers, to damages in any sum not less than five dollars for each bale of cotton, bale or sack of wool, hogshead or barrel of sugar or bale of hides so unlawfully weighed, to be recovered in any court of such county having jurisdiction thereof; provided, any owner shipping any produce named in this article to any town or city having a public weigher may, by written instructions, authorize his factor, commission merchant or agent to have such produce weighed by private weighers, if he prefers so to do, and in all such cases the prohibitions and penalties embraced in this article and in the preceding article shall not apply.

Person may weigh his own produce. Ib. §10.

Art. 579. [478c] Nothing in this chapter shall be construed to prevent any person from weighing his cotton, wool, hides or sugar in person without being compelled to call upon a public weigher to weigh the same.

CHAPTER SEVEN.

MISCELLANEOUS OFFENSES.

	Article		Article
False certificate by notary public.....	580	Throwing ballast into the sea near bar, etc.	584
False declaration or protest by.....	581	Penalty	585
Preceding articles embrace what.....	582	False entry in book of accounts.....	586
False declaration by master of vessel..	583		

False certificate by notary public.

Article 580. [479] If any notary public shall make any false certificate as to the proof or acknowledgment of any instrument of writing relating to commerce or navigation to which, by law, he is authorized to certify; or shall make any false certificate as to the proof or acknowledgment of any letter of attorney, or other instrument of writing relating to commerce or navigation, to which he may by law certify, he shall be punished by confinement in the penitentiary not less than two nor more than five years.

False declaration or protest by.

Art. 581. [480] If any notary public shall make any false declaration or protest respecting any matter or thing relating to commerce or navigation, or to commercial instruments where, by law, he is authorized to make such declaration or protest, he shall be punished as prescribed in the preceding article.

Preceding articles embrace, what.

Art. 582. [481] The provisions of the two preceding articles are intended to embrace all acts of a notary public done in his official capacity within the proper sphere of his duties, and which arise out of transactions respecting navigation or commerce.

False declaration by master of vessel.

Art. 583. [482] If any master or other officer of a vessel, with intent to defraud, shall make a false declaration or protest as to the loss or damage of any vessel or cargo, he shall be punished by confinement in the penitentiary not less than two nor more than five years.

Throwing ballast into the sea near bar, etc. (Act April 23, 1879, p. 163, §2.)

Art. 584. [482a] From and after the passage of this act it shall be unlawful to throw into the sea any part of the ballast of any vessel within six miles of any bar or harbor in this state.

Penalty. Ib. §2.

Art. 585. [482b] If any ballast shall be thrown into the sea within the limits forbidden by this law from any vessel, the master

or officer in charge thereof at the time shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than one hundred dollars nor more than two hundred dollars.

Art. 586. [483] If any person with intent to defraud shall make or cause to be made any false entry in any book kept as a book of accounts, or shall, with like intent, alter or cause to be altered any item of an account kept or entered in such book, he shall be fined not less than one hundred nor more than one thousand dollars, or be punished by confinement in the penitentiary not less than two nor more than five years.

False entry in
book of ac-
count.

TITLE XV.

Of Offenses Against the Person.

CHAPTER ONE.

ASSAULT AND ASSAULT AND BATTERY.

Article	Article
"Assault and battery" defined..... 587	When violence does not amount to..... 593
Intent presumed and "injury" defined.. 588	Degree of force permissible..... 594
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"Coupled with an ability to commit" defined 592	Punishment for simple assault, etc..... 598
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"Assault and battery" defined.

Article 587. [484] The use of any unlawful violence upon the person of another with intent to injure him, whatever be the means or the degree of violence used, is an assault and battery. Any attempt to commit a battery, or any threatening gesture showing in itself or by words accompanying it an immediate intention, coupled with an ability to commit a battery, is an assault.

Intent presumed and "injury" defined.

Art. 588. [485] When an injury is caused by violence to the person the intent to injure is presumed, and it rests with the person inflicting the injury to show the accident or innocent intention. The injury intended may be either bodily pain, constraint, a sense of shame, or other disagreeable emotion of the mind.

May be committed on person not intended.

Art. 589. [486] An assault, or an assault and battery, may be committed though the person actually injured thereby was not the person intended to be injured.

How it may be committed.

Art. 590. [487] An assault, or assault and battery, may be committed by the use of any part of the body of the person committing the offense, as of the hand, foot, head, or by the use of any inanimate object, as a stick, knife or anything else capable of inflicting the slightest injury, or by the use of any animate object, as by throwing one person against another, or driving a horse or other animal against the person.

Any means capable of injury sufficient.

Art. 591. [488] Any means used by the person assaulting, as by spitting in the face or otherwise, which is capable of inflicting an injury, comes within the definition of an assault, or an assault and battery, as the case may be.

"Coupled with ability to commit" defined.

Art. 592. [489] By the terms "coupled with an ability to commit" as used in article 587 is meant—

1. That the person making the assault must be in such a position that, if not prevented, he may inflict a battery upon the person assailed.

2. That he must be within such distance of the person so assailed as to make it within his power to commit the battery by the use of the means with which he attempts it.

3. It follows that one who is, at the time of making an attempt to commit a battery, under such restraint as to deprive him of the power to act, or who is at so great a distance from the person assailed as that he can not reach his person by the use of the means with which he makes the attempt, is not guilty of an assault. But the use of any dangerous weapon, or the semblance thereof, in an angry or threatening manner, with intent to alarm another, and under circumstances calculated to effect that object, comes within the meaning of an assault.

Art. 593. [490] Violence used to the person does not amount to an assault or battery in the following cases: When violence does not amount to.

1. In the exercise of the right of moderate restraint or correction given by law to the parent over the child, the guardian over the ward, the master over his apprentice, the teacher over the scholar.

2. For the preservation of order in a meeting for religious, political or other lawful purposes.

3. The preservation of the peace, or to prevent the commission of offenses.

4. In preventing or interrupting an intrusion upon the lawful possession of property.

5. In making a lawful arrest and detaining the party arrested, in obedience to the lawful order of a magistrate or court, and in overcoming resistance to such lawful order.

6. In self-defense or in defense of another against unlawful violence offered to his person or property.

Art. 594. [491] In all the cases mentioned in the preceding article, where violence is permitted to effect a lawful purpose, only that degree of force must be used which is necessary to effect such purpose. Degree of force permissible.

Art. 595. [492] No verbal provocation justifies an assault and battery, but insulting and abusive words may be given in evidence in mitigation of the punishment affixed to the offense. Verbal provocation no justification.

Art. 596. [493] The word battery is used in this Code in the same sense as "assault and battery." "Battery," how used.

Art. 597. [494] An assault is either a simple assault, an aggravated assault, or an assault with intent to commit some other offense. Degrees of assault.

Art. 598. [495] The punishment for a simple assault, or for assault and battery, unattended with circumstances of aggravation, shall be a fine of not less than five nor more than twenty-five dollars. Punishment for simple assault.

Art. 599. [495a] If any person shall, in the presence or hearing of another, curse or abuse such person, or use any violently abusive language to such person concerning him or any of his female relatives, under circumstances reasonably calculated to provoke a breach of the peace, he shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not less than five nor more than one hundred dollars. Abusive language an offense. (Act March 8, 1887, pp. 13-14.)

Art. 600. [495b] Any person who shall, by threatening words, or by acts of violence or intimidation, prevent or attempt to prevent another from engaging or remaining in or from performing the duties of any lawful employment, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by fine of not less than twenty-five nor more than five hundred dollars, or by confinement not less than one nor more than six months in the county jail. Intimidation of another. Ib. p. 13.

CHAPTER TWO.

AGGRAVATED ASSAULT AND BATTERY.

Definition	Article 601	Punishment	Article 603
Aggravation may be of different degrees	602		

Definition.

Article 601. [496] An assault or battery becomes aggravated when committed under any of the following circumstances:

1. When committed upon an officer in the lawful discharge of the duties of his office, if it was known or declared to the offender that the person assaulted was an officer discharging an official duty.
2. When committed in a court of justice, or in any place of religious worship, or in any place where persons are assembled for the purpose of innocent amusement.
3. When the person committing the offense goes into the house of a private family and is there guilty of an assault and battery.
4. When committed by a person of robust health or strength upon one who is aged or decrepit.
5. When committed by an adult male upon the person of a female or child, or by an adult female upon the person of a child.
6. When the instrument or means used is such as inflicts disgrace upon the person assaulted, as an assault or battery with a whip or cowhide.
7. When a serious bodily injury is inflicted upon the person assaulted.
8. When committed with deadly weapons under circumstances not amounting to an intent to murder or maim.
9. When committed with premeditated design, and by the use of means calculated to inflict great bodily injury.
10. When committed by any person or persons in disguise.

Aggravation may be of different degrees. (Act Nov. 6, 1871.)

Art. 602. [497] The circumstances of aggravation mentioned in the preceding article are of different degrees, and the jury are to consider these circumstances in forming their verdict and assessing the punishment.

Punishment.

Art. 603. [498] The punishment for an aggravated assault or battery shall be a fine not less than twenty-five nor more than one thousand dollars, or imprisonment in the county jail not less than one month nor more than two years, or by both such fine and imprisonment.

CHAPTER THREE.

OF ASSAULTS WITH INTENT TO COMMIT SOME OTHER OFFENSE.

Assault with intent to maim.....	Article 604	With intent to rape.....	Article 608
With intent to murder.....	605	With intent to rob.....	609
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Test on trial	607	Ingredients of the offense.....	611

Assault with intent to maim. (Act Nov. 6, 1871, p. 20.)

Article 604. [499] If any person shall assault another with intent to commit the offense of maiming, disfiguring or castration, he shall be punished by fine not exceeding one thousand dollars, or by

imprisonment in the penitentiary not less than two nor more than five years; and if such assault be made by a person or persons in disguise, the penalty shall be double.

Art. 605. [500] If any person shall assault another with intent to murder, he shall be punished by confinement in the penitentiary not less than two nor more than seven years; if the assault be made with a bowie-knife or dagger, or in disguise, the punishment shall be double. With intent to murder. *Ib.*

Art. 606. [501] A "bowie-knife" or "dagger," as the terms are here and elsewhere used, means any knife intended to be worn upon the person, which is capable of inflicting death and not commonly known as a pocket-knife. "Bowie-knife" and "dagger" defined.

Art. 607. [502] Whenever it appears upon a trial for assault with intent to murder that the offense would have been murder had death resulted therefrom, the person committing such assault is deemed to have done the same with that intent. Test on trial.

Art. 608. [503] If any person shall assault a woman with intent to commit the offense of rape, he shall be punished by confinement in the penitentiary for any term of years not less than two. With intent to rape. (Amend. 1895, p. 104.)

Art. 609. [504] If any person shall assault another with the intent to commit the offense of robbery, he shall be punished by confinement in the penitentiary not less than two nor more than ten years. With intent to rob. (Act Feb. 12, 1858, p. 495.)

Art. 610. [505] If any person in attempting to commit burglary shall assault another, he shall be punished by confinement in the penitentiary not less than two nor more than five years. In attempt at burglary. *Ib.* p. 171.

Art. 611. [506] An assault with intent to commit any other offense is constituted by the existence of the facts which bring the offense within the definition of an assault, coupled with an intention to commit such other offense, as of maiming, murder, rape or robbery. Ingredients of the offense.

CHAPTER FOUR.

OF MAIMING, DISFIGURING AND CASTRATION.

Article	Article
"Maiming" defined	612
Punishment	613
"Disfiguring" defined	614
Punishment	615
"Castration" defined	616
Punishment	617

Article 612. [507] To maim is to willfully and maliciously cut off or otherwise deprive a person of the hand, arm, finger, toe, foot, leg, nose or ear; to put out an eye or in any way to deprive a person of any other member of his body. "Maiming" defined.

Art. 613. [508] If any person shall commit the offense of maiming he shall be punished by confinement in the penitentiary not less than two nor more than ten years. Punishment. (Act Feb. 12, 1858, p. 171.)

Art. 614. [509] To disfigure is to willfully and maliciously place any mark by means of a knife or other instrument upon the face or other part of the person. "Disfiguring" defined.

Art. 615. [510] If any person shall disfigure another, he shall be punished by confinement in the penitentiary not less than two nor more than five years, or by fine not exceeding two thousand dollars. Punishment.

Art. 616. [511] To castrate is to willfully and maliciously deprive any person of either or both, or any part of either or both of the testicles. "Castration" defined.

Punishment. Art. 617. [512] If any person shall commit the offense of castration he shall be punished by confinement in the penitentiary not less than five nor more than fifteen years.

CHAPTER FIVE.

FALSE IMPRISONMENT.

	Article		Article
"False imprisonment" defined.....	618	Punishment	623
Assault or violence, same as in assault and battery	619	Detention after discharge on habeas corpus	624
What impediment necessary.....	620	Refusal to allow consultation with counsel	625
Threat—effect of.....	621		
What detention is not.....	622		

"False imprisonment" defined. Article 618. [513] False imprisonment is the willful detention of another against his consent, and where it is not expressly authorized by law, whether such detention be effected by an assault, by actual violence to the person, by threats or by any other means which restrains the party so detained from removing from one place to another as he may see proper.

Assault or violence same as in assault and battery. Art. 619. [514] The assault of violence may be such as is spoken of in defining the offense of assault and battery.

What impediment necessary. Art. 620. [515] The impediment must be such as is in its nature calculated to detain the person and from which he can not by ordinary means relieve himself.

Threat, effect of. Art. 621. [516] The threat must be such as is calculated to operate upon the person threatened and inspire a just fear of some injury to his person, reputation or property, or to the person, reputation or property of another; and the jury are to consider the age, sex, condition, disposition or health of the person threatened in determining whether the threat was sufficient to intimidate and prevent such person from moving beyond the bounds in which he was detained.

What detention is not. Art. 622. [517] It is not an offense to detain a person in the cases and for the objects mentioned in article 593 as justifying the use of force, but whenever it is assumed as a justification that such circumstances existed, it must be shown also that the detention was necessary to effect any of the objects set forth in said article.

Punishment. Art. 623. [518] Any person who shall be guilty of the offense of false imprisonment shall be fined not exceeding five hundred dollars, and may be confined in the county jail not exceeding one year.

Detention after discharge on habeas corpus. Art. 624. [519] If any officer or other person shall hold or detain in any manner any one who has been ordered to be discharged by any court or judge, upon the hearing of a writ of habeas corpus, he shall suffer double the punishment prescribed in the preceding article.

Refusal to allow consultation with counsel. (Act Nov. 15, 1864, p. 15.) Art. 625. [520] If any officer or other person having the custody of a prisoner in this state shall willfully prevent such prisoner from consulting or communicating with counsel or from obtaining the advice or services of counsel in the protection or prosecution of his legal rights, he shall be punished by imprisonment in the county jail not less than sixty days nor more than six months, and by fine not exceeding one thousand dollars.

CHAPTER FIVE A.

ENTICING MINORS.

Enticing minor from legal custody.....	Article 625a
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Article 625a. Any person in this state who shall knowingly entice or decoy any minor in the state away from the custody of his parent or guardian, or person standing in the stead of such parent or guardian, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by fine not less than twenty-five nor more than two hundred dollars. In all cases where charitable and benevolent institutions have established homes for dependent orphans of their deceased members, and the person legally entitled to the guardianship of such orphans surrenders them to such homes for support, maintenance and education, such institutions, under their agencies, rules, and regulations, shall have and exercise over such orphans all the rights of natural guardians, as standing in the place of their parents.

Enticing minor from legal custody. (Acts of 1893, p. 114.)

CHAPTER SIX.

OF KIDNAPING AND ABDUCTION.

	Article		Article
"Kidnaping" defined	626	"Abduction" defined	629
Punishment	627	Of female under fourteen.....	630
If person kidnaped be actually re-		Offense complete, when.....	631
moved	628	Punishment	632

Article 626. [521] When any person is falsely imprisoned for the purpose of being removed from the state, or if a minor under the age of seventeen years, for the purpose of being concealed or taken from the lawful possession of a parent or guardian, such false imprisonment is "kidnaping." If the person kidnaped be under the age of fifteen years, it is not necessary that there should be force in order to constitute the offense of kidnaping.

"Kidnaping" defined. (Act Feb. 12, 1858, pp.171-2.)

Art. 627. [522] The punishment for kidnaping shall be imprisonment in the penitentiary not less than two nor more than five years or fine not exceeding two thousand dollars.

Punishment.

Art. 628. [523] If the person so falsely imprisoned be actually removed out of the state, the punishment shall be imprisonment in the penitentiary not less than two nor more than ten years.

If person kidnaped be actually removed.

Art. 629. [524] "Abduction" is the false imprisonment of a woman with intent to force her into a marriage or for the purpose of prostitution.

"Abduction" defined.

Art. 630. [525] If a female under the age of fourteen be taken for the purpose of marriage or prostitution from her parent, guardian or other person having the legal charge of her, it is abduction, whether she consent or not, and although a marriage afterward take place between the parties.

Of female under fourteen.

Art. 631. [526] The offense of abduction is complete if the female be detained as long as twelve hours, though she may afterwards be relieved from such detention without marriage or prostitution.

Offense complete, when.

Punishment.
(Act Feb. 12,
1858, p. 172.)

Art. 632. [527] Any person who shall be guilty of abduction shall be punished by fine not exceeding two thousand dollars. If by reason of such abduction a woman be forced into marriage, the punishment shall be confinement in the penitentiary not less than two nor more than five years; and if by reason of such abduction a woman be prostituted, the punishment shall be confinement in the penitentiary not less than three nor more than twenty years.

CHAPTER SEVEN.

RAPE.

	Article		Article
"Rape" defined	633	Penetration only need be proved.....	637
Definition of "force".....	634	Defendant must be over fourteen.....	638
What threat sufficient.....	635	Punishment	639
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"Rape" de-
fined.
(Amended by
Act April 13,
1891, p. 96;
amend. 1895,
p. 79.)

Article 633. [528] Rape is the carnal knowledge of a woman without her consent, obtained by force, threats, or fraud, or the carnal knowledge of a woman other than the wife of the person having such carnal knowledge with or without consent, and with or without use of force, threats, or fraud, such woman being so mentally diseased at the time as to have no will to oppose the act of carnal knowledge, the person having carnal knowledge of her knowing her to be so mentally diseased; or the carnal knowledge of a female under the age of fifteen years, other than the wife of the person, with or without her consent, and with or without the use of force, threats, or fraud.

Definition of
"force."

Art. 634. [529] The definition of "force," as applicable to assault and battery, applies also to the crime of rape, and it must have been such as might reasonably be supposed sufficient to overcome resistance, taking into consideration the relative strength of the parties, and other circumstances of the case.

What "threat"
sufficient.

Art. 635. [530] The "threat" must be such as might reasonably create a just fear of death, or great bodily harm, in view of the relative condition of the parties as to health, strength, and all other circumstances of the case.

"Fraud" de-
fined.

Art. 636. [531] The "fraud" must consist in the use of some stratagem by which the woman is induced to believe the offender is her husband, or in administering, without her knowledge or consent, some substance producing unnatural sexual desire, or such stupor as prevents or weakens resistance, and committing the offense while she is under the influence of such substance. It is a presumption of law, which can not be rebutted by testimony, that no consent was given under the circumstances mentioned in this article.

Penetration
only need be
proved.

Art. 637. [532] Penetration only is necessary to be proved upon a trial for rape.

Defendant
must be over
fourteen.

Art. 638. [533] No person under the age of fourteen, at the time the offense is charged to have been committed, can be convicted of rape, or assault with intent to commit the offense.

Punishment.
(Act Nov. 10,
1886, p. 161.)

Art. 639. [534] Whoever shall be guilty of rape shall be punished by death or by confinement in the penitentiary for life, or for any term of years not less than five, in the discretion of the jury.

Conviction
may be had
for "attempt."

Art. 640. [535] If it appear, on the trial of an indictment for rape, that the offense, though not committed, was attempted by the

use of any of the means spoken of in articles 634, 635 and 636, but not such as to bring the offense within the definition of an assault with intent to commit rape, the jury may find the defendant guilty of an attempt to commit the offense, and affix the punishment prescribed in article 608.

CHAPTER EIGHT.
OF ABORTION.

	Article		Article
Definition and punishment.....	641	Destroying unborn child.....	645
Furnishing the means—an accomplice...	642	Not punishable when procured by medi-	
Attempt at	643	cal advice	646
In case of death, murder.....	644		

<p>Article 641. [536] If any person shall designedly administer to a pregnant woman, with her consent, any drug or medicine, or shall use toward her any violence, or any means whatever, externally or internally applied, and shall thereby procure an abortion, he shall be punished by confinement in the penitentiary not less than two nor more than five years; if it be done without her consent the punishment shall be doubled.</p> <p>Art. 642. [537] Any person who furnishes the means for procuring an abortion, knowing the purpose intended, is guilty as an accomplice.</p> <p>Art. 643. [538] If the means used shall fail to produce an abortion the offender is nevertheless guilty of an attempt to produce abortion; provided, it be shown that such means were calculated to produce that result, and shall be punished by fine not less than one hundred nor more than one thousand dollars.</p> <p>Art. 644. [539] If the death of the mother is occasioned by an abortion so produced, or by an attempt to effect the same, it is murder.</p> <p>Art. 645. [540] If any person shall, during parturition of the mother, destroy the vitality or life in a child, in a state of being born, and before actual birth, which child would otherwise have been born alive, he shall be punished by confinement in the penitentiary for life, or any period not less than five years, at the discretion of the jury.</p> <p>Art. 646. [541] Nothing contained in this chapter shall be deemed to apply to the case of an abortion procured or attempted to be procured by medical advice for the purpose of saving the life of the mother.</p>	<p>Definition and punishment.</p> <p>Furnishing the means; an accomplice.</p> <p>Attempt at. (Act Feb. 12, 1858, p. 172.)</p> <p>In case of death, murder.</p> <p>Destroying unborn child.</p> <p>Not punishable when procured by medical advice.</p>
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CHAPTER NINE.

ADMINISTERING POISONOUS AND INJURIOUS POTIONS.

	Article		Article
Poisoning food, well, etc.....	647	Death within a year, murder.....	649
Causing another to inhale injurious substances	648	Malpractice punishable	650

<p>Article 647. [542] If any person shall mingle or cause to be mingled any other noxious potion or substance with any drink, food or medicine, with intent to kill or injure any other person, or shall willfully poison or cause to be poisoned any spring, well, cistern</p>	<p>Poisoning food, well, etc.</p>
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or reservoir of water with such intent, he shall be punished by imprisonment in the penitentiary not less than two nor more than ten years.

Causing another to inhale injurious substances. (Act Feb. 12, 1853, p. 172.)

Art. 648. [543] If any person shall, with intent to injure, cause another person to inhale or swallow any substance injurious to health, or any of the functions of the body, or if such substance was administered with intent to kill, he shall be punished by confinement in the penitentiary not less than two nor more than five years.

Death within a year, murder.

Art. 649. [544] If by reason of the commission of the offenses named in the two preceding articles, the death of a person be caused within one year, the offender shall be deemed guilty of murder and be punished accordingly.

Malpractice punishable.

Art. 650. [545] If any person engaged in the practice of medicine and claiming to be a physician, shall, by the use of any noxious substance, administered in a grossly ignorant manner, produce death, or other great bodily injury, he shall be punished for the offense as any other person would be who had given such substance knowing it to be injurious and intending to kill or injure.

CHAPTER TEN.

OF HOMICIDE.

	Article		Article
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Destruction of life must be complete....	652	Persons killed must be in existence.....	655
Gross negligence, etc., refers to acts of others	653	Produced by words, etc.....	656

Definition.

Article 651. [546] "Homicide" is the destruction of the life of one human being by the act, agency, procurement or culpable omission of another.

Destruction of life must be complete.

Art. 652. [547] The destruction of life must be complete by such act, agency, procurement or omission; but although the injury which caused death might not under other circumstances have proved fatal, yet if such injury be the cause of death, without its appearing that there has been any gross neglect or manifestly improper treatment of the person injured, it is homicide.

Gross negligence, etc., refers to acts of others.

Art. 653. [548] The foregoing article, in what is said of gross neglect or improper treatment, has reference to the acts of some person other than him who inflicts the first injury, as of the physician, nurse or other attendant. If the person inflicting the injury which makes it necessary to call aid in preserving the life of the person injured, shall willfully fail or neglect to call such aid, he shall be deemed equally guilty, as if the injury were one which would inevitably lead to death.

Body of deceased must be found. (Act March 8, 1887, p. 4.)

Art. 654. [549] No person shall be convicted of any grade of homicide unless the body of the deceased, or portions of it, are found and sufficiently identified to establish the fact of the death of the person charged to have been killed.

Person killed must be in existence.

Art. 655. [550] The person upon whom the homicide is alleged to have been committed must be in existence by actual birth. It is homicide, however, to destroy human life actually in existence, however frail such existence may be, or however near extinction from other causes.

Art. 656. [551] Although it is necessary to constitute homicide that it shall result from some act of the party accused, yet, if words be used which are reasonably calculated to produce and do produce an act which is the immediate cause of death, it is homicide; as, for example, if a blind man, a stranger, a child, or a person of unsound mind, be directed by words to a precipice or other dangerous place where he falls and is killed; or if one be directed to take any article of medicine, food or drink, known to be poisonous and which does produce a fatal effect; in these and like cases, the person so operating upon the mind or conduct of the person injured shall be deemed guilty of homicide.

Produced by words.

CHAPTER ELEVEN.

OF JUSTIFIABLE HOMICIDE.

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1. Of a public enemy.		Federal officers included.....	670
Killing a public enemy.....	658	In suppressing riots.....	671
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Nor a deserter, prisoner, etc.....	660	But not in connivance.....	673
2. Of a convict.		4. In defense of person or property.	
Execution of convict.....	681	In defense of person and property.....	674
3. By officers, etc.		In preventing other felonies.....	675
By officer in execution of lawful order..	662	Presumption from use of weapon.....	676
Even though the order is erroneous....	663	In protecting person or property from other attacks	677
Qualification of the foregoing.....	664	Retreat not necessary.....	678
Order may be written or verbal.....	665	Requisites of the attack.....	679
Written orders include what.....	666	Circumstances justifying in defense of property	680
Verbal order justifies only in felony.....	667		
Persons aiding officer justified.....	668		

Article 657. [552] Homicide is justifiable in the cases enumerated in the succeeding articles of this chapter.

When justifiable.

I. OF A PUBLIC ENEMY.

Art. 658. [553] It is lawful to kill a public enemy, not only in the prosecution of war, but when he may be in the act of hostile invasion or occupation of any part of the state. A public enemy is any person acting under the authority or enlisted in the service of any government at war with this state or with the United States. Persons belonging to hostile tribes of Indians, who habitually commit depredations upon the lives or property of the inhabitants of this state, and all persons acting with such tribes are public enemies, and this whether found in the act of committing such depredations or under circumstances which sufficiently show an intention so to do.

Killing a public enemy.

Art. 659. [554] Homicide of a public enemy by poison or the use of poisoned weapons is not justifiable.

But not by poison.

Art. 660. [555] Homicide of a public enemy who is a deserter or prisoner of war, or the bearer of a flag of truce, is not justifiable.

Nor a deserter, prisoner, etc.

II. OF A CONVICT.

Art. 661. [556] The execution of a convict for a capital offense, by a legally qualified officer, under the warrant of a court of competent jurisdiction, is justifiable when the same takes place in the manner authorized by law and directed by warrant.

Execution of a convict.

III. BY OFFICERS IN THE PERFORMANCE OF A DUTY, AND BY OTHER PERSONS UNDER CERTAIN CIRCUMSTANCES.

By officer in execution of lawful order.

Art. 662. [557] Homicide by an officer in the execution of the lawful orders of magistrates and courts is justifiable when he is violently resisted and has just ground to fear danger to his own life in executing the order.

Even though it is erroneous.

Art. 663. [558] The officer is justifiable, though there may have been an error of judgment on the part of the magistrate or court, if the order emanated from a proper authority.

Qualification of the foregoing.

Art. 664. [559] The rule set forth in the two preceding articles is subject to the following restrictions:

1. The order must be that of a magistrate or a court having lawful authority to issue it.

2. It must have such form as the law requires to give it validity.

3. The person executing the order must be some officer duly authorized by law to execute the order, or some person specially appointed in accordance with law for the performance of the duty.

4. If the person executing the order be an officer, and performing a duty which no other person can by law perform, he must have taken the oath of office and given bond, where such is required by law.

5. The order must be executed in the manner directed by law, and the person executing the same must make known his purpose and the capacity in which he acts.

6. If the order be a written one, and the person against whom it issues, before resistance offered, wishes to see the same, or hear it read, the person charged with its execution shall produce the order and show it or read it.

7. In making an arrest under a written order the person acting under such order shall, in all cases, declare to the party against whom it is directed the offense of which he is accused, and state the nature of the warrant, unless prevented therefrom by the act of the party to be arrested.

8. The officer or other person executing an order of arrest is required to use such force as may be necessary to prevent an escape when it is attempted, but he shall not in any case kill one who attempts to escape unless in making or attempting such escape the life of the officer is endangered, or he is threatened with great bodily injury.

9. In overcoming a resistance to the execution of an order the officer or person executing the same may oppose such force as is necessary to overcome the resistance, but he shall not take the life of the person resisting unless he has just ground to fear that his own life will be taken, or that he will suffer great bodily injury in the execution of the order.

10. A prisoner under sentence of death, or of imprisonment in the penitentiary, or attempting to escape from the penitentiary, may be killed by the officer having legal custody of him, if his escape can in no other manner be prevented.

Order may be written or verbal.

Art. 665. [560] The order referred to in this chapter may be either written or verbal, where a verbal order is allowed for the arrest of a person.

Written order includes, what.

Art. 666. [561] Under written orders are included all process in a criminal or civil action which directs the seizure of the person or of property.

Art. 667. [562] No officer or other person ordered verbally to arrest another is justified in killing, except the arrest be in a case of felony, or for the prevention of a felony. Verbal order justifies only in felony.

Art. 668. [563] Persons called in aid of an officer, in the performance of a duty, are justified in the same manner as the officer himself. Persons aiding officer justified.

Art. 669. [564] All persons opposing the execution of the order, or aiding in an escape, may be treated in the same manner as the person against whom the order is directed, or who is attempting to escape. Persons aiding escape may be killed.

Art. 670. [565] Officers acting under the authority of the laws or courts of the United States, have the rights and are liable to the rules prescribed in this chapter. Federal officers included.

Art. 671. [566] Homicide is justifiable when necessary to suppress a riot, when the same is attempted to be suppressed in the manner pointed out in the Code of Criminal Procedure, and can in no way be suppressed except by taking life. In suppressing riots.

Art. 672. [567] Homicide is justifiable when committed by the husband upon the person of any one taken in the act of adultery with the wife; provided, the killing take place before the parties to the act of adultery have separated. In adultery.

Art. 673. [568] Homicide cannot be justified by reason of the existence of the circumstances spoken of in the preceding article, where it appears that there has been, on the part of the husband, any connivance in or assent to the adulterous connection. But not in case of connivance.

IV. DEFENSE OF PERSON OR PROPERTY.

Art. 674. [569] Homicide is permitted in the necessary defense of person or property, under the circumstances and subject to the rules herein set forth. In defense of person and property.

Art. 675. [570] Homicide is permitted by law when inflicted for the purpose of preventing the offense of murder, rape, robbery, maiming, disfiguring, castration, arson, burglary and theft at night, or when inflicted upon a person or persons who are found armed with deadly weapons and in disguise in the night time on premises not his or their own, whether the homicide be committed by the party about to be injured or by some person in his behalf, when the killing takes place under the following circumstances: In preventing other felonies.

1. It must reasonably appear by the acts or by words, coupled with the acts of the person killed, that it was the purpose and intent of such person to commit one of the offenses above named.

2. The killing must take place while the person killed was in the act of committing the offense, or after some act done by him showing evidently an intent to commit such offense.

3. It must take place before the offense committed by the party killed is actually completed; except that, in case of rape, the ravisher may be killed at any time before he has escaped from the presence of his victim, and except, also, in the cases hereinafter enumerated.

4. Where the killing takes place to prevent the murder of some other person, it shall not be deemed that the murder is completed so long as the offender is still inflicting violence, though the mortal wound may have been given.

5. If homicide takes place in preventing a robbery, it shall be justifiable if done while the robber is in the presence of the person robbed, or is flying with the money or other article taken by him.

6. In cases of maiming, disfiguring or castration, the homicide may take place at any time while the offender is mistreating with violence the person injured, though he may have completed the offense.

7. In case of arson, the homicide may be inflicted while the offender is in or at the building or other property burnt, or flying from the place before the destruction of the same.

8. In cases of burglary and theft by night, the homicide is justifiable at any time while the offender is in the building, or at the place where the theft is committed, or is within reach of gunshot from such place or building.

9. When the party slain in disguise is engaged in any attempt, by word, gesture or otherwise, to alarm some other person or persons and put them in bodily fear.

Presumption from the use of weapons.

Art. 676. [571] When the homicide takes place to prevent murder, maiming, disfiguring or castration, if the weapons or means used by the party attempting or committing such murder, maiming, disfiguring or castration are such as would have been calculated to produce that result, it is to be presumed that the person so using them designed to inflict the injury.

In protecting person or property from attacks.

Art. 677. [572] Homicide is justifiable also in the protection of the person or property against any other unlawful and violent attack besides those mentioned in the preceding article, and in such cases all other means must be resorted to for the prevention of the injury, and the killing must take place while the person killed is in the very act of making such unlawful and violent attack, and any person interfering in such case in behalf of the party about to be injured is not justifiable in killing the aggressor, unless the life or person of the injured party is in peril by reason of such attack upon his property.

Retreat not necessary.

Art. 678. [573] The party whose person or property is so unlawfully attacked is not bound to retreat in order to avoid the necessity of killing his assailant.

Requisites of the attack.

Art. 679. [574] The attack upon the person of an individual, in order to justify homicide, must be such as produces a reasonable expectation or fear of death, or some serious bodily injury.

Circumstances justifying in defense of property.

Art. 680. [575] When, under article 677, a homicide is committed in the protection of property, it must be done under the following circumstances:

1. The possession must be of corporeal property, and not of a mere right, and the possession must be actual and not merely constructive.

2. The possession must be legal, though the right of the property may not be in the possessor.

3. If possession be once lost, it is not lawful to regain it by such means as result in homicide.

4. Every other effort in his power must have been made by the possessor to repel the aggression before he will be justified in killing.

CHAPTER TWELVE.
OF EXCUSABLE HOMICIDE.

Definition	Article 681	The lawful act must be done by lawful means	Article 682
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Article 681. [576] Homicide is excusable when the death of a human being happens by accident or misfortune, though caused by the act of another, who is in the prosecution of a lawful object by lawful means. Definition.

Art. 682. [577] The lawful act causing the death of another must be done by lawful means and used in a lawful degree. Though lawful for the parent, guardian, schoolmaster or master to chastise the child, ward, scholar or apprentice, yet if this be done with an instrument likely to produce death, or if with a proper instrument the chastisement be cruelly inflicted and death result, it is murder. The lawful act must be done by lawful means.

CHAPTER THIRTEEN.
HOMICIDE BY NEGLIGENCE.

Of two kinds	Article 683	Punishment	Article 691
1. In the performance of a lawful act.		2. In the performance of an unlawful act.	
In the performance of a lawful act.....	684	"Of second degree" defined, etc.....	692
"Lawful act" defined.....	685	Can only be committed, when.....	693
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How distinguished from excusable homicide	687	Homicide in an attempt at felony, not negligent	695
Examples	688	In an attempt at misdemeanor, punished how	696
Must be no apparent intention to kill....	689	In a trespass, etc., how punished; decisions relating to.....	697
Homicide must be consequence of the act	690		

Article 683. [578] Homicide by negligence is of two kinds— Of two kinds.
1. Such as happens in the performance of a lawful act; and
2. That which occurs in the performance of an unlawful act.

I. IN THE PERFORMANCE OF A LAWFUL ACT.

Art. 684. [579] If any person in the performance of a lawful act shall, by negligence and carelessness, cause the death of another, he is guilty of negligent homicide of the first degree. In the performance of a lawful act.

Art. 685. [580] A "lawful act" is one not forbidden by the penal law, and which would give no just occasion for a civil action. "Lawful act" defined.

Art. 686. [581] To constitute this offense there must be an apparent danger of causing the death of the person killed, or some other. Must be an apparent danger of causing death.

Art. 687. [582] The want of proper care and caution distinguishes this offense from excusable homicide. The degree of care and caution is such as a man of ordinary prudence would use under like circumstances. How distinguished from excusable homicide.

Art. 688. [583] Throwing timbers by a workman from the roof or upper part of a house in a public street or highway, or where a number of persons are known to be around the house; or discharging firearms on or near a public highway, other than a street in a Examples.

town or city, in such manner as would be likely to injure persons who might be passing, are examples of negligent homicide of the first degree, in case of death resulting therefrom. If death is caused by the careless discharge of firearms in a public street of a town or city the offense will be of a higher degree.

Must be no apparent intention to kill.

Art. 689. [584] To bring the offense within the definition of homicide by negligence, either of the first or second degree, there must be no apparent intention to kill.

Homicide must be consequence of the act.

Art. 690. [585] The homicide must be the consequence of the act done or attempted to be done.

Punishment.

Art. 691. [586] Negligent homicide of the first degree shall be punished by confinement in the county jail not exceeding one year, or by fine not exceeding one thousand dollars.

II. IN THE PERFORMANCE OF AN UNLAWFUL ACT.

"Of second degree" defined, etc.

Art. 692. [587] The definitions, rules and provisions of the preceding articles of this chapter, with respect to negligent homicide of the first degree, apply also to the offense of negligent homicide of the second degree, or such as is committed in the prosecution of an unlawful act, except when contrary to the following provisions:

Can only be committed, when.

Art. 693. [588] Negligent homicide of the second degree can only be committed when the person guilty thereof is in the act of committing or attempting the commission of an unlawful act.

"Unlawful act" includes what.

Art. 694. [589] Within the meaning of an "unlawful act" as used in this chapter are included—

1. Such acts as by the penal law are called misdemeanors; and,
2. Such acts, not being penal offenses, as would give just occasion for a civil action.

Homicide in an attempt at felony not negligent.

Art. 695. [590] When one in the execution of or in attempting to execute an act made a felony by the penal law shall kill another, though without an apparent intention to kill, the offense does not come within the definition of negligent homicide.

In an attempt at misdemeanor, punished, how.

Art. 696. [591] When the unlawful act attempted or executed is known as a misdemeanor, the punishment of negligent homicide committed in the execution of such unlawful act shall be imprisonment in the county jail not exceeding three years, or by fine not exceeding three thousand dollars.

In a trespass, etc., how punished.

Art. 697. [592] If the act intended is one for which an action would lie, but not an offense against the penal law, the homicide resulting therefrom is a misdemeanor, and may be punished by fine not exceeding one thousand dollars, and by imprisonment in the county jail not exceeding one year.

CHAPTER FOURTEEN.

OF MANSLAUGHTER.

	Article		Article
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What are not adequate causes.....	701	"Adequate cause" must produce the pas- sion	707
What are	702	Provoking contest with intent to kill, not manslaughter	708
For insult to female, killing must be immediate	703	Punishment	709

Article 698. [593] Manslaughter is voluntary homicide committed under the immediate influence of sudden passion arising from an adequate cause, but neither justified nor excused by law. Definition of.

Art. 699. [594] By the expression "under the immediate influence of sudden passion" is meant— "Under the influence of sudden passion" explained.

1. That the provocation must arise at the time of the commission of the offense, and that the passion is not the result of a former provocation.

2. The act must be directly caused by the passion arising out of the provocation. It is not enough that the mind is merely agitated by passion arising from some other provocation, or a provocation given by some person other than the party killed.

3. The passion intended is either of the emotions of the mind, known as anger, rage, sudden resentment, or terror, rendering it incapable of cool reflection.

Art. 700. [595] By the expression "adequate cause" is meant such as would commonly produce a degree of anger, rage, resentment or terror in a person of ordinary temper sufficient to render the mind incapable of cool reflection. "Adequate cause" explained.

Art. 701. [596] Insulting words or gestures, or an assault and battery, so slight as to show no intention to inflict pain or injury, or an injury to property, unaccompanied by violence, are not adequate causes. What are not adequate causes.

Art. 702. [597] The following are deemed adequate causes: What are.

1. An assault and battery by the deceased, causing pain or bloodshed.

2. A serious personal conflict, in which great injury is inflicted by the person killed, by means of weapons, or other instruments of violence, or by means of great superiority of personal strength, although the person guilty of the homicide were the aggressor; provided, such aggression was not made with intent to bring on a conflict and for the purpose of killing.

3. Adultery of the person killed with the wife of the person guilty of the homicide; provided, the killing occur as soon as the fact of an illicit connection is discovered.

4. Insulting words or conduct of the person killed towards a female relation of the party guilty of the homicide.

Art. 703. [598] When it is sought to reduce the homicide to the grade of manslaughter, by reason of the existence of the circumstances specified in the fourth subdivision of article 702 of the Penal Code, it must appear that the killing took place immediately upon the happening of the insulting conduct, or the uttering of the insulting words, or so soon thereafter as the party killing may meet with the party killed, after having been informed of such insults. For insult to female, killing must be immediate. (Act Feb. 12, 1858, pp. 172-3.)

General character of female in issue.
Ib. p. 173.

Art. 704. [599] In every case where the defense spoken of in the preceding article is relied on, it shall be competent to prove the general character of the female insulted, in order to ascertain the extent of the provocation.

Discretion of jury in such cases.
Ib.

Art. 705. [600] The jury shall be at liberty to determine in every case whether, under all the circumstances, the insulting words or gestures were the real cause which provoked the killing.

"Relation" includes whom.
Ib.

Art. 706. [601] Any female under the permanent or temporary protection of the accused, at the time of the killing, shall also be included within the meaning of the term "relation."

"Adequate cause" must produce the passion.

Art. 707. [602] In order to reduce a voluntary homicide to the grade of manslaughter, it is necessary not only that adequate cause existed to produce the state of mind referred to in the third subdivision of article 699, but also that such state of mind did actually exist at the time of the commission of the offense.

Provoking contest with intent to kill, not manslaughter.

Art. 708. [603] Though a homicide may take place under circumstances showing no deliberation, yet if the person guilty thereof provoked a contest with the apparent intention of killing, or doing serious bodily injury to the deceased, the offense does not come within the definition of manslaughter.

Punishment.
Ib. p. 173.

Art. 709. [604] Manslaughter is of various degrees of culpability, according to the circumstances under which it was committed. It shall be punished by imprisonment in the penitentiary not less than two nor more than five years.

CHAPTER FIFTEEN.

OF MURDER.

	Article		Article
"Murder" defined	710	Evidence of threats and deceased's character admissible, when.....	713
The two degrees	711	Punishment	714
Verdict must find of what degree.....	712		

"Murder" defined.
(Act Feb. 12, 1858, p. 173.)

Article 710. [605] Every person with a sound memory and discretion who shall unlawfully kill any reasonable creature in being within this state, with malice aforethought, either express or implied, shall be deemed guilty of murder. Murder is distinguishable from every other species of homicide by the absence of the circumstances which reduce the offense to negligent homicide or manslaughter, or which excuse or justify the homicide.

The two degrees.
Ib. p. 174.

Art. 711. [606] All murder committed by poison, starving, torture, or with express malice, or committed in the perpetration or in the attempt at the perpetration of arson, rape, robbery or burglary, is murder in the first degree, and all murder not of the first degree is murder of the second degree.

Verdict must find of what degree.
Ib.

Art. 712. [607] If the jury shall find any person guilty of murder, they shall also find by their verdict whether it is of the first or second degree; and if any person shall plead guilty to an indictment for murder, a jury shall be summoned to find of what degree of murder he is guilty, and in either case they shall also find the punishment.

Evidence of threats and deceased's character admissible, when.
Ib.

Art. 713. [608] Where a defendant accused of murder seeks to justify himself on the ground of threats against his own life, he may be permitted to introduce evidence of the threats made, but the same shall not be regarded as affording a justification for the offense

unless it be shown that at the time of the homicide the person killed by some act then done manifested an intention to execute the threat so made. In every instance where proof of threats has been made it shall be competent to introduce evidence of the general character of the deceased. Such evidence shall extend only to an inquiry as to whether the deceased was a man of violent or dangerous character, or a man of kind and inoffensive disposition, or whether he was such a person as might reasonably be expected to execute a threat made.

Art. 714. [609] The punishment of murder in the first degree shall be death or confinement in the penitentiary for life, and the punishment of murder in the second degree shall be confinement in the penitentiary for not less than five years. Punishment. Ib.

CHAPTER SIXTEEN.

OF DUELING.

Dueling, etc., how punished.....	Article 715		Homicide in, murder in the first degree..	Article 716
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Article 715. [610] Any person who shall, within this state, fight a duel with deadly weapons, or send or accept a challenge to fight a duel with deadly weapons either within the state or out of it, or who shall act as a second, or knowingly aid or assist in any manner those thus offending, shall be deemed guilty of a felony, and upon conviction shall be punished by confinement in the penitentiary not less than two nor more than five years. Dueling, etc., how punished.

Art. 716. [611] If, in any duel hereafter fought in this state, either of the combatants be killed, or receive a wound from which he afterward dies within three months, the survivor shall be deemed guilty of murder in the first degree and be punished accordingly. Homicide in, murder in first degree.

CHAPTER SEVENTEEN.

GENERAL PROVISIONS RELATING TO HOMICIDE.

Means or instruments used must be considered	Article 717		If in sudden passion not with deadly weapon	Article 719
If injury be done in a cruel manner....	718		If evil or cruel disposition be exhibited..	720

Article 717. [612] The instrument or means by which a homicide is committed are to be taken into consideration in judging of the intent of the party offending; if the instrument be one not likely to produce death, it is not to be presumed that death was designed, unless from the manner in which it was used such intention evidently appears. Means or instruments used must be considered.

Art. 718. [613] If any injury be inflicted in a cruel manner, though with an instrument not likely under ordinary circumstances to produce death, the killing will be manslaughter or murder, according to the facts of the case. If injury be done in a cruel manner.

Art. 719. [614] Where a homicide occurs under the influence of sudden passion, but by the use of means not in their nature calculated to produce death, the person killing is not deemed guilty of the homicide unless it appear that there was an intention to kill, but the If in sudden passion not with deadly weapon.

party from whose act the death resulted may be prosecuted for and convicted of any grade of assault and battery.

If evil or cruel
disposition be
exhibited.

Art. 720. [615] Where the circumstances attending a homicide show an evil or cruel disposition, or that it was the design of the person offending to kill, he is deemed guilty of murder or manslaughter, according to the other facts of the case, though the instrument or means used may not in their nature be such as to produce death ordinarily.

TITLE XVI.

Of Offenses Against Reputation.

CHAPTER ONE.

OF LIBEL.

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"Circulating"	726	Recorder of minutes, etc., not liable....	742
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Actual injury not necessary.....	733	This title relates only to penal action..	749
Intent to injure presumed.....	734		
True statement concerning candidate not libel	735		
Nor concerning qualifications of professional men	736		

Article 721. [616] He is guilty of "libel" who, with intent to injure, makes, writes, prints, publishes, sells or circulates any malicious statement affecting the reputation of another in respect to any matter or thing pointed out in this chapter. "Libel" defined.

Art. 722. [617] If any person be guilty of libel he shall be punished by fine not less than one hundred nor more than two thousand dollars, or by imprisonment in the county jail not exceeding two years; and the court may enter up judgment and issue an order thereupon directing the sheriff to seize and destroy all the publications, prints, paintings or engravings constituting the libel as charged in the indictment or information. Punishment.

Art. 723. [618] If any person with intent to injure the reputation of another shall, without lawful authority, make, publish or circulate a writing purporting to be the act of some other person, and which comes within the definition of libel, as given in this chapter, he shall be punished in the same manner as if the act purported to be his own; and the rules with respect to libel apply also to the making and circulation of such false writing. Publishing writing purporting to be done by another.

Art. 724. [619] He is the maker of a libel who originally contrived and either executed it himself by writing, printing, engraving or painting, or dictated or caused it to be done by others. "Maker" explained.

Art. 725. [620] He is the publisher of libel who, either of his own will or by the persuasion or dictation of another, executes the same in any of the modes pointed out as constituting a libel; but if any one by force or threats is compelled to execute such libel he is guilty of no offense. "Publisher."

- Circulating.** Art. 726. [621] He is guilty of circulating a libel who, knowing its contents, either sells, distributes or gives, or who with malicious design reads or exhibits it to others.
- The ideas the statement must convey.** Art. 727. [622] The written, printed or published statement to come within the definition of libel, must convey the idea either—
1. That the person to whom it refers has been guilty of some penal offense; or
 2. That he has been guilty of some act or omission which, though not a penal offense, is disgraceful to him as a member of society, and the natural consequence of which is to bring him into contempt among honorable persons; or
 3. That he has some moral vice, or physical or mental defect or disease, which renders him unfit for intercourse with respectable society, and such as should cause him to be generally avoided; or
 4. That he is notoriously of bad or infamous character; or
 5. That any person in office, or a candidate therefor, is dishonest, and therefore unworthy of such office, or that while in office he has been guilty of some malfeasance rendering him unworthy of the place.
- Mode of publication.** Art. 728. [623] A libel may be either written, printed, engraved, etched or painted, but no verbal defamation comes within the meaning thereof; and whenever a defendant is accused of libel, by means of a painting, engraving or caricature, it must clearly appear therefrom that the person said to be defamed was, in fact, intended to be represented by such painting, engraving or caricature.
- A manuscript must be circulated.** Art. 729. [624] In order to render any manuscript a libel it must be circulated or posted up in some public place.
- Editor, etc., prima facie guilty.** Art. 730. [625] If the libel be in printed form, and issues or is sold in any office or shop where a public newspaper is conducted, or where books or other printed works are sold or printed, the editor, publisher and proprietor of such newspaper, or any one of them, or the owner of such shop, is to be deemed guilty of making or circulating such libel until the contrary is made on the trial to appear.
- But may avoid responsibility, how.** Art. 731. [626] The editor, publisher or proprietor of a public newspaper may avoid the responsibility of making or publishing a libel by giving the true author of the same; provided, such author be a resident of this state and a person of good character, except in cases where it is shown that such editor, publisher or proprietor caused the libel to be published with malicious design.
- Mechanical executor not guilty, unless.** Art. 732. [627] No person shall be convicted of libel merely on evidence that he has made a manuscript copy of a libel or has performed the manual labor of printing it, unless it be shown positively that such person was actuated by a malicious design against the person defamed. But the person for whose account or by whose order it was printed shall be presumed to have known the intent of the publication, and shall be liable for the offense.
- Actual injury not necessary.** Art. 733. [628] It is sufficient to constitute the offense of libel if the natural consequence of the publication of the same is to injure the person defamed, although no actual injury to his reputation has been sustained.
- Intent to injure presumed.** Art. 734. [629] The intent to injure is to be presumed if such would be the natural consequence of the libel, though no actual proof be made that the defendant had such design; and in all trials of libel the jury are to judge from the facts proved relative to the malicious design of the defendant as to what penalty ought to be imposed under the restrictions herein prescribed.

- Art. 735. [630] It is no offense to make true statements of fact or express opinions as to the integrity or other qualifications of a candidate for any office or public place or appointment. True statement concerning candidate not libel.
- Art. 736. [631] It is no offense to publish true statements of fact as to the qualifications of any person for any occupation, profession or trade. Nor concerning qualifications of professional men.
- Art. 737. [632] It is no offense to publish any criticism or examination of any work of literature, science or art, or any opinion as to the qualifications or merits of the author of such work. No criticism of any book, work of art, etc.
- Art. 738. [633] To constitute libel there must be some injury intended to the reputation of persons, and no publication as to the government or any of the branches thereof as such is an offense under the name of seditious writings or any other name. The offense relates to persons only.
- Art. 739. [634] It is no libel to make publication respecting the merits or doctrines of any particular religion, system of morals or politics, or of any particular form of government. Respecting religious systems, etc.
- Art. 740. [635] It is no libel to make any publication respecting a body politic or corporate as such. Corporations can not be libeled.
- Art. 741. [636] It is no libel to publish any statement respecting any legislative or judicial proceedings, whether the statement be in fact true or not, unless in such statement a charge of corruption is made against some person acting in a legislative or judicial capacity. Nor legislative or judicial proceedings, unless, etc.
- Art. 742. [637] Where any person by virtue of his office is required to record the proceedings of any department of the government or of any body corporate or politic, or of any association organized for purposes of business, or as a religious, moral, benevolent, literary or scientific institution, he can not be charged with libel for any entry upon the minutes or records of such department, body or association made in the course of his official duties. Recorder of minutes, etc., not liable.
- Art. 743. [638] If any false statement be entered upon the minutes or record of proceedings of any corporate body or association included within the meaning of the preceding article, which would be libel if written, printed, published or circulated by an individual, according to the previous articles of this chapter, the persons being members of such body or association, who assent to and direct such libelous statement to be made, are guilty of libel under the same rules as if the false statement had been written, published or circulated in any other manner than as a part of the record or proceedings of such body or association, subject, however, to the restrictions contained in the succeeding article. But all members of the association who assent are.
- Art. 744. [639] The libelous statement referred to in the preceding article is not to be presumed to have been made with intent to injure, from the mere fact that such would be the natural result thereof, unless it appear from other facts that the statement was in fact made with that intention. Intent to injure not presumed, unless, etc.
- Art. 745. [640] The word "malicious" is used to signify an act done with evil or mischievous design, and it is not necessary to prove any special facts showing ill feeling on the part of the person who is concerned in making, printing, publishing or circulating a libelous statement against the person injured thereby. "Malicious" signifies what.
- Art. 746. [641] No statement made in the course of a legislative or judicial proceeding, whether true or false, although made with intent to injure and from malicious purposes, comes within the definition of libel. Statement in legislative or judicial proceedings not included.
- Art. 747. [642] In the following cases the truth of any statement charged as libel may be shown in justification of the defendant: Truth of statement may be shown, when.

1. Where the publication purports to be an investigation of the official conduct of officers or men in a public capacity.

2. Where it is stated in the libel that a person has been guilty of some penal offense, and the time, place and nature of the offense is specified in the publication.

3. Where it is stated in the libel that a person is of notoriously bad or infamous character.

4. Where the publication charges any person in office, or a candidate therefor, with a want of honesty, or of having been guilty of some malfeasance in office, rendering him unworthy of the place. In other cases the truth of the facts stated in the libel can not be inquired into.

Province of jury.

Art. 748. [643] The jury in every case of libel are not only the judges of the facts and of the law, under the direction of the court, in accordance with the constitution, but they are judges of the intent with which a libel may have been published or circulated, subject to the rules prescribed in this chapter; and in rendering their verdict they are to be governed by a consideration of the nature of the charge contained in the libel, the general reputation of the person said to be defamed, and the degree of malice exhibited by the defendant in the commission of the offense.

This title relates only to penal action.

Art. 749. [644] This title regulates the law with regard to libel when prosecuted as a penal offense, and is not intended to have any operation upon the subject so far as relates to civil remedies for the recovery of damages.

CHAPTER TWO.
OF SLANDER.

	Article		Article
Definition and punishment.....	750		Procedure in prosecution for..... 751

Definition and punishment.

Article 750. [645] If any person shall, orally or otherwise, falsely and maliciously or falsely and wantonly impute to any female in this state, married or unmarried, a want of chastity, he shall be deemed guilty of slander, and upon conviction shall be fined not less than one hundred nor more than one thousand dollars, and the jury may, in addition thereto, find a verdict for the imprisonment of defendant in the county jail not exceeding one year.

Procedure in prosecution for.

Art. 751. [646] In any prosecution under this chapter it shall not be necessary for the state to show that such imputation was false, but the defendant may in justification show the truth of the imputation, and the general reputation for chastity of the female alleged to have been slandered may be inquired into.

CHAPTER THREE.

OF FALSE ACCUSATION AND THREATS OF PROSECUTION.

Article Combination to falsely accuse another.. 752 To extort money..... 753		Article Threats of prosecution to extort money. 754 Publishing another as a coward..... 755
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Article 752. [647] If any two or more persons shall combine falsely to accuse another of an offense, and shall, in pursuance of such combination, make such accusation before a court or magistrate, or in any newspaper or other public print, or by the circulation of hand bills, or in any other public manner, by writing, they shall be punished by fine not exceeding two thousand dollars, or by imprisonment in the county jail not exceeding two years. Combination to falsely accuse another.

Art. 753. [648] If the purpose of such combination be to extort money or any pecuniary advantage, the punishment shall be by fine not to exceed two thousand dollars and imprisonment in the penitentiary not to exceed three years. To extort money.

Art. 754. [649] If any person, with intent to extort money, or any pecuniary advantage, shall threaten to accuse another of a felony, before any court, or to publish any other statement respecting him which would come within the meaning of libel, he shall be punished in the manner set forth in article 752. Threats of prosecution to extort money.

Art. 755. [650] If any person shall, in any newspaper or hand bill, or by notice posted up in any place, publish another as a coward, or use toward him other opprobrious language, he shall be fined in an amount not exceeding two hundred dollars; and if such publication or posting be in consequence of a refusal to fight a duel, the punishment shall be by fine of not less than five hundred nor more than one thousand dollars. Publishing another as a coward.

TITLE XVII.

Of Offenses Against Property.

CHAPTER ONE.

OF ARSON.

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“House” defined	757	Exceptions	764
Offense complete, when.....	758	Part owner can not burn.....	765
“Design” the essence of the offense....	759	Punishment	766
Intent presumed, when.....	760	Burning a state building.....	767
Explosions included	761	Attempt at arson.....	768
Except, when	762		

Definition of. Article 756. [651] “Arson” is the willful burning of any house included within the meaning of the succeeding article of this chapter.

“House” defined. Art. 757. [652] A “house” is any building, edifice or structure inclosed with walls and covered, whatever may be the materials used for building.

Offense complete, when. Art. 758. [653] The burning is complete when the fire has actually communicated to a house, though it may be neither destroyed nor seriously injured.

“Design” the essence of the offense. Art. 759. [654] It is of no consequence by what means the fire is communicated to a house, if the burning is with design. It may be by setting fire to any combustible material communicating therewith, by an explosion, or by any other means.

Intent presumed, when. Art. 760. [655] When fire is communicated to a house by means of the burning of another house, or some combustible matter, it shall be presumed that the intent was to destroy every house actually burnt, provided there was any apparent danger of such destruction.

Explosions included. Art. 761. [656] The explosion of a house by means of gunpowder or other explosive matter comes within the meaning of arson.

Except, when. Art. 762. [657] A house blown up or otherwise destroyed for the purpose of saving another house from fire is not within the meaning of arson.

Owner may destroy, except when. Art. 763. [658] The owner of a house may destroy it by fire or explosion without incurring the penalty of arson, except in the cases mentioned in the succeeding article.

Exceptions. Art. 764. [659] When a house is within a town or city, or when it is insured, or when there is within it any property belonging to another, or when there is apparent danger by reason of the burning thereof that the life or person of some individual, or the safety of some house belonging to another will be endangered, the owner, if he burn the same, is guilty of arson, and shall be punished accordingly.

Part owner can not burn. Art. 765. [660] One of the part owners of a house is not permitted to burn it.

Punishment. Art. 766. [661] If any person be guilty of arson, he shall be punished by confinement in the penitentiary not less than five nor more than twenty years.

Art. 767. [662] If any person shall willfully burn the capitol building of the state, the treasury building or comptroller's office, the supreme court building, the executive mansion or the general land office, he shall be punished by confinement in the penitentiary for life. Burning a state building.

Art. 768. [663] If any person shall, by any means calculated to effect the object, attempt to commit the offense of arson, he shall be punished by confinement in the penitentiary not less than two nor more than seven years. Attempt at arson.

CHAPTER TWO.

OF OTHER WILLFUL BURNING.

Article	Article
Rules of arson applicable..... 769	Burning personal property of another... 777
Burning other buildings, hay, lumber, etc. 770	Punishment double in case of personal injury 778
Ship, or other vessel, or boat..... 771	When death ensues, murder..... 779
Offense complete, when..... 772	Attempt at other willful burning..... 780
Bridge burning..... 773	Willfully firing grass in inclosure of another 781
Burning woodland or prairie..... 774	Willfully firing grass with intent to injure 782
Offense complete, when..... 775	
Burning personal property insured..... 776	

Article 769. [664] The rules and definitions contained in the preceding chapter with respect to arson apply also to willful burnings under the provisions of this chapter, where they are not clearly inapplicable. Rules of arson applicable.

Art. 770. [665] If any person shall willfully burn any building not coming within the description of a house as defined in the preceding chapter, or shall willfully burn any stack of corn, hay, fodder, grain or flax, or any pile of boards, lumber or wood, or any fence or other inclosure, the property of another, he shall be punished by confinement in the penitentiary not less than two nor more than five years, or by fine not exceeding two thousand dollars. Burning other buildings, hay, lumber, etc.

Art. 771. [666] If any person shall willfully burn any ship or other vessel, or any boat of any kind whatsoever, he shall be punished by confinement in the penitentiary not less than two nor more than seven years, or by fine not exceeding two thousand dollars. Ship, or other vessel, or boat.

Art. 772. [667] This offense is complete only when some person other than the person offending has an interest in the property by insurance or otherwise, at the time the burning takes place. Offense complete, when.

Art. 773. [668] If any person shall willfully burn any bridge, which by law or usage is a public highway, he shall be punished by imprisonment in the penitentiary not less than two nor more than seven years, or by fine not exceeding five thousand dollars. Bridge burning. (Act Feb. 12, 1858, p. 177.)

Art. 774. [669] If any person shall willfully or negligently set fire to, or burn, or cause to be burned, any woodland or prairie not his own, he shall be punished by fine not less than fifty nor more than three hundred dollars. Burning woodland or prairie. (Act April 14, 1883, p. 102.)

Art. 775. [670] The offense named in the foregoing article is complete where the person offending sets fire to his own woodland or prairie and the fire communicates to the woodland or prairie of another. Offense complete, when.

Art. 776. [671] If any person, with intent to defraud, shall willfully burn any personal property owned by himself, which shall be at Burning personal property insured. (Act Feb. 12, 1858, p. 178.)

the time insured against loss or damage from fire, he shall be punished by confinement in the penitentiary not less than two nor more than five years.

Burning personal property of another.

Art. 777. [672] If any person shall willfully burn any personal property belonging to another, the punishment for which is not otherwise provided for in this chapter, he shall be fined not exceeding two thousand dollars.

Punishment doubled in case of personal injury.

Art. 778. [673] If any bodily injury less than death is suffered by any person by reason of the commission of any of the offenses named in this and the preceding chapter, the punishment may be increased by the jury so as not to exceed double that which is prescribed in cases where no such injury is suffered.

When death ensues, murder.

Art. 779. [674] Where death is occasioned by any of the offenses described in this and the preceding chapter, the offender is guilty of murder.

Attempts at other willful burning. (Act Feb. 12, 1858, p. 178.)

Art. 780. [675] If any person shall, by any means calculated to effect the object, attempt to commit any of the offenses enumerated in this chapter, he shall receive such punishment as may be assessed by the jury, not to exceed one-half of the penalty which would have been affixed in case the offense attempted had been actually committed; provided, that when the punishment shall be confinement in the penitentiary in no case shall the lowest term be less than two years.

Willfully firing grass in inclosure of another. (Act Feb. 7, 1884, pp. 66-67.)

Art. 781. [675a] Any person who shall willfully fire any grass within any inclosure, not his own, in this state, with intent to destroy the grass in such pasture, or any part thereof, or any person who shall fire the grass on the outside of any inclosure with the intent to destroy the grass in such inclosure, by the communication of said fire to the grass within, shall be deemed guilty of a felony, and upon conviction punished by confinement in the state penitentiary for a term of not less than two nor more than five years.

Willfully firing grass with intent to injure, etc. Ib.

Art. 782. [675b] If any person shall willfully, and with intent to injure the owner or owners of the stock grazing thereon, set fire to any grass upon land not his own, with intent to destroy the same, he shall be confined in the state penitentiary for a period not less than one year nor more than three years.

CHAPTER THREE.

MALICIOUS MISCHIEF.

Article	Article
Willfully sinking vessels, etc..... 783	Unlawful to remove party fence..... 796
Destroying telegraph or obstructing message..... 784	Notice of intention to remove..... 797
Obstructing railway track, etc..... 785	Notice requiring removal..... 798
Killing animal to injure owner..... 786	Dogging stock when fence insufficient... 799
Wantonly killing dumb animal, etc..... 787	"Insufficient fence" defined..... 800
Using animals without consent of owner. 788	Removing rock, earth, etc., from premises of another..... 801
Removing buoy, etc..... 789	Herding stock in half mile of residence.. 802
Robbing orchards, gardens, etc..... 790	Each hour a separate offense..... 802
Destroying fruit, corn, etc..... 791	Willful injury of irrigating canal, etc... 803a
Introducing Johnson grass..... 791a	Willful destruction of same..... 803b
Requisites of indictment..... 791b	Fishing and hunting on inclosed lands of another..... 804
Injuring, etc., baggage..... 792	Not an offense, unless, etc..... 805
Throwing stones or firing at railway cars, etc..... 793	Preventing the moving, etc., of railroad trains 806
Injuring fence, leaving open gates, etc... 794	Each day a separate offense..... 807
Wantonly and willfully, etc., cutting, etc., fence..... 795	Willfully injuring railroad, etc..... 808

Willfully sinking vessels, etc. (Act Feb. 12, 1858, p. 178.)

Art. 783. [676] If any person shall willfully and maliciously cast away, sink or destroy, in any way other than by fire, any vessel or boat which, together with its cargo, if any, shall be of the value of

one hundred dollars or more, he shall be punished by imprisonment in the penitentiary not less than two nor more than five years, or by fine not exceeding two thousand dollars. If the life of any person is lost by such act, the offender is guilty of murder.

Art. 784. [677] If any person shall intentionally break, cut, pull or tear down, misplace, or in any other manner injure any telegraph or telephone wire, post, machinery or other necessary appurtenance to any telegraph or telephone line, or in any way willfully obstruct or interfere with the transmission of messages along such telegraph or telephone line, he shall be punished by confinement in the penitentiary not less than two nor more than five years, or by fine not less than one hundred nor more than two thousand dollars.

Destroying telegraph or obstructing message.
(Act Feb. 10, 1885, p. 10.)

Art. 785. [678] If any person shall willfully place any obstruction upon the track of any railroad, or remove any rail therefrom, or displace or interfere with any switch thereof, or in any way injure such road, or shall do any damage to any railroad, locomotive, tender or car, whereby the life of any person might be endangered, he shall be punished by imprisonment in the penitentiary not less than two nor more than seven years. If the life of any person be lost by such unlawful act, the offender is guilty of murder.

Obstructing railroad tracks, etc.
(Act March 8, 1887, p. 14.)

Art. 786. [679] If any person shall willfully kill, maim, wound, poison or disfigure any horse, ass, mule, cattle, sheep, goat, swine, dog or other domesticated animal, or any domesticated bird of another, with intent to injure the owner thereof, he shall be fined not less than ten nor more than two hundred dollars. And in prosecutions under this article the intent to injure may be presumed from the perpetration of the act.

Killing animal to injure owner.
(Act Feb. 12, 1858, p. 178.)

Art. 787. [680] If any person shall willfully or wantonly kill, maim, wound, disfigure, poison or cruelly and unmercifully beat and abuse any animal or bird included in the preceding article, he shall be fined not exceeding two hundred and fifty dollars.

Wantonly killing dumb animals, etc.

Art. 788. [680a] Any person who shall hereafter take up and use any horse, mare, gelding, mule, ox, cow or any other dumb animal, the property of another, and without the consent of the owner thereof, shall be fined in any sum not less than ten nor more than one hundred dollars; provided, that nothing herein contained shall prevent a prosecution for the theft of such animals, whenever the offense, of which said party shall be guilty, shall come within the meaning of that crime; and provided, that this article shall not be construed as in any way interfering with the laws regulating estrays.

Using animals without consent of owner.
(Acts of 1879, p. 129.)

Art. 789. [681] If any person shall willfully and mischievously remove any buoy, beacon, light or any other mark or signal erected for the purpose of indicating the channel in any bay, river, lake or other navigable water within the state, or shall erect any false buoy, beacon, light or mark or signal to indicate the channel in any such bay, river, lake or other navigable water, with intent to mislead or deceive, he shall be punished by confinement in the penitentiary not less than two nor more than five years, or by fine not exceeding two thousand dollars; and if death occurs by reason of such unlawful conduct, the offender is guilty of murder.

Removing buoy, etc.
(Act Feb. 12, 1858, p. 179.)

Art. 790. [682] If any person shall take or carry away from the farm, orchard, garden or vineyard of another, without his consent, any fruit, melons or garden vegetables, he shall be fined in any sum not exceeding one hundred dollars.

Robbing orchards, gardens, etc.
(Act April 4, 1874.)

Art. 791. [683] If any person shall willfully and mischievously injure or destroy any growing fruit, corn, grain, or other like agricul-

Destroying fruit, corn, etc.
(Amended by Act March 22, 1889, p. 35.)

tural products, or if any person shall willfully or mischievously injure or destroy any real or personal property of any description whatever, in such manner as that the injury does not come within the description of any of the offenses against property otherwise provided for by this Code, he shall be punished by fine not exceeding one thousand dollars; provided, that when the value of the property injured is fifty dollars or less, then in that event he shall be punished by fine not exceeding two hundred dollars.

Introducing
Johnson grass.
(Act 1895, p.
160.)

Art. 791a. If any person in this state shall knowingly, willfully and with intent to injure, sow, scatter or place on any land not his own the seed or roots of Johnson grass or Russian thistle, or willfully and knowingly sell or give away any oats, hay, straw, seed or grain containing or intermixed with the seeds or roots of Johnson grass to any one who is ignorant of the fact that such seeds or roots are so contained in or intermixed with such oats, hay, straw, seed or grain, he shall be deemed guilty of a misdemeanor, and on conviction thereof he shall be punished by fine of not less than twenty-five dollars and not more than one thousand dollars.

Requisites of
indictment.
Ib.

Art. 791b. In prosecutions under the preceding article it shall not be necessary for the indictment to allege the name of the owner of the land, nor shall it be necessary for the state to prove the name of such owner, but it shall be sufficient to allege and prove that the land was not the property of the person accused.

Injuring, etc.,
baggage.
(Act March 5,
1881, p. 17.)

Art. 792. [683a] Any baggagemaster, express agent, stage or hack driver or other common carrier whose duty it is to handle, remove, transfer or take care of trunks, valises, boxes or other baggage while loading, transporting, unloading, transferring, delivering, storing or handling the same, whether or not in the employ of any transportation company or common carrier, who shall maliciously or carelessly or recklessly break, injure or destroy the said baggage, shall be deemed guilty of a misdemeanor, and on conviction be fined a sum not exceeding one hundred dollars; provided, that a prosecution for a misdemeanor as provided in this article shall not be a bar to a civil action for damages.

Throwing
stone or firing
gun or pistol
at railroad
car, etc.
(Act March 22,
1889; amend.
1895, p. 161.)

Art. 793. [683b] Any person who shall willfully or maliciously throw a stone or other missile, or fire any gun or pistol at, against, or into any engine, tender, coach, passenger car, whether moving or not, or any other car of any moving train on any railway, or any railway depot, private residence, school house, church house, court house, store house, hotel or other public or private building, sailboat or steamboat in this state shall be deemed guilty of a misdemeanor, and on conviction therefor shall be fined in any sum of not less than five dollars nor more than one thousand dollars, or be confined in the county jail for any term of not less than ten days nor more than two years; during such term such convict may be put to hard labor.

Injuring
fence, leaving
open gates.
(Act April 23,
1873, pp. 41-
42.)

Art. 794. [684] If any person shall break, pull down or injure the fence of another without his consent, or shall willfully and without the consent of the owner thereof open and leave open any gate leading into the inclosure of another, or shall knowingly cause any hogs, cattle, mules, horses or other stock to go within the inclosed lands of another without his consent, or shall tie or stake out or cause to be tied or staked out to graze within any inclosed lands not his own and without the consent of the owner, any horse, mule or other animal, he shall be fined in any sum not less than ten nor more than one hundred dollars, and in addition thereto may be imprisoned in the county jail not exceeding one year.

Art. 795. [684a] Any person who shall wantonly or with intent to injure the owner, willfully cut, injure or destroy any fence or part of a fence (without such fence is the property of the person so cutting or destroying the same) shall be deemed guilty of an offense, and upon conviction therefor shall be punished by confinement in the state penitentiary for a term not less than one nor more than five years. A fence, within the meaning of this law, is any structure of wood, wire, or of both, or of any other material, intended to prevent the passage of cattle, horses, mules, asses, sheep, goats or hogs; provided, however, that it shall constitute no offense for any person owning and residing upon land inclosed by the fence of another, who refuses permission to such person or persons so residing within said inclosure free egress and ingress to their said land, for said person or persons to open a passageway through said inclosure.

Wantonly and willfully, etc., cutting, etc., fence.
(Act Feb. 6, 1884, p. 34.)

Art. 796. Hereafter it shall be unlawful for any person who is a joint owner of any separating or dividing fence, or who is in any manner interested in any fence attached to or connected with any fence owned or controlled by any other person, to remove the same except by mutual consent, or as hereinafter provided.

Unlawful for owner of party fence to remove, etc.
(Act April 6, 1889, §1.)

Art. 797. Any person who is the owner or part owner of any fences connected with or adjoined to any fences owned in part or in whole by any other person, shall have the right to withdraw or separate his fence or part of fence from the fence of any other person or persons in this state; that such person who desires to withdraw or separate such fence from the fence of any other person shall give notice in writing to such person, his agent, attorney, or lessee, of his intention to separate or withdraw his fence or part thereof for at least six months prior to the time of such intended withdrawal or separation. Any person failing to comply with the provisions of this article shall be fined in any sum not less than two dollars nor more than fifty dollars, and every ten days shall constitute a separate offense for the violation of this act.

Notice of intention to remove.
Ib. §2.

Art. 798. Any person who is the owner of any fence wholly upon his own land to which the fence of another is adjoined or connected in any manner, may require the owner of any such fence to disconnect and withdraw the same back on his own land by first giving notice in writing, for at least six months, to such person, his agent, attorney, or lessee, to disconnect and withdraw his fence back on his own land. Any person who shall negligently or willfully fail to disconnect his fence and remove the same back upon his own land after the expiration of said notice, shall be fined in any sum not less than ten nor more than fifty dollars, and each ten days' failure after such notice shall constitute a separate offense for the violation of the provisions of this article.

Notice requiring removal.
Ib. §3.

Art. 799. [685] Any owner, proprietor, lessee, or other person in charge of cleared and cultivated land surrounded with an insufficient fence, or the agent or employe of such person, who shall, with fire-arms, dogs, or otherwise, maim, wound or kill any cattle, horses or hogs of another within such inclosure, or who shall cause or procure the same to be done, shall be fined not less than ten nor more than two hundred dollars.

Dogging stock when fence insufficient.
(Act Oct. 18, 1871, p. 10.)

Art. 800. [686] An "insufficient fence," as used in the preceding article, means a fence less than five feet high, or with openings or crevices in some part thereof sufficiently large for the passage of the animal so maimed, wounded or killed.

"Insufficient fence" defined.

Removing
rock, earth,
etc., from
premises of
another.

Art. 801. [687] If any person shall knowingly enter upon the land or premises of another, and take or remove therefrom any rock, earth, sand, coal, slate or mineral of any description, without the consent of the owner of such land or premises, he shall be fined in any sum not exceeding one thousand dollars.

Herding stock
in half mile of
residence.
(Act March 13,
1885, p. 29.)

Art. 802. [690] If any person shall herd any drove of horses, mules, cattle, sheep, goats or hogs, numbering more than five head, upon any land not his own, and within one-half mile of the residence of any citizen of this state, whenever the owner, lessee or legal representative of such land shall forbid such herding, and shall fail, neglect or refuse to remove such drove at once upon request of such owner, lessee or legal representative, he shall be fined in any sum not exceeding one hundred dollars.

Each hour a
separate
offense.
(Act June 2,
1873, p. 18.)

Art. 803. [691] Each hour of delay, after notice given or request made, shall constitute a separate offense under the preceding article.

Willful injury
of irrigating
canal, etc.
(Act 1895, p.
25.)

Art. 803a. Any person who shall willfully or through gross negligence injure any irrigating canal or its appurtenances, wells, dams or reservoirs, or who shall waste the water thereof, or shall take the water therefrom without authority, shall be deemed guilty of a misdemeanor, and for each offense shall be liable to a fine not exceeding five hundred dollars.

Willful de-
struction of
same.
Ib.

Art. 803b. Any person who shall willfully or maliciously injure or destroy any irrigation canal or its appurtenances, or any irrigation reservoir, dam, well, or any of the appurtenances thereto to the extent of fifty dollars, or if said injury shall amount in value to fifty dollars, shall be deemed guilty of a felony, and for each offense shall be punished by confinement in the state penitentiary for not less than two nor more than ten years.

Fishing and
hunting on in-
closed lands
of another.
(Act March 31,
1885, p. 80.)

Art. 804. [691a] Any person who shall enter upon the inclosed and posted land of another, without the consent of the owner, proprietor or agent in charge, and therein hunt with fire-arms, or therein catch or take any fish from any pond, lake or tank, shall be punished by fine of not less than five nor more than one hundred dollars.

Not an offense,
unless, etc.
Ib.

Art. 805. [691b] No one shall be liable to the penalty prescribed in the preceding article unless the owner or proprietor of such inclosure shall at each entrance thereto keep a board in a conspicuous place with the word "posted" plainly marked thereon, which shall constitute posting within the meaning of this act; provided further, that this act shall not apply to inclosures including two thousand acres in one inclosure.

Preventing
the moving,
etc., of rail-
road trains.
(Act March 30,
1887, pp. 72-
73.)

Art. 806. [691c] Any person or persons who shall, by force, threats, or intimidation of any kind whatever, against any railroad engineer or engineers, or any conductor, brakeman, or other officer or employe employed or engaged in running any passenger train, freight train, or construction train, running upon any railroad in this state, prevent the moving or running of said passenger, freight or construction train, shall be deemed guilty of an offense, and upon conviction thereof each and every person so offending shall be fined in a sum not less than one hundred dollars nor more than five hundred dollars, and also imprisoned in the county jail for any period of time not less than three months nor more than twelve months.

Each day a
separate
offense.
Ib.

Art. 807. [681d] Each day said train or trains mentioned in the preceding article are prevented from moving on their road, as speci-

fied in the preceding article, shall be deemed a separate offense, and shall be punished as prescribed in the preceding article.

Art. 808. [691e] Any person who shall willfully injure any railroad, locomotive engine, or tender, or baggage, passenger or freight car of any railroad in this state, so as to prevent the use of same, shall be punished by fine in any sum not less than one hundred dollars, and imprisoned in the county jail not less than three nor more than twelve months.

Willfully injuring railroad, etc.
ib.

CHAPTER FOUR.

OF INFECTIOUS DISEASES AMONG ANIMALS.

Article		Article	
	Failing to confine horses with glanders or farcy.....	809	Sheep found to have scab must be cured by owner.....
	Using horse with glanders or farcy.....	810	Penalty for violation of this act.....
	Same subject.....	811	Penalty for violation by owners.....
	Permitting sheep with scab to run at large.....	812	Wool growers may pay inspectors.....
	Inspector of sheep to be appointed, when.....	813	Counties exempt.....
	Bond of inspector.....	814	To graze along public road.....
	Duties of inspector.....	815	Importation of sheep with scab.....
	Fees of inspector.....	816	Bringing infected animal into the state.....
	Duty of inspector where owners of sheep do not reside in county.....	817	Obstructing live stock commissioner.....
			Permitting infected animal to run at large.....
			Penalties.....

Article 809. [692] If any person shall willfully and knowingly fail, neglect or refuse to place and keep in secure confinement, separate and apart from all other stock, any animal of the horse or ass species, diseased with glanders or farcy, belonging to him or subject to his control, he shall be fined not less than twenty-five nor more than two hundred dollars, or imprisoned in the county jail not less than ten days nor more than three months.

Failing to confine horses with glanders or farcy.
(Act Aug. 19, 1876, p. 211.)

Art. 810. [693] If any person shall ride, drive or in any manner use any animal of the horse or ass species diseased with glanders or farcy, knowing the same to be so diseased, he shall be punished as prescribed in the preceding article.

Using horse with glanders or farcy.
(Act Nov. 8, 1869, p. 102.)

Art. 811. Any person who may drive, lead or ride any animal infected with said diseases of glanders or farcy, knowing them to be so infected, on, along or across any public highway in this state, or allow any such animal so diseased (knowing them to be so diseased and owning such animal) to run at large on the open range of any county in this state, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than ten dollars nor more than two hundred dollars.

Penalty for riding or driving infected animals, etc.; cumulative of other laws.
(Act April 12, 1892, 22d Leg., S. S.)

Art. 812. [694] If any person owning or controlling sheep affected with the scab or other infectious or contagious disease, shall permit such sheep to run at large or in charge of any one beyond the limits of his own land, he shall be fined not exceeding one thousand dollars.

Permitting sheep with scab to run at large.
(Act Dec. 28, 1861, p. 21.)

Art. 813. Whenever it appears from the assessor's rolls of any county that there are as many as five hundred sheep owned and assessed for taxes in any county of this state, it shall be the duty of the commissioners' court of said county, upon the application of one or more resident owners of sheep of said county, to appoint an inspector of sheep, who shall be a resident citizen of such county, and well versed in the scab and diseases which usually affect sheep, and said inspector shall hold his office for two years, or until his successor is appointed and qualified. Said inspector may appoint one or

Inspector of sheep to be appointed, when, etc.
(Acts 22d Leg., p. 140, §1.)

Protection of
wool growing.

more deputies, who shall likewise be well versed in scab and other diseases of sheep, who shall take the oath of office prescribed by the constitution, and may lawfully perform the same acts as the inspector of sheep, and the inspector may require of his deputies so appointed bonds payable to himself for the faithful performance of their duty as such deputies.

Bond of
inspector.
Ib. §2.

Art. 814. Said inspector of sheep shall, within twenty days after receiving notice of his appointment, and before entering upon the duties of his office, execute a bond with two or more good and sufficient sureties, in a sum to be fixed by the commissioners' court, not less than one thousand dollars nor more than five thousand dollars, payable to the county judge and his successors in office, conditioned that he will faithfully and impartially discharge and perform all the duties incumbent upon him as inspector of sheep. Said bond shall be approved by the commissioners' court and be recorded in the office of the county clerk of the county as other official bonds.

Duties of
inspector.
Ib. §3.

Art. 815. It shall be the duty of the inspector of sheep or his deputy to carefully and minutely examine and inspect at any time sheep in his county, or which may be driven into or through his county, and which he has reason to believe, or is informed in writing by any one or more sheep owners of his county, or of any adjacent and contiguous county, is infected with scab or any other infectious or contagious disease; and when one or more sheep affected with scab are found in any flock so inspected, the entire flock shall be condemned by said inspector or deputy and considered as affected with said disease.

Fees of
inspector.
Ib. §4.

Art. 816. The inspector shall be entitled to receive the sum of two cents per head, unless otherwise provided in this law, for sheep inspected and condemned under the provisions of this law; provided, the inspector shall be entitled to receive only one cent per head of any he may inspect for any one person in excess of two thousand head. In no one case shall his fee exceed fifty dollars; such fee to be paid by the owner or person in charge of the sheep so inspected and condemned; provided, that when an inspector shall inspect any sheep and find no scab to exist in the flock of sheep so inspected, then the fees for such service shall be paid by the person at whose instance such inspection was made; and provided further, that the inspector shall have a lien on all sheep so inspected and condemned by him for his fees as provided in this article; provided further, that if any owner or person in charge of sheep affected with scab or other contagious disease shall report the same in writing to said inspector or his deputy, and that he proposes to take means forthwith to cure such disease, it shall not be lawful for the inspector to inspect such flock within twenty days after such report; provided, that if after the expiration of the twenty days aforesaid the sheep have not been thoroughly cured, then the said sheep shall be subject to inspection as hereinbefore provided.

Duty of in-
spector where
owners of
sheep do not
reside in the
county, etc.
Ib. §5.

Art. 817. It shall be the duty of the inspector of sheep or his deputy to arrest and take in charge any flock or flocks of sheep the property of owners who do not reside in his county, or have no certain or fixed ranch therein, found traveling through his county, and found after inspection to be affected with scab, and to hold and dip said sheep at the cost of the owner or person in charge of such flock or flocks, until the same shall be cured; and said inspector shall be entitled to recover from the owner or person in charge of such flock or flocks of sheep so held by him the sum of two dollars per day as com-

penetration for holding such sheep, in excess of inspection fees provided for in article 816; and said inspector shall have a lien upon all sheep so held by him until all fees and expenses for holding and dipping incurred by him are paid; provided, that said inspector shall not in any case hold said flock or flocks of sheep exceeding twenty days.

Art. 818. Whenever any flock of sheep in any county in this state has been inspected as provided for in this law and found to be affected with scab, it shall be the duty of the owner or person in charge of such flock to thoroughly cure the same within twenty days from said inspection.

Sheep found to have scab must be cured by owner, etc. Ib. §6.

Art. 819. Any inspector of sheep or his deputy who shall fail to comply with any of the provisions of this chapter, or who shall willfully or with intent to harrass, vex or put to expense any owner or person in charge of sheep, notify such owner or person in charge that his flock is diseased, or who shall unlawfully demand or receive any fee or compensation where none is allowed by law, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than fifty nor more than two hundred dollars, and thereupon the office shall be deemed vacant, and the commissioners' court may appoint another inspector for such county.

Penalty for violation of this act, etc. Ib. §7.

Art. 820. Any owner or person in charge of sheep who shall willfully and knowingly violate any of the provisions of this chapter, when the penalty is not otherwise provided by this chapter, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than fifty nor more than two hundred dollars.

Penalty for violation by owners. Ib. §8.

Art. 821. Whenever in any county in this state there shall not be sufficient scab or other contagious and infectious diseases among the sheep to pay the sheep inspector a fair remuneration, under the fees provided by this law, it shall be lawful for any association of wool growers in such county to pay such inspector such additional sums of money as to them may seem right and proper in order to keep such inspector in the performance of the duties of his office.

Wool growers may pay inspectors, etc. Ib. §9.

Art. 822. The counties of Grayson, Freestone, Gonzales, Morris, Titus, Cass, Marion, Bowie, Red River, Trinity, San Jacinto, Polk, Anderson, Van Zandt, Cameron, Collin, Colorado, Grimes, Houston, Webb, Encinal, Hunt, Hopkins, Ellis, Dallas, Rockwall, Denton, Fannin, Henderson, Brazos, Smith, Panola, Gregg, Lamar, Wood, Raines, Limestone, Cook, Brown, Comanche, Cherokee, Mills, Montgomery, Shelby, Lee, Burleson, Rusk, Lavaca, Milam, Wise, Upshur, Robertson, Camp, Parker, Franklin, Navarro, Karnes, Wilson, Atascosa, Harrison, San Augustine, Sabine, Fayette, Austin, Leon, Madison, Hill, Bosque, Waller, Fort Bend, Washington, Guadalupe, Caldwell, Hays, Tarrant, Johnson, Clay, Montague, Erath, Hood, Somervell, Bastrop, Harris, Harrison, Camp, Orange, Jefferson, Hardin, Liberty, Chambers, Newton, Tyler, Jasper, Kaufman, Nacogdoches, De Witt, Victoria, Jackson, Calhoun, Refugio, Goliad and Aransas counties are exempted from the provisions of this chapter.

Counties exempt. Ib. §10.

Art. 823. [695] If any person shall drive or graze or cause to be driven or grazed along or upon any public road in this state, any sheep affected with scab, knowing the same to be so affected, he shall be fined not exceeding one thousand dollars.

To graze along public road. (Act Aug. 21, 1876, p. 227.)

Art. 824. [696] If any person shall drive or cause to be driven into this state from any other state or country, any sheep affected with scab or any other infectious or contagious disease, knowing the same to be so affected, he shall be fined not exceeding one thousand dollars.

Importation of sheep with scab. (Act Dec. 28, 1861, p. 21.)

Bringing in-
fected animal
into the state.
(Act 1893, p.
72.)

Art. 824a. Any person who shall knowingly bring into this state any domestic animal which is infected with any contagious or infectious disease, or any animal which has been exposed to any contagious or infectious disease, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than five hundred nor more than five thousand dollars.

Obstructing
live stock
commissioner.
Ib.

Art. 824b. Any person who owns or is in possession of live stock, which is reported to be affected with any infectious or contagious disease, who shall refuse to allow the state live stock sanitary commissioners to examine such stock, or shall hinder or obstruct the said commissioners in any examination of, or in any attempt to examine, such stock, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than one hundred dollars nor more than five hundred dollars.

Owner per-
mitting in-
fected animal
to run at
large.
Ib.

Art. 824c. Any person who shall have in his possession any domestic animal affected with any contagious or infectious disease, knowing such animal to be affected, who shall permit such animal to run at large, or who shall keep such animal where other domestic animals, not affected by or previously exposed to such disease, may be exposed to its contagion or infection, or who shall ship, drive, sell, trade, or give away such diseased animal or animals which have been exposed to such infection or contagion, or who shall move or drive any domestic animal in violation of any direction, rule, regulation, or order of the live stock sanitary commission of Texas establishing and regulating live stock quarantine, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than one hundred dollars nor more than five hundred dollars for each of such exposed or diseased domestic animals which he shall permit to run at large, or sell, ship, drive, trade, or give away in violation of the provisions of this article; provided, that any owner of a domestic animal which has been affected with or exposed to any contagious or infectious disease, may dispose of the same, after having obtained from the state live stock sanitary commissioners a bill of health for such animal or animals.

Penalties.

Art. 824d. Except as otherwise provided in this act [of 1893, p. 70], any person who shall violate, disregard, or evade, or attempt to violate, disregard or evade any of the provisions of this act, or who shall violate, disregard, or evade, or attempt to violate, disregard, or evade any of the rules, regulations, orders, or directions of the live stock sanitary commission, establishing and governing quarantine, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than one hundred nor more than five thousand dollars.

CHAPTER FIVE.

OF CUTTING AND DESTROYING TIMBER.

Article	Article
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"Timber" and "owner" include what.... 826	Person floating timber shall brand same. 832
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Article 825. [697] If any person, without the consent of the owner, shall knowingly cut down or destroy any tree or timber upon any land not his own, or shall knowingly, and without such consent, carry away any such timber, he shall be fined not less than ten nor more than five hundred dollars.

Art. 826. [698] The word "timber," as used in the preceding article, includes rails or other articles manufactured from timber; and the word "owner" includes the state and any corporation, public or private, owning lands within this state.

Art. 827. [699] In any prosecution under article 825 the indictment or information need not allege the name of the owner of the timber, but it shall be sufficient for it to state that the timber was not the property of the accused; and it shall be sufficient to describe the land by the name of the owner, or of the original grantee, or by any name or names by which it may be commonly known in the neighborhood in which the alleged offense was committed.

Art. 828. [700] Upon the trial of any case coming within the provisions of article 825, the state may prove the ownership of the land to be in some person other than the defendant by either of the following modes:

1. By the copy of a grant duly certified from the general land office.
2. By a deed, or a copy of a deed, or other evidence of title, duly certified, from the office of the clerk of the county court of the county where the prosecution is pending.
3. By a certificate from the comptroller's office, or from the assessor and collector of the county, that some person other than the defendant pays taxes on the land.
4. By verbal testimony of title, or of notorious use and possession of the land by some person other than the defendant; and such proof shall be held sufficient until contradicted by competent evidence on the part of the defendant that he is the owner of the land.

Art. 829. [701] Nothing in the foregoing articles of this chapter contained shall render any person guilty of an offense who cuts or uses timber for the purpose of making or repairing any public road or bridge passing over or immediately adjacent to the land on which such tree or timber may be found, or who uses a reasonable amount of wood standing outside of an inclosure for the purpose of making fires while traveling upon the road.

Art. 830. [702] Nothing contained in the foregoing articles of this chapter shall exempt a person from the penalty affixed to the offense of theft whenever timber is taken in such manner as to come within the definition of that offense.

Destroying
pecan or wal-
nut timber.
(Act April 20,
1871, p. 42.)

Art. 831. [703] If any person shall cut down or otherwise destroy or injure any pecan or walnut tree on land not his own without authority in writing from the owner of such pecan or walnut tree, he shall be punished by fine of not less than twenty-five nor more than fifty dollars.

Person float-
ing timber
shall brand
same.
(Act April 7,
1879, p. 81, §1.)

Art. 832. [703a] Any person engaged in floating or rafting timber upon the waters of any river or creek of this state shall have a log brand with which to brand every log or stick that he may float or haul and put into the waters for sale or market, the same to be distinctly branded.

Shall have
brand re-
corded.
Ib. §2.

Art. 833. [703b] He shall have said brand recorded in every county in which he cuts any of said timber, and in the county where he proposes to sell or market said timber by the county clerk, in a book to be kept by said clerk for that purpose, for which said clerk shall receive a fee the same as is by law allowed for recording stock brands.

Shall make
report of logs
cut, etc.
Ib. §3.

Art. 834. [703c] Any persons who float any logs or timber in this state shall, on the first day of April, first day of July, first day of October and the first day of January of each year, or within fifteen days of such dates, make a written report, under oath, showing the number of logs cut or floated during the next preceding three months, the survey or surveys of land from which they were cut or carried, and the number cut from each, and a description of the brand placed thereon, and shall file the same with the county clerk of the county in which the timber was cut, and such clerk shall record the same in a book kept for that purpose, and index it, and receive therefor the sum of fifty cents from the party presenting the same; provided, this act shall not apply to pickets, posts, rails or firewood.

Certificate of
clerk evi-
dence of own-
ership.
Ib. §5.

Art. 835. [703d] A certificate, under the hand of the county clerk, containing a description of a log brand and the name of the owner thereof, with a transfer on the back of it, signed and acknowledged by such owner or proved as other instruments for record, shall be prima facie evidence that the person to whom the transfer is made owns the logs described thereon.

Offenses and
punishment;
definitions.
Ib. §5.

Art. 836. [703e] Any person who shall buy or sell any timber or log floating or that has been floated in this state, before the same has been branded, shall be guilty of a misdemeanor, and upon conviction shall be fined not more than ten dollars for each log or piece of timber so purchased, sold or traded for. Any person who shall float any unbranded log or timber for market, or who shall fail to make the reports required by this act, or any person who shall brand any log or timber of another without his authority, or any person who shall deface any brand on any log or timber otherwise than when it is in the act of being sawed or manufactured into lumber or other commodity for use in building, or any person not an employe of the owner, who shall, without the written consent of the owner, take into possession any branded or unbranded log or timber cut for floating or sawing, or any sawed timber, lumber or shingle, floating in any of the waters of this state, or deposited upon the banks of any river or stream in this state, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by fine not exceeding two hundred dollars for each offense. By "lumber" is meant lumber attached or bound together in some way for floating, and not loose lumber, and by "shingles" is meant shingles in bunches or bundles, and not loose shingles.

Art. 837. [703f] The courts of the county in which the timber or lumber was deposited in the water, or in which it was unlawfully taken into possession or unlawfully defaced, sold, purchased or branded, as the case may be, shall have jurisdiction of the violation of the act or omission complained of or constituting an offense under this chapter. Venue.
Ib. §6.

CHAPTER SIX.

OF BURGLARY.

Article	Article		
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"Breaking" defined.....	842	mestic	848
"House" defined.....	843	Attempt at burglary, how punished.....	849
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Article 838. [704] The offense of "burglary" is constituted by entering a house by force, threats or fraud, at night, or in like manner by entering a house during the day and remaining concealed therein until night, with the intent, in either case, of committing felony or the crime of theft. "Burglary"
defined.
(Act Aug. 21,
1876, p. 231.)

Art. 839. [705] He is also guilty of burglary who, with intent to commit a felony or theft, by breaking, enters a house in the day time. Same subject.
Ib.

Art. 840. [706] The "entry" into a house, within the meaning of article 838, includes every kind of entry but one made by the free consent of the occupant, or of one authorized to give such consent; it is not necessary that there should be any actual breaking to constitute the offense of burglary, except when the entry is made in the day time. "Entry"
defined.

Art. 841. [707] The entry is not confined to the entrance of the whole body; it may consist of the entry of any part for the purpose of committing a felony; or it may be constituted by the discharge of fire-arms or other deadly missile into the house, with intent to injure any person therein; or it may be constituted by the introduction of any instrument for the purpose of taking from the house any personal property, although no part of the body of the offender should be introduced. Further
defined.

Art. 842. [708] By the term "breaking," as used in article 839, is meant that the entry must be made with actual force. The slightest force, however, is sufficient to constitute breaking; it may be by lifting the latch of the door that is shut, or by raising a window, the entry at a chimney, or other unusual place, the introduction of the hand or any instrument to draw out the property through an aperture made by the offender for that purpose. "Breaking"
defined.

Art. 843. [709] A "house," within the meaning of this chapter, is any building or structure erected for public or private use, whether the property of the United States, of this state, or of any public or private corporation or association, or of any individual, and of whatever material it may be constructed. "House"
defined.

Art. 844. [710] By the term "day time," is meant any time of the twenty-four hours from thirty minutes before sunrise until thirty minutes after sunset. "Day time"
defined.

- Punishment.** Art. 845. [711] The punishment for burglary shall be imprisonment in the penitentiary not less than two nor more than twelve years.
- Other offenses committed after entry punishable.** (Act Feb. 12, 1858, p. 180.) Art. 846. [712] If a house be entered in such manner as that the entry comes within the definition of burglary, and the person guilty of such burglary shall, after so entering, commit theft, or any other offense, he shall be punished for burglary, and also for whatever other offense is so committed.
- Same subject.** Art. 847. [713] If the burglary was effected for the purpose of committing one felony, and the person guilty thereof shall, while in the house, commit another felony, he shall be punishable for any felony so committed as well as for the burglary.
- Actual breaking necessary in case of domestic.** Art. 848. [714] An entry into a house for the purpose of committing theft, unless the same is effected by actual breaking, is not burglary when the same is done by a domestic servant or other inhabitant of such house; but a theft committed by such person after entering a house is punishable as in other cases.
- Attempt at burglary; how punished.** (Act Feb. 11, 1860, pp. 100-01.) Art. 849. [715] If any person shall attempt to commit the crime of burglary, he shall be punished by confinement in the penitentiary not less than two nor more than four years.
- "Attempt" defined.** *ib.* Art. 850. [716] An "attempt," in the sense in which the word is used in the preceding article, is an endeavor to accomplish the crime of burglary carried beyond mere preparation, but falling short of the ultimate design in any part of it.

CHAPTER SEVEN.

OF OFFENSES ON BOARD OF VESSELS, STEAMBOATS AND RAILROAD CARS.

	Article		Article
Burglarious entry on board of vessel.....	851	Rules, etc., of burglary applicable.....	854
By actual breaking, in day time.....	852	Theft by a servant on board punishable as such	855
Other offense committed after entry punishable	853		

- Burglarious entry on board of vessel.** Article 851. [717] If any person, by any of the means enumerated in article 838, shall at night enter any vessel, steamboat or railroad car, with intent to commit a felony or theft, he shall be punished by confinement in the penitentiary not less than two nor more than five years.
- By actual breaking in day time.** Art. 852. [718] If any person shall, by breaking, enter a vessel, steamboat or railroad car in the day time, with intent to commit a felony or theft, he shall be punished as prescribed in the preceding article.
- Other offense committed after entry punishable.** Art. 853. [719] If a vessel, steamboat or railroad car be entered in such manner as that the entry, if made in a house, would be burglary, and the person so entering shall commit theft or any other offense after entry, he shall be punished for the offense defined in article 851, and also for whatever other offense he may so commit.
- Rules, etc., of burglary applicable.** Art. 854. [720] The definitions, rules and explanations of terms in the preceding chapter are applicable to such terms in this chapter; and the rules prescribed in articles 838, 839, 840, 841 and 842 of the preceding chapter shall also apply to similar cases on board of a vessel, steamboat or railroad car.

Art. 855. [721] A theft on board a steamboat, vessel or railroad car, committed by a servant or employe, except in cases where there has been an actual breaking in, is punishable simply as theft.

Theft by a servant on board punishable as such.

CHAPTER EIGHT.
OF ROBBERY.

Article	Article
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Article 856. [722] If any person by assault or violence or by putting in fear of life or bodily injury shall fraudulently take from the person or possession of another any property with intent to appropriate the same to his own use, he shall be punished by confinement in the penitentiary for life, or for a term of not less than five years; and when a firearm or other deadly weapon is used or exhibited in the commission of the offense, the punishment shall be death or by confinement in the penitentiary for any term not less than five years.

Robbery defined and punished. (Act April 12, 1883, pp. 80-81; amend. 1895, p. 89.)

Art. 857. [723] If any person by threatening to do some illegal act injurious to the character, person or property of another, shall fraudulently induce the person so threatened to deliver to him any property, with intent to appropriate the same to his own use, he shall be punished by confinement in the penitentiary not less than two nor more than five years.

Fraudulent acquisition of property by threats. (Act Feb. 12, 1858, p. 180.)

CHAPTER NINE.
OF THEFT IN GENERAL.

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Property must have some value..... 859	Petty theft, how punished..... 370
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Article 858. [724] "Theft" is the fraudulent taking of corporeal personal property belonging to another from his possession, or from the possession of some person holding the same for him, without his consent, with intent to deprive the owner of the value of the same, and to appropriate it to the use or benefit of the person taking.

"Theft" defined.

Art. 859. [725] The property must be such as has some specific value capable of being ascertained. It embraces every species of personal property capable of being taken.

Property must have some value.

Art. 860. [726] To constitute "taking" it is not necessary that the property be removed any distance from the place of taking; it is sufficient that it has been in the possession of the thief, though it may not be moved out of the presence of the person deprived of it; nor

Asportation not necessary.

is it necessary that any definite length of time shall elapse between the taking and the discovery thereof; if but a moment elapse, the offense is complete.

The "taking" must be wrongful.

Art. 861. [727] The taking must be wrongful, so that if the property came into the possession of the person accused of theft by lawful means, the subsequent appropriation of it is not theft, but if the taking, though originally lawful, was obtained by any false pretext, or with any intent to deprive the owner of the value thereof, and appropriate the property to the use and benefit of the person taking, and the same is so appropriated, the offense of theft is complete.

Possession and ownership need not be in same person.

Art. 862. [728] It is not necessary, in order to constitute theft, that the possession and ownership of the property be in the same person at the time of taking.

Possession; how constituted.

Art. 863. [729] Possession of the person so unlawfully deprived of property is constituted by the exercise of actual control, care and management of the property, whether the same be lawful or not.

Theft of one's own property, when.

Art. 864. [730] No person can be guilty of theft by taking property belonging to himself, except in the following cases:

1. Where the property has been deposited with the person in possession as a pledge or security for debt.
2. Where it is in the possession of an officer of the law by process from a court of competent jurisdiction.
3. Where the property is in the possession of an executor or administrator for the purpose of administration.
4. In all other cases where the person so deprived of possession is, at the time of taking, lawfully entitled to the possession thereof as against the true owner.

Part owner can not commit, unless.

Art. 865. [731] If the person accused of the theft be part owner of the property, the taking does not come within the definition of theft, unless the person from whom it is taken be wholly entitled to the possession at the time.

"Property" defined.

Art. 866. [732] The term "property," as used in relation to the crime of theft, includes money, bank bills, goods of every description commonly sold as merchandise, every kind of agricultural produce, clothing, any writing containing evidence of an existing debt, contract, liability, promise or ownership of property real or personal, any receipts for money, discharge, release, acquittance and printed book or manuscript, and in general any and every article commonly known as and called personal property, and all writings of every description, provided such property possesses any ascertainable value.

Animals of domestic breed included.

Art. 867. [733] Within the meaning of "personal property" which may be the subject of theft, are included all domesticated animals and birds, when they are proved to be of any specific value.

Particular penalties exclude general punishment.

Art. 868. [734] Theft of certain particular kinds of property, as of a horse, property wrecked, etc., have a punishment affixed differing from the general punishment of the crime of theft; whenever, therefore, the law provides a particular punishment for theft committed in regard to a special kind of property, theft of such property is not included within the law affixing a general penalty to the offense; but in other cases, whenever it is declared to be an offense to steal or otherwise fraudulently appropriate property, the provision is intended to include any and every species of personal property according to its general and broadest signification.

Art. 869. [735] Theft of property of the value of fifty dollars or over shall be punished by confinement in the penitentiary not less than two nor more than ten years.

Theft of twenty dollars and over. (Amend. 1895, p. 15.)

Art. 870. [736] Theft of property under the value of fifty dollars shall be punished by imprisonment in the county jail not exceeding two years, during which time the prisoner may be put to hard work on the county roads or otherwise, and by fine not exceeding five hundred dollars, or by such imprisonment without fine.

Petty theft; how punished. Ib.

Art. 871. [737] The two preceding articles do not apply to theft of property from the person, nor to cases of theft of any particular kind of property where the punishment is specially prescribed.

General penalties not applicable, when.

Art. 872. [738] If property, taken under such circumstances as to constitute theft, be voluntarily returned within a reasonable time, and before any prosecution is commenced therefor, the punishment shall be by fine not exceeding one thousand dollars.

Voluntary return of stolen property. (Act Feb. 12, 1853, p. 181.)

Art. 873. [739] The words "steal," or "stolen," when used in this Code in reference to the acquisition of property, include property acquired by theft.

"Steal" or "stolen" include, what.

Art. 874. [740] The stealing or feloniously taking any growing, standing or ungathered Indian corn, wheat, cotton, potatoes, rice or other agricultural product, shall hereafter be deemed theft; and any person who shall hereafter steal or feloniously take, pluck, sever or carry away any Indian corn, or wheat, cotton, potatoes, rice or other agricultural product, growing, standing or remaining ungathered in any plantation, field or other ground, shall, on conviction thereof, be deemed guilty of theft, and suffer punishment as in other cases of theft.

Stealing agricultural products.

Art. 875. [741] If any person shall take and carry away any record book or filed paper from any clerk's office, public office, or other place where the same may be lawfully deposited, or from the lawful possession of any person whatsoever, with intent to destroy, suppress, alter or conceal, or in any wise dispose of the same, so as to prevent the lawful use of such record book or filed paper, he shall be deemed guilty of theft, and punished by imprisonment in the penitentiary not less than three nor more than seven years.

Stealing record books or filed papers. (Act Feb. 12, 1873, p. 181.)

Art. 876. [742] If any person, with intent to deprive the true owner of the value thereof, shall appropriate to his own use, or dispose of to his own benefit, any property taken or driven on shore from any vessel wrecked, stranded or burned on the seashore, or on any river, bay or harbor of the state, he shall be punished by confinement in the penitentiary not less than two nor more than five years.

Stealing from a wreck.

Art. 877. [742a] Any person having possession of personal property of another by virtue of a contract of hiring or borrowing, or other bailment, who shall, without the consent of the owner, fraudulently convert such property to his own use with intent to deprive the owner of the value of the same, shall be guilty of theft, and shall be punished as prescribed in the Penal Code for theft of like property.

Conversion by a bailee is theft. (Act March 8, 1837, p. 14.)

Art. 878. [743] If any person shall receive or conceal property, which has been acquired by another, in such manner as that the acquisition comes within the meaning of the term theft, knowing the same to have been so acquired, he shall be punished in the same manner as by law the person stealing the same would be liable to be punished.

Receiving stolen property. (Act Feb. 12, 1853, pp. 180-81.)

CHAPTER TEN.

OF THEFT FROM THE PERSON.

	Article		Article
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Punishment for.

Article 879. [744] If any person shall commit theft by privately stealing from the person of another, he shall be punished by confinement in the penitentiary not less than two nor more than seven years.

Ingredients of the offense.

Art. 880. [745] To constitute the offense it is necessary that the following circumstances occur:

1. The theft must be from the person; it is not sufficient that the property be merely in the presence of the person from whom it is taken.
2. The theft must be committed without the knowledge of the person from whom the property is taken, or so suddenly as not to allow time to make resistance before the property is carried away.
3. It is only necessary that the property stolen should have gone into the possession of the thief; it need not be carried away in order to complete the offense.

CHAPTER ELEVEN.

THEFT OF ANIMALS.

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Theft of horse, etc.....	881	Willfully driving stock from range, theft	884
Theft of cattle.....	882	Party may drive stock in range.....	885
Theft of sheep, hogs, etc., how punished.	883	What proof sufficient for the state.....	886

Theft of horse, etc. (Act Feb. 12, 1858, p. 181.)

Article 881. [746] If any person shall steal any horse, ass or mule, he shall be punished by confinement in the penitentiary not less than five nor more than fifteen years.

Theft of cattle. (Act May 17, 1873, p. 80.)

Art. 882. [747] If any person shall steal any cattle or hog, he shall be punished by confinement in the state penitentiary not less than two nor more than four years.

Theft of sheep, hogs, etc.; how punished.

Art. 883. [748] If any person shall steal any sheep, or goat, he shall, if the value of the property stolen is twenty dollars or over, be punished by confinement in the state penitentiary not less than two nor more than four years. If the value of the property is under twenty dollars, he shall be punished by imprisonment in the county jail not exceeding six months, during which time the prisoner may be put to hard work, and by fine not exceeding two hundred and fifty dollars, or by such imprisonment without fine.

Willfully driving stock from range, theft. (Act Nov. 12, 1866, p. 188.)

Art. 884. [749] If any person shall willfully take into possession and drive, use, or remove from its accustomed range, any live stock not his own, without the consent of the owner and with intent to defraud the owner thereof, he shall be deemed guilty of theft, and on conviction shall be confined in the penitentiary not less than two nor more than five years, or be fined in a sum not to exceed one thousand dollars, or by both such imprisonment and fine, at the discretion of the jury trying the case.

Art. 885. [750] Nothing in the preceding article contained shall be construed to prevent any person from driving his own and other stock that may be mixed therewith to the nearest convenient point within the usual range of such stock, for separation.

Party may drive stock in range.
Ib. p. 187.

Art. 886. [751] In any prosecution under article 884 it shall only be necessary for the state to prove the act of driving, using or removing from its accustomed range any live stock not belonging to or under the control of the accused, and it shall devolve upon the accused to show any fact under which he can justify or mitigate the offense.

What proof sufficient for the state.
Ib. p. 188.

CHAPTER TWELVE.

MISCELLANEOUS PROVISIONS RELATING TO THE RECOVERY OF STOLEN ANIMALS AND THE DETECTION AND PUNISHMENT OF THIEVES.

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Want of bill of sale prima facie evidence of illegal possession..... 887 Driving stock to market without bill of sale 888 Butchering unmarked or unbranded animals 889 Not applicable to animals raised by butcher 890 Butcher failing to make report of animals slaughtered 891 Butchers and slaughterers required to file bond 892 Penalty for failure to make bond..... 893	Required to keep record of cattle purchased or slaughtered..... 894 Penalty for purchasing slaughtered cattle, unless, etc..... 895 The record provided for to be open for inspection, etc..... 896 Duty of county attorney..... 897 Inspector to keep record..... 898 Counties exempted 899 Auctioneer selling animal without written statement, etc..... 901 Auctioneer failing to report sales of animals 902

Article 887. [752] Upon the trial of any person charged with the theft of any animal of the horse, ass or cattle species, the possession of such stolen animal by the accused, without a written transfer or bill of sale containing a specific description of such animal, shall be prima facie evidence against the accused that such possession was illegal.

Want of bill of sale prima facie evidence of illegal possession.
(Act Nov. 13, 1886, p. 223.)

Art. 888. [753] Any person who may be found in any county of this state driving to market any animals such as are specified in the preceding article, and who has not in his possession a bill of sale or transfer for each and all of said animals, containing their marks and brands, or a list of such marks and brands of any such animals as were raised by himself, both said bill of sale and list being duly certified as recorded by the clerk of the county court of the county from which such animals have been driven, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined not exceeding two thousand dollars.

Driving stock to market without bill of sale.
Ib. p. 224.

Art. 889. [754] If any butcher or other person engaged in the slaughter of animals shall kill or cause to be killed any unmarked or unbranded animal for market, or shall purchase and kill or cause to be killed any animal without having taken a bill of sale or a written transfer from the person selling the same, he shall be fined not less than fifty nor more than three hundred dollars.

Butchering unmarked or unbranded animals.
(Act Nov. 13, 1886, p. 244.)

Art. 890. [755] The preceding article shall not apply to the slaughter of an animal raised by the person slaughtering the same.

Not applicable to animals raised by butchers.
Ib.

Art. 891. [756] If any person engaged in the slaughter and sale of animals for market in any county, city, town or village in this state shall fail to report to the commissioners' court of the county in

Butcher failing to make report of animals slaughtered.
Ib.

which he transacts such business, at each regular term thereof, the number, color, age, sex, marks and brands of every animal slaughtered by him since the last term of said court, accompanied with a bill of sale or written conveyance to him for every animal slaughtered, save such as were raised by himself, which shall be specified, he shall be punished by fine not less than fifty nor more than three hundred dollars.

Butchers and slaughterers required to file bond. (Act April 6, 1889, §1; amend. 1893, p. 38.)

Art. 892. Every person, before he shall set up and carry on the trade or occupation of a butcher or slaughterer of cattle in the state of Texas, shall file a bond, to be approved by the county judge of the county in which he desires to carry on the business, in a sum not less than two hundred dollars nor more than one thousand dollars, payable to the state of Texas, conditioned that he shall keep a true and faithful record, in a book kept for that purpose, of all cattle purchased or slaughtered by him, with a description of the animal, including marks, brands, age, color, weight, and from whom purchased, and the date thereof; that he will have the hide and ears of such animal inspected by the inspector, or some magistrate of the county, within twenty days after it is slaughtered, and that he will not purchase any cattle that has been slaughtered by another unless the hide and ears of such slaughtered animal accompany said animal offered for sale, and that he will not purchase any animal that has been slaughtered by another when the ear marks or brands on the hide accompanying such animal, when offered for sale, have been changed, mutilated, or destroyed.

Penalty for failure to make such bond. Ib. §2; amend. Ib.

Art. 893. Every person who shall carry on the business of butcher or slaughterer of animals without having filed with the clerk of the county court of the county in which he conducts such business the bond provided for in article 892, shall be fined in any sum not less than five dollars nor more than two hundred dollars.

Required to keep record of cattle purchased or slaughtered. Ib. §3; amend. Ib.

Art. 894. Every person who shall carry on the business of butcher or slaughterer of animals and shall fail to keep a true and faithful record, in a book kept for the purpose [of], all cattle purchased and slaughtered by him, together with a description of each animal, including mark, brand, age, color, weight, and from whom purchased, and the date of purchase, or shall fail to have the hide and ears of such animal or animals inspected by the inspector or some magistrate, within twenty days after such animal is slaughtered, shall be fined in any sum not less than twenty dollars nor more than two hundred dollars.

Penalty for purchasing slaughtered cattle unless accompanied by hide and ears, etc. Ib. §4; amend. Ib.

Art. 895. Any person engaged in butchering and slaughtering cattle and [who] shall purchase any cattle that have been slaughtered by another without the hide and ears of such animal accompanying the same, or shall purchase any animal that has been slaughtered by another when the ear mark or brand on the hide accompanying the same, when offered for sale, have been changed, mutilated, or destroyed, shall be fined in any sum not less than fifty nor more than two hundred dollars.

The record provided for in Art. 894 to be open for inspection. Ib. §5; amend. Ib.

Art. 896. The record provided for in article 894 of this chapter shall be open to the inspection of all parties, and any butcher refusing to permit such inspection at any reasonable hour shall be fined in any sum not exceeding twenty-five dollars.

Duty of county attorney. (Act 1893, p. 38.)

Art. 897. In addition to the criminal prosecutions that may be brought under this law, it is the duty of the county attorney to bring a civil action against any butcher or slaughterer of animals for any violation of the terms of the bond prescribed in article 892.

Art. 898. It shall be the duty of the inspector or magistrate to keep a record of the marks, brands, color, and general description of such hide, and for whom inspected, with the date of inspection, and return a copy of the same to clerk of the county court of the county in which it was inspected within thirty days after said inspection, and said inspector or magistrate shall be entitled to receive ten cents for each hide so inspected, to be paid by the party having the hide inspected, and any inspector or magistrate failing to keep such book, or failing to make such report as above provided for, may be fined in any sum not less than one dollar nor more than twenty-five dollars.

Inspector to
keep record.
Ib.

Art. 899. The provisions of this law shall not apply to either of the following counties: Collin, DeWitt, Goliad, Karnes, Lamar, Bee, Victoria, Calhoun, Refugio, Bell, Coryell, Hamilton, Mills, Brown, Comanche, Lavaca, Llano, San Saba, Anderson, Concho, Runnels, Coleman, Travis, Grayson, Cooke, Montague, Colorado, Bexar, Jasper, Newton, Orange, Jefferson, Polk, San Jacinto, Tyler, Chambers, Hardin, Liberty, Harrison, Smith, Upshur, Gregg, Wood, Rains, Bowie, Cass, Morris, Titus, Lee, Bastrop, Fayette, Hill, Johnson, Ellis, McLennan, Falls, Robertson, Milam, Brazos, Galveston, Brazoria, Matagorda, San Patricio, Guadalupe, Caldwell, Hays, Blanco, Comal, Tarrant, Wise, Parker, Jack, Dallas, Nacogdoches, San Augustine, Shelby, Sabine, Panola, Rusk, Hunt, Hopkins, Delta, Franklin, Camp, Angelina, Houston, Leon, Grimes, Madison, Kaufman, Rockwall, Fannin, Red River, Van Zandt, Henderson, Cherokee, Bosque, Hood, Erath, Somervell, Collin, Denton, Trinity, Walker, Montgomery, Harris, Austin, Washington, Wharton, Fort Bend, Waller, Burleson, Limestone, Freestone, Navarro, Karnes, Mason, Medina, Kimble, Kerr, Kendall, Bandera, Sutton, Gillespie, Williamson, Lampasas, Burnet, El Paso, Presidio, Brewster, Midland, Reeves, Marion, Ward, Jeff Davis, Palo Pinto, Eastland, Jones, Shackelford, Callahan, Baylor, Knox, Haskell, Wilson and Wilbarger.

Counties.
exempt.
Ib.

[Note.—The act of 1893, p. 38, superseding by its terms the act of 1889, renders obsolete article 900 of the codification of 1893.]

Art. 901. [757] If any auctioneer or other person shall sell at auction any horse, mule or ox, without first requiring from the party for whom such sale is made a written statement signed by him of the manner in which, and the name and residence of the person from whom he acquired such animal, he shall be fined not less than fifty nor more than one hundred dollars.

Auctioneer
selling animal
without
written state-
ment, etc.
(Act April 14,
1874, p. 98.)

Art. 902. [758] If any auctioneer or other person shall sell at auction any horse, mule or ox, and shall fail, within ten days after such sale, to file with the clerk of the county court the written statement specified in the preceding article, duly attested with his certificate as to its genuineness, and accompanied with a further certificate containing an accurate description of the animal sold, together with the names and residence of the seller and purchaser, he shall be punished as prescribed in the preceding article.

Auctioneer
failing to re-
port sales of
animals.
Ib.

CHAPTER THIRTEEN.

ILLEGAL MARKING AND BRANDING AND OTHER OFFENSES RELATING TO STOCK.

Article	Article
Illegal marking and branding..... 903	Having possession of hide without owner's consent 910
Altering or defacing mark or brand..... 904	Having possession of hide with brand cut out, etc..... 911
Using mark or brand not on record..... 905	Milking another's cow..... 912
Same subject 906	Driving cattle from range..... 913
Killing unmarked or unbranded cattle, etc. 907	Preceding article qualified..... 914
Procedure in prosecutions for..... 908	Procedure in such cases..... 915
Skinning cattle 909	False pedigree and certificate of sale.... 916

Illegal marking and branding.

Article 903. [759] Every person who shall mark or brand any horse, mule, ass or cattle, or who shall mark any sheep, goat or hog, not being his own, and without the consent of the owner, and with intent to defraud, shall be punished in the same manner as if he had committed a theft of such animal.

Altering or defacing mark or brand. (Act Feb. 12, 1858, pp. 181-82.)

Art. 904. [760] Every person who shall alter or deface the mark or brand of any horse, mule, ass or cattle, or shall alter or deface the mark of any sheep, goat or hog not being his own property, and without the consent of the owner, and with intent to defraud, shall be punished in the same manner as if he had committed a theft of such animal.

Using mark or brand not on record. (Act Nov. 12, 1866, p. 188.) Same subject. Ib.

Art. 905. [761] If any person shall mark or brand any unmarked or unbranded stock with a mark or brand not upon record, he shall be punished by fine not exceeding five hundred dollars.

Art. 906. [762] If any person shall alter or change any mark or brand upon any stock of his own, or that is under his control, without first having such changed mark or brand recorded, he shall be punished as prescribed in the preceding article.

Killing unmarked or unbranded cattle. Ib.

Art. 907. [763] If any person shall knowingly kill any unmarked or unbranded animal of the cattle species, or any unmarked hog, sheep or goat not his own, he shall be fined not less than twenty-five nor more than one hundred dollars.

Procedure in prosecutions for.

Art. 908. [764] In prosecutions under the preceding article it shall only be necessary for the state to allege and prove that the animal killed was not the property of the accused, without stating or proving the true owner of such animal.

Skinning cattle. (Act April 2, 1887, p. 105.)

Art. 909. [765] If any person shall remove the hide, or any part thereof, from any cattle not his own, and without the consent of the owner, he shall be fined in a sum not less than twenty nor more than one hundred dollars; and the removal of each separate hide from each animal shall constitute a separate offense.

Having possession of hide without owner's consent. Ib.

Art. 910. [765a] If any person shall be found in possession of any hide of any cattle not his own, and possession of said hide is obtained without the consent of the owner or his legal representative, he shall be fined in a sum not less than twenty nor more than one hundred dollars.

Having possession of hide with brand cut out, etc. Ib.

Art. 911. [765b] If any person be found in possession of any hide of any cattle with brand cut out or disfigured, and shall offer the same for sale, he shall be fined in a sum not less than twenty nor more than one hundred dollars, and the possession and offer of sale of each hide with the brand cut out or disfigured shall consti-

tute a separate offense; provided, that nothing in this act shall prevent any person who shall be guilty of the offense of theft of such hide from being prosecuted and convicted for such offense.

Art. 912. [766] If any person, without the consent of the owner, shall take up, use or milk any cow not his own, he shall, for every such offense, be punished by fine not exceeding ten dollars.

Milking another's cow. (Act Nov. 12, 1866, p. 188.)

Art. 913. [767] If any person shall willfully kill, or destroy, or drive, or remove from its accustomed range any live stock not his own, without the consent of the owner, under such circumstances as not to constitute theft, he shall nevertheless be guilty of a misdemeanor, and shall be punished by fine not exceeding one thousand dollars.

Driving cattle from range. Ib.

Art. 914. [768] Nothing in the preceding article shall be construed to prevent any person from driving his own and other stock, which may be mixed therewith, until the same can be conveniently separated; provided, that nothing herein shall be construed to authorize any person under any circumstances to remove any live stock, not his own, from their usual range.

Preceding article qualified. Ib. p. 187.

Art. 915. [769] In any prosecution under article 913, it shall only be necessary to prove the act of killing or destroying or driving, using or removing from the range of any stock not belonging to or under the control of the accused, and it shall devolve upon the accused to show any fact under which he can justify or mitigate the offense.

Procedure in such cases. Ib.

Art. 916. Any person who shall knowingly and willfully furnish or give to a purchaser of any animal any false pedigree or false certificate of sale of such animal, and every person who shall knowingly and willfully use for the purpose of deceiving any false pedigree or false certificate of sale of any animal, whether such false pedigree or false certificate of sale was furnished, given or procured in this state or elsewhere, shall upon conviction thereof be punished by a fine in any sum not less than twenty-five nor more than five hundred dollars, or be imprisoned in the county jail for a term not exceeding six months, or by both such fine and imprisonment.

False pedigree and certificate in sale of animals; penalty. (Act April 13, 1891, §1.)

CHAPTER FOURTEEN.

OFFENSES RELATING TO ESTRAYS.

Article	Article
Unlawfully disposing of an estray..... 917	Taking up and using without complying with the law..... 918

Article 917. [770] If any person shall unlawfully remove, sell or in any other manner dispose of any animal which has been taken up by him as an estray, he shall be punished by fine not exceeding two hundred and fifty dollars.

Unlawfully disposing of an estray. (Act Feb. 12, 1853, p. 184.)

Art. 918. [771] If any person shall, without complying with the laws regulating estrays, take up and use or otherwise dispose of any animal coming within the meaning of an estray, he shall be punished as prescribed in the preceding article. If the unlawful taking or disposition of an estray animal be effected in such manner as to come within the meaning of theft, the person guilty of the same shall be punished for that offense.

Taking up and using without complying with the law. Ib.

CHAPTER FOURTEEN A.

OFFENSES AGAINST LABELS, TRADE MARKS, ETC.

	Article		Article
Unlawful to use trade mark of another.....	918a	Counterfeiting trade marks, etc.....	918d
Possession prima facie evidence.....	918b	Unlawfully using, penalty.....	918e
Penalties	918c		

Unlawful to use, etc., trademark of another. (Act 1893, p. 125.)

Article 918a. It is hereby declared to be unlawful for any person or persons, corporate or otherwise, other than the proprietor, or by his written consent, to fill for the purpose of traffic, or for sale, with any compound whatever, any box, syphon, bottle, or other container so marked, recorded in the office of the county clerk, and published as provided in article 314a of the Revised Civil Statutes, or to deface, erase, obliterate, cover up, or otherwise remove or cancel any such mark or device.

Possession prima facie evidence, etc. Ib.

Art. 918b. To knowingly and willfully have in possession otherwise than by contract with the proprietor of the goods herein enumerated, or with his duly accredited agents, any of the vessels in said article of the Revised Civil Statutes enumerated, or to use, buy, sell, or dispose of any such vessel, with or without contents of any kind, except by authority of the proprietor, or to wantonly and willfully break, damage, mar, injure, or destroy any such vessel, is declared hereby to be prima facie evidence of such unlawful use, and shall constitute a misdemeanor, punishable by fine upon conviction in a court of competent jurisdiction, an employe being equally liable with the principal so offending.

Penalties. Ib.

Art. 918c. Any person violating any of the provisions of said article of the Revised Civil Statutes, shall be deemed guilty of a misdemeanor, and upon conviction before a justice of the peace shall be fined for such unlawful use of each and every box five dollars; for each and every syphon, five dollars; for each and every bottle, five dollars; and for every other receptacle, except a fountain, five dollars; and for each fountain, twenty-five dollars; the fines so designated to be the minimum in each case, the maximum not to exceed double the minimum.

Counterfeiting trade mark, etc.; penalty. (Act 1895, p. 103.)

Art. 918d. Whenever any person, association, private corporations or union of working men, incorporated or unincorporated, have adopted or shall hereafter adopt for their protection any label, trade mark, design, device, imprint or form of advertisement, indicating that goods to which such label, trade mark, design, device, imprint or form of advertisement shall be attached, were manufactured by such person, association, private corporations or union, or by a member or members of such association or union, it shall be unlawful for any person, inclusive of officers, agents, receiver or receivers of corporations, to counterfeit or imitate such label, trade mark, design, device, imprint or form of advertisement or to use such counterfeit or imitation of such label, trade mark, design, device, imprint, or form of advertisement, knowing the same to be counterfeit or imitation, or to aid, assist, countenance or knowingly permit such counterfeit or imitation or the use of such counterfeit or imitation for his own use or benefit, or for the use or benefit of any corporation of which he may then be an officer, agent or receiver, Every person, whether in his individual capacity or as an officer,

agent or receiver of a corporation, violating this article shall, upon conviction, be punished by fine of not less than twenty-five nor more than one hundred dollars, and each day's violation of this article shall be considered a separate offense.

Art. 918e. Every person, whether in his individual capacity or as the officer, agent or receiver of a corporation, who shall willfully and knowingly use or display the genuine label, trade mark, design, device, imprint, or form of advertisement, or name of any such person, association or union, incorporated or unincorporated, not being authorized to use or display the same, or shall aid, assist, countenance or knowingly permit the use of same, not being authorized to use the same, shall, upon conviction, be punished by fine of not less than twenty-five nor more than one hundred dollars.

Unlawfully
using;
penalty.
Ib.

CHAPTER FIFTEEN.

OFFENSES RELATING TO THE PROTECTION OF STOCK RAISERS IN CERTAIN LOCALITIES

Article		Article
919	Inspector giving a fraudulent certificate.	929
920	Inspector to examine hides.....	929
921	Inspector failing to keep books.....	930
922	Certified by inspector.....	931
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924	Counterbranding cattle without consent of owner	933
925	Clandestine driving cattle across the Rio Grande	934
926	Shipping hides imported from Mexico without inspection	935
927	Selling hides without inspection.....	936
928	Driving cattle out of county to market without road brand.....	937
	Driving stock out of county without own- er's consent.....	
	Failing to take bill of sale in purchasing animals	
	Agent selling without power of attorney.	
	Using more than one brand or mark....	
	Branding or marking outside of a pen..	
	Clerk improperly recording brand.....	
	Agent of railroad, etc., receiving for ship- ment uninspected animals.....	
	Counties exempted from the operations of this chapter.....	
	Counties added	

Article 919. [772] Any inspector of hides and animals who shall give a certificate of inspection without having first made such inspection in accordance with law, or who shall fraudulently issue any certificate of inspection of any hides or animals, shall be fined not less than fifty nor more than five hundred dollars.

Inspector giv-
ing a fraudu-
lent certifi-
cate.
(Act Aug. 23,
1876, p. 302,
§31.)

Art. 920. [772a] If any inspector or deputy inspector of hides and animals shall knowingly fail or refuse to faithfully examine and inspect all hides or animals known or reported to him as sold, or as leaving or going out of the county for sale or shipment, and all animals driven or sold in his district for slaughter, packeries or butcheries, shall be fined not less than twenty-five dollars nor more than two hundred dollars.

Inspector or
deputy failing
to examine
hides, etc.;
penalty.
(Act April 4,
1889, §1.)

Art. 921. [772b] Any inspector of hides and animals who shall fail to provide and keep a well-bound book and record therein a correct statement, showing the number, ages and marks and brands of each animal inspected by him or by his deputy or deputies, and the number and all the marks and brands of all hides inspected by him or by his deputies, and whether the hides are dry or green, and the name or names of the vendor or vendors and of the purchaser or purchasers of said animals or hides, shall be fined not less than fifty dollars nor more than three hundred dollars.

Inspector fail-
ing to keep
book and rec-
ord; penalty.
Ib. §2.

Art. 922. [772c] Any inspector or deputy inspector of hides and animals who shall fail to correctly state in his certificate of inspection, or in his certificate of acknowledgment, all the marks and brands of all animals and hides inspected by him, shall be fined not less than twenty-five dollars nor more than three hundred dollars.

Certificate by
inspector.
Ib. §3.

Return of certified copies, etc.
Ib. §4.

Art. 923. [772d] Any inspector of hides and animals who shall fail to return a certified copy of all entries made in his record during each month to the clerk of the county court of his county on the last day of each month, shall be fined not less than fifty nor more than three hundred dollars.

Counter-branding cattle without consent of owner.
(Act Aug. 23, 1876, p. 302, §32.)

Art. 924. [773] Any person who shall counterbrand any cattle without the consent of the owner, or his agent, shall be fined not less than ten nor more than fifty dollars for each animal so counterbranded.

Clandestine driving cattle across the Rio Grande.
Ib. §35

Art. 925. [774] Any person who shall drive any cattle across the Rio Grande into Mexico, at any other point than where a United States custom house is established, or where there is a place of inspection by United States custom house officers, or without first having the same inspected in accordance with law, shall be confined in the penitentiary not less than two nor more than five years.

Shipping hides imported from Mexico without inspection.
Ib.

Art. 926. [775] Any person who shall ship from any port in this state any hides of cattle imported from Mexico without first having procured a certificate of importation and inspection in accordance with law, shall be fined not less than one nor more than five dollars for each hide so shipped.

Selling hides without inspection.
Ib. §36.

Art. 927. [776] Any person who shall sell any hides of cattle without the same having been inspected, shall be punished as prescribed in the preceding article.

Driving cattle out of county to market without road brand.
Ib. §37.

Art. 928. [777] Any person who shall drive any cattle out of any county, with the intention of driving the same beyond the limits of the state, to a market, without first having road-branded the same in accordance with law, shall be fined not less than twenty nor more than one hundred dollars for each animal so driven.

Driving stock out of county without owner's consent.
Ib. §38.

Art. 929. [778] Any person who shall drive any cattle or horses out of any county, without the written authority of the owner thereof, duly authenticated as the law requires, and without first having the same duly inspected, shall be punished as prescribed in the preceding article.

Falling to take bill of sale in purchasing animals.
Ib. §39.

Art. 930. [779] Any person who shall purchase any animals or hides of cattle without obtaining a bill of sale from the owner or his agent, shall be fined not less than twenty nor more than one hundred dollars for each animal or hide so purchased.

Agent selling without power of attorney.
Ib. §40.

Art. 931. [780] Any person who shall, as the agent of another, sell any cattle without first having obtained a power of attorney from the owner, duly authenticated, shall be fined not less than fifty nor more than five hundred dollars.

More than one brand or mark.
Ib. §41.

Art. 932. [781] Any person who shall, in originally branding or marking cattle, use more than one mark or brand, shall be fined not less than twenty-five nor more than one hundred dollars for each animal so branded or marked.

Branding or marking outside a pen.
Ib. §42.

Art. 933. [782] Any person who shall brand or mark any animal, except in a pen, shall be fined not less than ten nor more than fifty dollars for each animal so branded or marked.

Clerk improperly recording brand.
Ib. §43.

Art. 934. [783] Any clerk of the county court who shall record any brand when the person having the same recorded fails to designate the part of the animal upon which the same is to be placed, shall be fined not less than ten nor more than fifty dollars.

Agent of railroad, etc., receiving for shipment uninspected animals.
(Act April 10, 1883, p. 71.)

Art. 935. [784] If any agent of any railroad, steamship, sailing vessel, or shipping company of any kind, shall receive for shipment any horses or cattle, unless such horses or cattle have been duly

inspected according to law, he shall be fined not less than twenty-five nor more than one thousand dollars for each animal so unlawfully shipped.

Art. 936. The counties of Anderson, Austin, Angelina, Bell, Bowie, Brazos, Bastrop, Bosque, Burleson, Brazoria, Burnet, Caldwell, Camp, Calhoun, Cass, Chambers, Cherokee, Collin, Colorado, Cooke, Dallas, Delta, Denton, Ellis, Erath, Fannin, Franklin, Falls, Freestone, Gonzales, Eastland, Stephens, Fayette, Fort Bend, Galveston, Goliad, Grayson, Gregg, Grimes, Hardin, Harrison, Hays, Henderson, Hill, Hood, Hunt, Hopkins, Houston, Jackson, DeWitt, Jasper, Jefferson, Johnson, Kaufman, Lamar, Lee, Leon, Lampasas, McLennan, Madison, Marion, Montgomery, Montague, Morris, Nacogoches, Newton, Orange, Panola, Parker, Polk, Palo Pinto, Rains, Red River, Robertson, Rockwall, Rusk, Sabine, San Augustine, San Jacinto, Shackleford, Shelby, Smith, Tarrant, Titus, Trinity, Tyler, Upshur, Van Zandt, Walker, Washington, Wharton, Wise, Wood, Jack, Harris, Clay, Young, Wheeler, Lavaca, Nueces, Bee, Refugio, Limestone, San Patricio, Somervell, Matagorda, Waller, Karnes, Victoria, Milam, Live Oak, Williamson, Miller, Liberty, Wichita, Wilbarger, Archer, Hardeman, Childress, Hall, Collingsworth, Donley, Gray, Armstrong, Briscoe, Floyd, Randall, Kendall, Comal, Travis, Navarro, Brown, Coryell, Hamilton, Mills, Duval, Comanche, Bailey, Deaf Smith, Dallam, Oldham, Hartley, Hockley, Cochran, and Foard, are hereby exempt from the operation of this law, and the provisions of the same shall in nowise relate or apply to the aforesaid counties; provided, that in those counties bordering on the line of the state, except those bordering on Red River, and the Rio Grande, where there is a depot or place for the shipment of cattle, no inspector of hides and animals shall be elected, but one for each of such counties shall be appointed by the governor, who shall hold office for two years, and until his successor shall be appointed; and said inspector so appointed to take the constitutional oath of office and give the bond now required of inspectors of hides and animals, and such inspector shall receive the same fees now allowed to inspectors of hides and animals, and perform the same duties; provided, that such cattle shall not be subject to inspection on board of any railroad, unless the same have been placed on board of such train for the purpose of evading the provisions of this law; and provided further, that the counties of Limestone, Fayette, Lavaca, Gonzales, Colorado, Bell, Calhoun, Hays, Caldwell, Blanco, Llano, Kendall, Comal, Houston, Austin, Johnson, Hill, Ellis, Jackson, Victoria, DeWitt, Freestone, Hamilton, Williamson, Milam, Live Oak, Harris, Bosque, Erath, Hood, Somervell, Liberty, Coryell, Lampasas, Mills, Wichita, Wilbarger, Hardeman, Childress, Hall, Collingsworth, Donley, Gray, Armstrong, Briscoe, Floyd, Randall, Kendall, Fannin, Camp, Delta, Franklin, Hopkins, Hunt and Navarro, shall be exempt from all laws regulating inspection of hides. All laws and parts of laws in conflict with the provisions of this law are hereby repealed.

Art. 937. The counties of Wichita, Wilbarger, Hardeman, Childress, Donley, Armstrong, Carson, Potter, Oldham, Hartley, Dallam, Gray, Hemphill, Roberts, Lipscomb, Callahan, Taylor, Nolan, Mitchell, Howard, Martin and Karnes are placed under the operations of the inspection laws now in force and which may be in force under the provisions of this law.

Counties
exempted.
(Act March 29,
1889, §1;
amend. 1893,
p. 162.)

Counties
placed under
the law.
Ib. §2.

CHAPTER SIXTEEN.

EMBEZZLEMENT.

	Article		Article
Defined and punished.....	938	"Money" and "property" defined.....	941
By factor or commission merchant.....	939	Fraudulently receiving, etc., embezzled property	942
By carrier	940		

Defined and punished.
(Act May 25, 1876, p. 9.)

Article 938. [786] If any officer, agent, clerk or attorney at law, or in fact, of any incorporated company or institution, or any clerk, agent, attorney at law or in fact, servant or employe of any private person, copartnership or joint stock association, or any consignee or bailee of money or property shall embezzle, fraudulently misapply or convert to his own use, without the consent of his principal or employer, any money or property of such principal or employer which may have come into his possession or be under his care by virtue of such office, agency or employment, he shall be punished in the same manner as if he had committed a theft of such money or property.

By factor or commission merchant.
(Act Feb. 12, 1858, p. 182.)

Art. 939. [787] If any factor or commission merchant shall embezzle or fraudulently misapply or convert to his own use any money, goods, produce, commodity or other property which shall have come into his possession or shall be under his care by virtue of his office, agency or employment, he shall be punished in the same manner as if he had committed a theft of such money, goods, produce, commodity or other property.

By carrier.
Ib.

Art. 940. [788] If any carrier to whom any money, goods or other property shall have been delivered to be carried by him, or if any other person who shall be intrusted with such property, shall embezzle or fraudulently convert to his own use any such money, goods or property, either in the mass, as the same were delivered, or otherwise, he shall be deemed guilty of theft, and shall be punished as prescribed for that offense according to the value of the money, goods or other property so embezzled or converted.

"Money" and "property" defined.

Art. 941. [789] The term "money" as used in this chapter includes, besides gold, silver, copper or other coin, bank bills, government notes or other circulating medium current as money; and the term "property" includes any and every article commonly known and designated as personal property, and all writings of every description that may possess any ascertainable value.

Fraudulently receiving, etc., embezzled property.
(Act March 16, 1883, p. 24.)

Art. 942. [789a] If any person shall fraudulently receive or conceal any property which has been acquired by another in such manner as that the acquisition comes within the meaning of embezzlement, knowing the same to have been so acquired, he shall be punished in the same manner as the person embezzling the same would be liable to be punished.

CHAPTER SEVENTEEN.

OF SWINDLING AND THE FRAUDULENT DISPOSITION
OF MORTGAGED PROPERTY.

Article	Article
1. Swindling.	
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Fraudulent disposition of mortgaged property	950

I. SWINDLING.

Article 943. [790] "Swindling" is the acquisition of any personal or movable property, money or instrument of writing conveying or securing a valuable right by means of some false or deceitful pretense or device, or fraudulent representation with intent to appropriate the same to the use of the party so acquiring, or of destroying or impairing the rights of the party justly entitled to the same.

"Swindling" defined.
(Act Feb. 12, 1853, p. 183.)

Art. 944. [791] Within the meaning of the term "swindling" are included the following wrongful acts:

Certain wrongful acts included.
Ib. p. 12.

1. The exchange of property upon the false pretense that the party is the owner or has the right to dispose of the property given in exchange.

2. The purchase of property upon the faith and credit of some other person upon the false pretense that such other person has given the accused the right to use his name or credit in making the acquisition.

3. The obtaining by false pretense the possession of any instrument of writing, certificate, field-notes or other paper relating to lands, the property of another, with the intent that thereby the proper owner shall be defeated of a valuable right in such lands.

4. The special enumeration of cases of swindling, above set forth, shall not be understood to exclude any case which, by fair construction of the language, comes within the meaning of the preceding article.

Art. 945. [792] Within the meaning of "money," as used in this chapter, are included also bank bills or other circulating medium current as money.

"Money" includes bank bills.
(Act Feb. 12, 1853, p. 183.)

Art. 946. [793] It is not necessary in order to constitute the offense of swindling that any benefit shall accrue to the person guilty of the fraud or deceit, nor that any injury shall result to the persons intended to be defrauded, if it is sufficiently apparent that there was a willful design to receive benefit or cause an injury.

No benefit need accrue to defendant.
Ib.

Art. 947. [794] Where property, money or other articles of value enumerated in the definition of swindling are obtained in such manner as to come within the meaning of theft, or some other offense known to the law, the rules herein prescribed with regard to swindling shall not be understood to take any such case out of the operation of the law which defines any such other offense.

If the act constitutes any other offense.
Ib.

Art. 948. [795] If any executor, administrator or guardian having charge of any estate, real, personal or mixed, shall unlawfully and with intent to defraud any creditor, heir, legatee, ward or dis-

Executor, etc., converting estate guilty of swindling.
Ib.

tributee interested in such estate, convert the same or any part thereof to his own use, he shall be deemed guilty of the offense of swindling.

Punishment.
Ib.

Art. 949. [796] Every person guilty of swindling shall be punished in the same manner as is provided for the punishment of theft, according to the amount of the money or the value of the property or instrument of writing so fraudulently acquired.

II. FRAUDULENT DISPOSITION OF MORTGAGED PROPERTY.

Fraudulent disposition of mortgaged property.
(Act March 31, 1885, p. 85.)

Art. 950. [797] If any person has given or shall hereafter give any mortgage, deed of trust or other lien, in writing, upon any personal or movable property or growing crop of farm produce, and shall remove the same or any part thereof out of the state, or shall sell or otherwise dispose of the same with intent to defraud the person having such lien, either originally or by transfer, he shall be punished by imprisonment in the penitentiary, not less than two nor more than five years.

CHAPTER EIGHTEEN.

OF OFFENSES COMMITTED IN ANOTHER COUNTRY OR STATE.

	Article	Article
Bringing stolen property into this state..	951	Requisites of guilt under preceding article 952

Bringing stolen property into this state.
(Amend. 1895, p. 116.)

Article 951. [798] If any person having committed an offense in any foreign country, state or territory, which if committed in this state would have been robbery, theft, embezzlement, or receiving of stolen goods or property, knowing the same to have been stolen, or fraudulently receiving or concealing property acquired by another by embezzlement, knowing the same to have been so acquired, shall bring into this state any property so acquired or received, he shall be deemed guilty of robbery, theft, embezzlement, or receiving of goods or property stolen or embezzled, as the case may be, knowing the same to have been stolen or embezzled, and shall be punished as if the offense had been committed in this state. And in cases herein mentioned the offense may be charged to have been committed in any county into or through which the property may be brought in the same manner as if the act constituting such offense had taken place wholly within this state.

Requisites of guilt under preceding article.
(Amend. 1895, p. 116.)

Art. 952. [799] To render a person guilty under the preceding article it must appear that by the law of the foreign country, state or territory from which the property was taken and brought to this state the act committed would also have been robbery, embezzlement, theft or receiving stolen goods or property, or receiving or concealing goods or property embezzled.

TITLE XVIII.

Of Miscellaneous Offenses.

CHAPTER ONE.

OF CONSPIRACY.

	Article		Article
Definition	953	To kill, same as murder.....	959
When offense complete.....	954	Conspiracy to commit an offense in another state.....	960
Agreement must be positive.....	955	Conspiracy in another state to commit an offense in this.....	961
Mere threat not sufficient.....	956		
What crimes the subject of.....	957		
Punishments	958		

Article 953. [800] A "conspiracy" is an agreement entered into between two or more persons to commit any one of the offenses hereafter named in this chapter. Definition.
(Act Oct. 26,
1871, p. 15.)

Art. 954. [801] The offense of conspiracy is complete, although the parties conspiring do not proceed to effect the object for which they have so unlawfully combined. When offense
complete.
Ib.

Art. 955. [802] Before any conviction can be had for the offense of conspiracy, it must appear that there was a positive agreement to commit one of the offenses hereafter named in this chapter. It will not be sufficient that such agreement was contemplated by the parties charged. Agreement
must be
positive.
Ib.

Art. 956. [803] A threat made by two or more persons acting in concert will not be sufficient to constitute conspiracy. Mere threat
not sufficient.
Ib.

Art. 957. [804] The agreement to come within the definition of conspiracy must be to commit one or more of the following offenses, to-wit: Murder, robbery, arson, burglary, rape or any other offense of the grade of felony. What crimes
the subject of.
(Act Feb. 5,
1884, p. 25.)

Art. 958. [805] Conspiracy to commit murder shall be punished by confinement in the penitentiary not less than two nor more than ten years. Conspiracy to commit any one of the other offenses named in the preceding article shall be punished by confinement in the penitentiary not less than two nor more than five years. Punishment.
(Act Oct. 26,
1871, p. 15.)

Art. 959. [806] A conspiracy to kill a human being shall be deemed a conspiracy to commit murder. To kill, same
as murder.
Ib. p. 16.

Art. 960. [807] A conspiracy entered into in this state for the purpose of committing any one of the offenses named in article 957, in any other of the states or territories of the United States, or in any foreign territory, shall be punished in the same manner as if the conspiracy so entered into was to commit the offense in this state. Conspiracy to
commit an
offense in an-
other state.
Ib.

Art. 961. [808] A conspiracy entered into in another state or territory of the United States, to commit any one of the offenses named in article 957 in this state, shall be punished in the same manner as if the conspiracy had been entered into in this state. Conspiracy in
another state
to commit
offense in this.

CHAPTER TWO.

OF THREATS.

	Article		Article
Threat to take life, etc.....	962	Certain threats not included.....	965
Threat must be seriously made.....	963	Sending threatening letter.....	966
Which is a question of fact.....	964		

Threats to take life, etc. (Act Feb. 22, 1875, p. 51.)

Article 962. [809] If any person shall threaten to take the life of any human being, or to inflict upon any human being any serious bodily injury, he shall be punished by fine of not less than one hundred nor more than two thousand dollars, and, in addition thereto, he may be imprisoned in the county jail not exceeding one year.

Threats must be seriously made. *ib.*

Art. 963. [810] In order to render a person guilty of the offense provided in the preceding article, it is necessary that the threat be seriously made.

Which a question of fact. *ib.*

Art. 964. [811] It is for the jury to determine, in every case of prosecution under article 962, whether the threat was seriously made or was merely idle and with no intention of executing the same.

Certain threats not included. *ib.* p. 52.

Art. 965. [812] A threat that a person will do any act merely to protect himself, or to prevent the commission of some unlawful act by another, does not come within the meaning of this chapter.

Sending threatening letter.

Art. 966. [813] If any person shall knowingly send or deliver to another any letter or writing, whether signed or not, threatening to accuse such other person of a criminal offense with a view of extorting money, property, thing of value, or any advantage whatever from such other person, or threatening to kill or in any manner injure the person of such other, or to burn or otherwise destroy or injure any of his property, real or personal, or to do any other injury to such other person, he shall be punished by fine not less than one hundred nor more than one thousand dollars, and, in addition thereto, may be imprisoned in the county jail not exceeding one year.

CHAPTER THREE.

SEDUCTION.

	Article		Article
Punishment	967	Marriage obliterates offense.....	969
"Seduction"—how used.....	968	Married man not liable, if known.....	970

Punishment. (Act Feb. 12, 1858, p. 135.)

Article 967. [814] If any person, by promise to marry, shall seduce an unmarried female under the age of twenty-five years, and shall have carnal knowledge of such female, he shall be punished by imprisonment in the penitentiary not less than two nor more than five years, or by fine not exceeding five thousand dollars.

"Seduction," how used.

Art. 968. [815] The term "seduction" is used in the sense in which it is commonly understood.

Marriage obliterates offense.

Art. 969. [816] If the parties marry each other at any time before the conviction of the defendant, or if the defendant in good faith offer to marry the female so seduced, no prosecution shall take place, or, if begun, it shall be dismissed; but the benefits of this

article shall not apply to the case of a defendant who was in fact married at the time of committing the offense.

Art. 970. [817] No person who was, at the time of committing the offense, married, and the fact of marriage known to the woman, shall be held liable for the offense defined in this chapter. Married man not liable if known.

CHAPTER FOUR.

EMPLOYMENT OF SAILORS AND CREW.

Restriction on employment of crew of vessel..... Article 971

Article 971. [817a] No sailor or portion of the crew of any foreign sea-going vessel shall engage in working on the wharves or levees of ports in the state of Texas beyond the end of the vessel's tackle. Any officer, sailor or member of the crew of a foreign sea-going vessel violating this law shall be deemed guilty of a misdemeanor, and on conviction shall be fined in a sum not less than ten dollars nor more than one hundred dollars, or be imprisoned in the county jail for no less than ten nor more than thirty days, or both, in the discretion of the court or jury. Restriction on employment of crew of vessel. (Act March 26, 1885, ch. 54, p. 52.)

CHAPTER FIVE.

PROTECTION OF SETTLERS ON SCHOOL LANDS.

Punishment for certain threats, etc..... Article 972

Article 972. [817b] Any person who by force, threats or intimidation shall prevent, or attempt to prevent, or shall combine and confederate with others to prevent, or attempt to prevent, any person who has acquired a right thereto in accordance with the laws of the state, from peaceably entering upon and establishing a settlement on any parcel or tract of land belonging to the common school, university, the lunatic, blind, deaf and dumb and orphan asylum lands, subject to purchase and settlement under and in accordance with the laws of this state, shall be deemed guilty of a misdemeanor, and upon conviction therefor, shall be fined in any sum not less than two hundred nor more than one thousand dollars, and in addition thereto shall be imprisoned in the county jail not less than one nor more than six months. Punishment for certain threats, etc. (Act March 31, 1885, ch. 89, p. 83.)

CHAPTER SIX.

FENCES WITHOUT GATES.

Article Gate shall be placed every three miles, etc. 973	Article Penalty for violation of preceding article. 974 Applicable only to pasture lands..... 975
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Article 973. [817c] It shall be unlawful for any person or persons, by joining fences or otherwise, to build or maintain more than three miles, lineal measure, of fence running in the same general direction, without a gateway in same, which gateway must be at least Gate shall be placed every three miles, etc.

eight feet wide, and shall not be locked; provided, that all persons who have fences already constructed in violation of this article shall have six months within which to conform to the provisions hereof.

[Note.—There appears to be a conflict between this and article 508, which is the latest enactment, as to the size of the gate required.]

Penalty for violating preceding article.

Art. 974. [817d] If any person or persons shall build or maintain more than three miles, lineal measure, of fencing, running in the same general direction, without providing such gateway, he shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than one nor more than two hundred dollars, and each day that such fence remains without such gateway shall constitute and be punished as a separate offense.

Applicable only to pasture lands. (Act Feb. 6, 1884, ch. 24, p. 37.)

Art. 975. [817e] The provisions of this law shall only apply to pasture lands.

CHAPTER SEVEN.

TRUSTS—CONSPIRACIES AGAINST TRADE.

Article	Article
Defines "trusts".....	976
Corporations to forfeit charter for violation of this law.....	977
Duty of attorney-general, etc.....	978
Foreign corporations violating this act forbidden to do business.....	979
Quo warranto proceedings.....	980
Conspiracy against trade.....	981
Requisites of indictment.....	982
Requisites of proof.....	983
Persons out of the state liable to indictment.....	984
Associations violating this act to forfeit fifty dollars a day, recoverable on suit.....	985
Contracts or agreements in violation hereof void.....	986
The provisions hereof cumulative.....	987
Exempts live stock and agricultural products in hands of producers.....	988
Penalty for combining.....	988a
Requisites of indictment.....	988b
Requisites of proof.....	988c
Non-residents of the state liable.....	988d

"Trusts" defined. (Act March 30, 1887, §1.)

Article 976. A trust is a combination of capital, skill or acts by two or more persons, firms, corporation or associations of persons, or of either two or more of them for either, any or all of the following purposes:

1. To create or carry out restrictions in trade.
2. To limit or reduce the production, or increase or reduce the price of merchandise or commodities.
3. To prevent competition in manufacture, making, transportation, sale or purchase of merchandise, produce or commodities.
4. To fix at any standard or figure, whereby its price to the public shall be in any manner controlled or established, any article or commodity of merchandise, produce or commerce intended for sale, use or consumption in this state.
5. To make or enter into, or execute or carry out any contract, obligation or agreement of any kind or description by which they shall bind or have bound themselves not to sell, dispose of or transport any article or commodity or article of trade, use, merchandise, commerce or consumption below a common standard figure, or by which they shall agree in any manner to keep the price of such article, commodity or transportation at a fixed or graduated figure, or by which they shall in any manner establish or settle the price of any article or commodity or transportation between them or themselves and others to preclude a free and unrestricted competition among themselves or others in the sale or transportation of any such article or commodity, or by which they shall agree to pool, combine or unite

any interest they may have in connection with the sale or transportation of any such article or commodity that its price might in any manner be affected.

Art. 977. Any corporation holding a charter under the laws of the state of Texas which shall violate any of the provisions of this law shall thereby forfeit its charter and franchise, and its corporate existence shall cease and determine.

Corporations
to forfeit, etc.
Ib. §2.

Art. 978. For a violation of any of the provisions of this law by any corporation mentioned herein it shall be the duty of the attorney general or district or county attorney, or either of them, upon his own motion, and without leave or order of any court or judge, to institute suit or quo warranto proceedings in Travis county, at Austin, or at the county seat of any county in the state, where such corporation exists, does business or may have a domicile, for the forfeiture of its charter rights and franchise, and the dissolution of its corporate existence.

Duty of attorney-general.
Ib. §3.

Art. 979. Every foreign corporation violating any of the provisions of this act is hereby denied the right and prohibited from doing any business within this state, and it shall be the duty of the attorney general to enforce this provision by injunction or other proper proceedings in the district court of Travis county, in the name of the state of Texas.

Foreign corporations, etc.
Ib. §4.

Art. 980. The provisions of chapter forty-eight, general laws of this state, approved July 9, 1879, to prescribe the remedy and regulate the proceedings by quo warranto, etc., shall, except in so far as they may conflict herewith, govern and control the proceedings when instituted to forfeit any charter under this law.

Quo warranto proceedings.
Ib. §5.

Art. 981. Any violation of either or all the provisions of this law shall be and is hereby declared a conspiracy against trade, and any person who may be or who may become engaged in any such conspiracy or take part therein, or aid or advise in its commission, or who shall, as principal, manager, director, agent, servant or employe, or in any other capacity, knowingly carry out any of the stipulations, purposes, prices, rates, or orders thereunder or in pursuance thereof, shall be punished by fine not less than fifty dollars nor more than five thousand dollars, and by imprisonment in the penitentiary not less than one nor more than ten years, or by either such fine or imprisonment. Each day during a violation of this provision shall constitute a separate offense.

Conspiracy against trade.
Ib. §6.

Art. 982. In any indictment for an offense named in this act it is sufficient to state the purposes or effects of the trust or combination, and that the accused was a member of, acted with or in pursuance of it, without giving its name or description, or how, when or where it was created.

Requisites of indictment.
Ib. §7.

Art. 983. In prosecutions under this act it shall be sufficient to prove that a trust or combination as defined herein exists, and that the defendant belonged to it or acted for or in connection with it, without proving all the members belonging to it, or proving or producing any article of agreement or any written instrument on which it may have been based, or that it was evidenced by any written instrument at all. The character of the trust or combination alleged may be established by proof of its general reputation as such.

Requisites of proof.
Ib. §8.

Art. 984. Persons out of the state may commit and be liable to indictment and conviction for committing any of the offenses enumerated in this chapter which do not in their commission necessarily require a personal presence in this state, the object being to reach and punish all persons offending against its provisions, whether within or without the state.

Persons out of the state liable to indictment.
Ib. §9.

Associations
violating, etc.;
penalty.
Ib. §10.

Art. 985. Each and every firm, person, corporation, or association of persons, who shall in any manner violate any of the provisions of this law shall, for each and every day that such violation shall be committed or continued, forfeit and pay the sum of fifty dollars, which may be recovered in the name of the state of Texas in any county where the offense is committed or where either of the offenders reside, or in Travis county, and it shall be the duty of the attorney general or the district or the county attorney to prosecute and recover the same.

Contract, etc.,
void.
Ib. §11.

Art. 986. Any contract or agreement in violation of the provisions of this law shall be absolutely void and not enforceable either in law or equity.

Provisions,
etc., cumula-
tive.
Ib. §12.

Art. 987. The provisions hereof shall be held cumulative of each other and of all other laws in any way affecting them now in force in this state.

Agricultural
products and
live stock
exempt.
Ib. §13.

Art. 988. The provisions of this law shall not apply to agricultural products or live stock while in the hands of the producer or raiser.

[Note.—Articles 988a, 988b, 988c and 988d, comprising the penal sections of the act of 1895, p. 112, appear to be cumulative of the preceding articles of this chapter.]

Penalty for
combining in
violation of
this law.
(Act 1895, p.
114.)

Art. 988a. If any person shall be or may become engaged in any combination of capital, skill or acts by two or more persons, firms, corporations or associations of persons, or of either two or more of them, for either, any or all of the following purposes:

1. To create or carry out restrictions in trade or commerce or aids to commerce, or to create or carry out restrictions in the full and free pursuit of any business authorized or permitted by the laws of this state.

2. To increase or reduce the price of merchandise, produce or commodities.

3. To prevent competition in manufacture, making, transportation, sale or purchase of merchandise, produce or commodities, or to prevent competition in aids to commerce.

4. To fix at any standard or figure whereby its price to the public shall be in any manner controlled or established any article or commodity of merchandise, produce or commerce intended for sale, use or consumption in this state.

5. To make or enter into or execute or carry out any contract, obligation or agreement of any kind or description, by which they shall bind or have bound themselves not to sell, dispose of, or transport any article or commodity, or article of trade, use, merchandise, commerce or consumption, below a common standard figure, or by which they shall agree in any manner to keep the price of such article, commodity or transportation at a fixed or graduated figure, or by which they shall in any manner establish or settle the price of any article or commodity or transportation between them and themselves and others to prevent a free and unrestricted competition among themselves and others in the sale or transportation of any such article or commodity, or by which they shall agree to pool, combine or unite any interest they may have in connection with the sale or transportation of any such article or commodity that its prices may in any manner be affected, or aid or advise in the creation or carrying out of any such combination, or who shall as principal, manager, director, agent, servant or employe, or in any other ca-

capacity, knowingly carry out any of the stipulations, purposes, prices, rates, directions, conditions or orders of such combinations, shall be punished by fine of not less than fifty nor more than five thousand dollars, and by imprisonment in the penitentiary not less than one nor more than ten years, or by either such fine or imprisonment. Each day during a violation of this provision shall constitute a separate offense.

Art. 988b. In any indictment for an offense named in this law it is sufficient to state the effects or purposes of the trust or combination, and that the accused was a member of, acted with or in pursuance of it, without giving its name or description, or how, when or where it was created.

Requisites of indictment.
Ib.

Art. 988c. In prosecutions under this law it shall be sufficient to prove that a trust or combination as defined herein exists and that the defendant belonged to it or acted for or in connection with it, without proving all the members belonging to it or proving or producing any article of agreement or any written instrument on which it may have been based, or that it was evidenced by any written instrument at all. The character of the trust or combination alleged may be established by proof of its general reputation as such.

Requisites of proof.
Ib.

Art. 988d. Persons out of the state may commit and be liable to indictment and conviction for committing any of the offenses enumerated in this act, which do not in their commission necessarily require a personal presence in this state, the object being to reach and punish all persons offending against its provisions, whether within or without the state.

Non-residents of the state liable.
Ib.

CHAPTER EIGHT.

STATE REVENUE AGENT.

Article	Article
Appointment of state revenue agent; his duties 989	Salary of revenue agent; traveling expenses; penalty for making false report 991
Books and records of officers to be submitted to state revenue agent on demand; penalty for failure to comply with this act..... 990	

Article 989. The governor is hereby authorized to appoint a suitable person as revenue agent for the state, for the purpose of securing a better enforcement of the revenue laws of the state. The agent provided for herein shall be known as the state revenue agent. Said revenue agent shall be subject to the direction of the governor, who may, whenever in his judgment the public service demands it, direct the said revenue agent to investigate books and accounts of the assessing and collecting officers of this state, and all officers and persons disbursing, receiving or having in their possession public funds, and to make such other investigations and perform such other duties in the interest of the public revenue as the governor may direct. Whenever any such investigation is ordered by the governor the revenue agent shall report to him in writing the results of such investigations, and to point out the particulars, if any, wherein the revenue laws have been violated or their enforcement neglected, together with the names of the parties delinquent therein, whereupon the governor shall institute civil and criminal proceedings through the attorney general in the name of the state against such delinquent parties, who are reported by such agent to be delinquent; and it is

His duties.
(Act April 13,
1891, §1, 22d
Leg., p. 87.)

further provided, that said revenue agent shall have power at any time to examine and check up all and any disbursements or expenditures of money appropriated for any of the state institutions or for any other purpose or for improvements made by the state on state property or money received and disbursed by any board authorized by law to receive and disburse any state money.

Books and records of officers to be submitted; penalty. *Ib.* §2.

Art. 990. When said revenue agent, acting under the direction of the governor, calls on any person connected with the public service to inspect his accounts, records or books, said officers or official so called upon shall submit to said agent all books, records and accounts so called for without delay. Any failure or refusal on the part of any officer or official to comply with the provisions of this article shall be an offense, for which, on conviction thereof, he shall be fined not less than one hundred nor more than one thousand dollars, and may be imprisoned in the county jail not more than one year.

Penalty for making false report. *Ib.* §3.

Art. 991. Said revenue agent shall receive as compensation for his services not exceeding two thousand dollars per annum, together with his actual traveling expenses, which shall be paid on the approval of the same by the governor; provided, that said revenue agent shall not be allowed traveling expenses for any service connected with the examination and investigation of the accounts of any institution in Travis county. If the revenue agent herein provided for shall willfully make a false or fraudulent report of the financial condition of the books of any officer or official, department or institution handling, receiving or disbursing any state funds, appropriated or unappropriated, he shall be guilty of a misdemeanor, and on conviction thereof shall be fined not less than five hundred nor more than one thousand dollars, and imprisoned in the county jail for any period not to exceed twelve months.

CHAPTER NINE.

GUARANTY AND FIDELITY COMPANIES—REGULATION OF.

Article	Article
Certified copy of articles of incorporation to be filed with commissioner of insurance, etc. 992	Commissioner of insurance, etc., shall issue certificate to corporation to transact business. 998
Copy of by-laws, and names and residences of directors and statement of assets and liabilities, and amount of capital stock, to be filed. 993	Who are agents under this act. 999
Capital stock required. 994	Penalty for acting as agent before certificate is issued to the corporation. 1000
Amount of deposit of money or securities with state treasurer required; proof of value of real estate. 995	Penalty against corporation for acting without certificate of authority. 1001
Deposit, or real estate, subject to judgments against the corporation; not permitted to withdraw deposit or sell the real estate pending suit, or while any judgment is unsatisfied. 996	Statement required when corporation refuses to further guarantee fidelity of any person; penalty. 1002
Service of process, on whom made. 997	If corporation fails to comply with preceding article, certificate to be revoked. 1003
	Corporation created for purposes mentioned in article 992, declared charged with a public use. 1004

Certified copy of articles, etc., to be filed. (Act 22d Leg., p. 176, §1.)

Article 992. Hereafter any corporation organized or created under the laws of this state, or of any other state or territory, or of any municipality of such state or territory, or of any foreign government, sovereignty or municipality, for the purpose of issuing surety, guaranty or indemnity bonds, guaranteeing the fidelity of persons in private offices, employments or positions of trusts and contracts, or for acting as security on any such bonds, shall file with the commissioner of agriculture, insurance, statistics and history a certified copy of its articles of incorporation and all amendments thereto.

Art. 993. Such corporation shall file with the certified copy of articles of incorporation and amendments thereto a copy of its by-laws, together with the names and places of residence of its officers and directors and a statement of its assets and liabilities, showing its net capital stock and of what it consists, certified to by the president or secretary thereof.

Copy of by-laws, names of directors and statement of assets, etc., to be filed.
Ib. §2.

Art. 994. No such corporation shall transact any business in this state unless it is possessed of at least one hundred thousand dollars actual capital stock; and if the capital stock of such corporation consists, either in whole or in part, of bonds, mortgages, securities or other property than money, the commissioner of agriculture, insurance, statistics and history shall require satisfactory evidence that the market value thereof is at least one hundred thousand dollars.

Capital stock required.
Ib. §3.

Art. 995. Such corporation shall, before the certificate of authority hereafter provided for is issued, deposit with the treasurer of this state money or bonds or other securities, to be approved by the commissioner of agriculture, insurance, statistics and history, to the amount of twenty-five thousand dollars, or shall produce satisfactory proof that such corporation owns real estate in this state the value of which shall not be less than twenty-five thousand dollars.

Amount deposited with state treasurer required.
Ib. §4.

Art. 996. The deposit or real estate required by the preceding article shall be held liable to pay any judgments that may be rendered against such corporation, and may be so decreed by the court rendering judgment against it. Nor shall such company be permitted to withdraw its deposit from the state treasury or to sell its real estate while any suit is pending or any judgment against it in this state remains unsatisfied.

Deposit or real estate subject to judgment.
Ib. §5.

Art. 997. Such corporation shall file with the certified copy of its articles of incorporation a power of attorney, under its corporate seal, authorizing the commissioner of agriculture, insurance, statistics and history, or some designated agent, to accept service of any civil process for and on behalf of such corporation, and consenting that the service of any civil process upon the commissioner of agriculture, insurance, statistics and history, or designated agent, as the case may be, in any suit or proceeding in which the corporation is a party, shall be taken and held to be valid. Said power of attorney shall be embodied in a resolution duly adopted by such corporation, and shall be signed by the president, manager or secretary thereof officially. If any agent other than the commissioner of agriculture, insurance, statistics and history be designated by said power of attorney, he shall be a citizen of this state, and his full name and place of residence shall be stated in the power of attorney.

Service of process, etc.
Ib. §6.

Art. 998. When any such corporation has complied with the provisions of this act, the commissioner of agriculture, insurance, statistics and history shall issue his certificate of authority, authorizing said corporation to transact business in this state.

Commissioner of insurance shall issue certificate.
Ib. §7.

Art. 999. Any person who solicits business for or on behalf of such corporation, or makes or transmits for any person other than himself any application for guaranty or security, or who advertises or otherwise gives notice that he will receive or transmit the same, or who will receive or deliver a contract of guaranty or security, or who shall examine or investigate the character of any applicant for guaranty or security than himself, or who shall refer any applicant for guaranty or security to such corporation, whether any of said act shall be done at the instance and request or by the employment of such corporation, or other corporation or person, or any per-

Who are agents.
Ib. §8.

son who shall issue indemnifying bonds or contracts, whose solvency and compliance with his said bonds or obligations is guaranteed, directly or indirectly, by any corporation, shall be held to be the agents of the corporation so far as relates to all the liabilities and penalties prescribed by this chapter.

Penalty for acting as agent before certificate.
Ib. §9.

Art. 1000. Any person who shall perform any of the acts or things mentioned in the preceding article for any such corporation without such corporation having first complied with the provisions of this chapter, and having received the certificate of authority from the commissioner of agriculture, insurance, statistics and history, as provided in article 998 of this chapter, shall be deemed guilty of a misdemeanor, and upon conviction for the first offense shall be fined in any sum not less than five hundred dollars and not more than one thousand dollars, and imprisoned in the county jail for a period of three months, and for each subsequent offense such person shall be fined in any sum not less than one thousand dollars and not more than two thousand dollars, and confined in the county jail for a period of six months.

Penalty against corporations, etc.
Ib. §10.

Art. 1001. Any persons, association of persons or corporation who shall accept any corporation created for the purposes, or either of them, mentioned in article 992 of this chapter without such corporation having previously complied with the provisions and requirements of this chapter and having received from the commissioner of agriculture, insurance, statistics and history the certificate of authority provided for in article 998 of this chapter, shall forfeit as a penalty the sum of five hundred dollars, to be recovered by suit in the name of the state in any court of competent jurisdiction.

Statement required, etc.
Ib. §11.

Art. 1002. When any such corporation shall cancel a bond of guaranty or indemnity, or shall notify the employer of the person whose fidelity is guaranteed that said corporation will no longer guarantee or be security for the fidelity of said person, or when said corporation has once guaranteed the fidelity of any person or acted as security therefor, and on application refuses to do so again, it shall furnish to such person a full statement in writing of the facts on which the action of the corporation is based, and if such action be based in whole or in part on information, all such information, together with the name or names of the informants, with their place of residence, and any such corporation failing or refusing to furnish such written statement within thirty days after a request therefor, shall be liable to the person injured in the sum of five hundred dollars, in addition to all other damages caused thereby, which may be sued for and recovered in any court of competent jurisdiction.

If corporation fails to comply, etc.
Ib. §12.

Art. 1003. If any such corporation shall fail or refuse to comply with the provisions of article 1002 of this chapter, the commissioner of agriculture, insurance, statistics and history shall revoke the certificate of authority issued to said corporation.

Corporations charged with a public use.
Ib. §13.

Art. 1004. Corporations created for the purposes mentioned in article 992 of this chapter are hereby declared to be charged with a public use.

CHAPTER TEN.

PRIZE FIGHTING.

Article Pugilistic encounters prohibited.....1005 "Pugilistic encounter" defined.....1005a		Article Conflicting laws repealed.....1005b
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Article 1005. Any person who shall voluntarily engage in a pugilistic encounter between man and man, or a fight between a man and a bull or any other animal, for money or other thing of value, or for any championship, or upon the result of which any money or anything of value is bet or wagered, or to see which any admission fee is charged, either directly or indirectly, shall be deemed guilty of a felony, and upon conviction shall be punished by imprisonment in the penitentiary not less than two nor more than five years.

Pugilistic encounters prohibited; penalty. (Act of Oct. 3, 1895, S. S.)

Art. 1005a. By the term "pugilistic encounter," as used in this act, is meant any voluntary fight or personal encounter by blows by means of the fists or otherwise, whether with or without gloves, between two or more men for money, or for a prize of any character, or for any other thing of value, or for any championship, or upon the result of which any money or any thing of value is bet or wagered.

"Pugilistic encounter" defined. Id.

Art. 1005b. All laws and parts of laws in conflict herewith be and the same are hereby repealed.

Conflicting laws repealed. Id.

CHAPTER ELEVEN.

TEACHER'S CERTIFICATE.

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Article 1006. Any county or city superintendent or board of trustees who shall approve any teacher's certificate or voucher until the person has presented a valid certificate shall be guilty of a misdemeanor, and on conviction thereof shall be fined not less than twenty-five nor more than one hundred dollars.

Teacher contracting with trustees shall exhibit certificate; penalty for approving, etc. (Act April 28, 1891, §9.)

CHAPTER TWELVE.

RAILROAD COMMISSION.

Article Right to inspect books and papers, and penalty for refusal..... 1007 May propound questions; penalty for refusal 1008		Article Penalty for false billing.....1009 Railroad official making false statement to secure registration of bond.....1009a
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Article 1007. 1. The commissioners, or either of them, or such persons as they employ therefor, shall have the right, at such times as they may deem necessary, to inspect the books and papers of any railroad company, and to examine under oath any officer, agent or employe of such railroad in relation to the business and affairs of the same. If any railroad shall refuse to permit the commissioners, or either of them, or any person authorized thereto, to examine its

Right to inspect books and papers. (Act 22d Leg., ch. 51, §55, April 3, 1891, R. R. Com., §10.)

books and papers, such railroad company shall, for each offense, pay to the state of Texas not less than one hundred and twenty-five dollars nor more than five hundred dollars for each day it shall so fail or refuse; provided, that any person other than one of said commissioners who shall make any such demands shall produce his authority, under the hand and seal of said commission, to make such inspection.

Penalty for refusal to exhibit books or papers.
Ib.

2. Any officer, agent or employe of any railroad company who shall, upon proper demand, fail or refuse to exhibit to the commissioners, or either of them, or any person authorized to investigate the same, any book or paper of such railroad company which is in the possession or under the control of such officer, agent or employe, shall be deemed guilty of a misdemeanor, and upon conviction in any court having jurisdiction thereof shall be fined for each offense a sum not less than one hundred and twenty-five dollars and not to exceed five hundred dollars.

Commissioners may propound questions to be answered.
Ib. §12.

Art. 1008. 1. The said commission shall cause to be prepared suitable blanks with questions calculated to elicit all information concerning railroads, and as often as it may be necessary furnish said blanks to each railroad company. Any railroad company receiving from the commission any such blanks shall cause said blanks to be properly filled out so as to answer fully and correctly each question therein propounded, and in case they are unable to answer any question they shall give a satisfactory reason for their failure; and the said answers, duly sworn to by the proper officer of said company, shall be returned to said commission at its office in the city of Austin within thirty days from the receipt thereof.

Penalty for refusal to answer and fill out blanks.
Ib. §12.

2. If any officer or employe of a railroad company shall fail or refuse to fill out and return any blanks as above required, or fail or refuse to answer any questions therein propounded, or give a false answer to any such question, where the fact inquired of is within his knowledge, or shall evade the answer to any such question, such person shall be guilty of a misdemeanor, and shall, on conviction thereof, be fined for each day he shall fail to perform such duty after the expiration of the time aforesaid, a penalty of five hundred dollars, and the commission shall cause a prosecution therefor in the proper court; and a penalty of like amount shall be recovered from the company when it appears that such person acted in obedience to its direction, permission or request in his failure, evasion or refusal. Said commission shall have the power to prescribe a system of book-keeping to be observed by all the railroads subject hereto, under the penalties prescribed in this article.

Punishment for false billing, classification, weight, etc.
Ib. §16.

Art. 1009. Any officer or agent of any railroad subject to this law who, by means of false billing, false classification, false weight, or by any other device, shall suffer or permit any person or persons to obtain transportation for property at less than the regular rates then in force on such railroad, or who, by means of false billing, false classification, false weighing, or by any device whatever shall charge any person, firm or corporation more for the transportation of property than the regular rates, shall be guilty of a misdemeanor, and on conviction thereof fined in a sum of not less than one hundred dollars nor more than one thousand dollars.

Railroad official making false statement to secure registration of bond.
(Act 1893, p. 59.)

Art. 1009a. Each and every railroad director, president, secretary or other official who shall knowingly make any false statement upon which to secure the registration of any bond or other evidence of debt as required by chapter 14, title 94, of the Revised Civil

Statutes, or who shall by false statement knowingly made procure of the railroad commission direction to the secretary of state to register the same, and which shall be by the secretary of state registered, or shall with knowledge of such fraud negotiate or cause to be negotiated any such bond or other security issued in violation of said chapter, shall be guilty of a felony, and upon conviction thereof in any court of competent jurisdiction shall be punished by confinement at hard labor in the state penitentiary for a term of years not less than two nor more than fifteen, and shall likewise be liable to any creditor of such company for the full amount of damages sustained by such wrongful conduct. Venue in such cases shall be in either of the district courts held in Travis county, or in the county where the principal office of the railway company whose property is sought to be so incumbered or affected is located.

CHAPTER THIRTEEN.

OFFENSES BY RAILWAY OFFICIALS OR AGAINST RAILWAYS.

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Separate coaches for whites and negroes.....1010 ¹	Engineer failing to sound bell, etc.....1010a
"Negro" defined.....1010 ²	Ticket agents to have certificate of au-
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Duty of conductors.....1010 ⁹	Law to be printed on tickets.....1010g
Disposition of fines.....1010 ¹⁰	Unlawful boarding of trains.....1010h

Article 1010. 1. Every railroad company, lessee, manager or receiver thereof, doing business in this state as common carriers of passengers for hire shall provide separate coaches for the accommodation of white and negro passengers, which separate coaches shall be equal in all points of comfort and convenience.

Railroad to provide separate coaches for white and negro passengers. (Act 22d Leg., ch. 41, §1, pp. 44 and 165.)

2. The term negro as used herein includes every person of African descent, as defined by the statutes of this state.

Negro defined. Ib. §2.

3. Each compartment of a coach divided by a good and substantial wooden partition with a door therein shall be deemed a separate coach within the meaning of this act, and each separate coach shall bear in some conspicuous place appropriate words in plain letters indicating the race for which it is set apart.

Compartment defined, etc.; lettering on coach. Ib. §3.

4. Any railroad company, lessee, manager or receiver thereof which shall fail to provide its trains, carrying passengers, with separate coaches, as above provided for, shall be liable for each and every such failure to a penalty not less than one hundred nor more than one thousand dollars, to be recovered by suit in the name of the state in any court of competent jurisdiction; and each trip run with any such train without such separate coaches shall be deemed a separate offense.

Penalty for failure to provide, etc. Ib. §4.

5. If any passenger upon a train provided with separate coaches shall ride in any coach not designated for his race, after having been forbidden to do so by the conductor in charge of the train, he shall be guilty of a misdemeanor, and upon conviction shall be fined not less than five nor more than twenty-five dollars.

Passenger riding in coach not for his race; penalty. Ib. §5.

6. The provisions of this act shall not be so construed as to prohibit nurses from traveling in the same coach with their employers,

Does not apply, wherein. (Amended by Act 22d Leg., ch. 103, §1.)

or employes upon the train in the discharge of their duties, nor shall it be construed to apply to such freight trains as carry passengers in cabooses; neither shall it apply to street and suburban railway cars; provided, that nothing herein contained shall be construed to prevent railroad companies in this state from hauling sleeping cars or chair cars attached to their trains to be used exclusively by either white or negro passengers, separately but not jointly.

Law to be posted, where. (Act 22d Leg., ch. 41, §7.)

7. Every railroad company carrying passengers in this state shall keep this law posted in a conspicuous place in each passenger depot, and in each passenger coach, provided in this law.

Does not apply to excursion trains. Ib. §8.

8. The provisions of this law shall not apply to any excursion train, run strictly as such, for the benefit of either race.

Duty of conductors. Ib. §9.

9. Conductors of passenger trains provided with separate coaches shall have the authority to refuse any passenger admittance to any coach in which he is not entitled to ride under the provisions of this law, and the conductor in charge of the train shall have the authority, and it shall be his duty, to remove from a coach any passenger not entitled to ride therein under the provisions of this act; and upon his failure or refusal to do so shall be guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than five nor more than twenty-five dollars.

Fines collected to go to school fund. Ib. §10

10. All fines collected under the provisions of this law shall go to the available common school fund of the county in which conviction is had. Prosecutions under the provisions of this law may be instituted in any court of competent jurisdiction in any county through or into which said railroad may be run or have an office.

Locomotive engineer failing to sound bell and whistle; penalty. (Act 1893, p. 87.)

Art. 1010a. A bell of at least thirty pounds weight and a steam whistle shall be placed on each locomotive engine, and the whistle shall be blown and the bell rung at the distance of at least eighty rods from the place where the railroad shall cross any public road or street, and such bell shall be kept ringing until it shall have crossed such public road, or stopped; and each locomotive engine approaching a place where two lines of railway cross each other, shall, before reaching such railway crossing, be brought to a full stop; and any engineer having charge of such engine, and neglecting to comply with any of the provisions of this article, shall be fined in any sum not less than five nor more than one hundred dollars for such neglect, and the corporation operating such railway shall be liable for all damages which shall be sustained by any person by reason of any such neglect; provided, however, that the full stop at such crossings may be discontinued when the railroads crossing each other shall put into full operation at such crossing an interlocking switch and signal apparatus, and shall keep a flagman in attendance at such crossing.

Ticket agents to be provided with certificate of authority. (Act of 1893, p. 97.)

Art. 1010b. It shall be the duty of all railroad companies doing business in this state, or the receiver of any such railroad company, through their duly authorized officers, to provide each agent who may be authorized to sell tickets or other evidences entitling the holder to travel upon any such railroad, with a certificate setting forth the authority of such agent to make such sale. Such certificate shall be duly attested by the corporate seal of such railroad company, or the signature of the receiver, if any there be, of such railroad company, or by the signature of the officer whose name is signed upon the tickets or coupons which such agent may be authorized to sell.

Art. 1010c. It shall not be lawful for any person not possessed of such authority to sell, barter, or transfer, for any consideration whatever, the whole or any part of any ticket or tickets, passes, or other evidences of the holder's right to travel on any railroad within this state. Unlawful to sell tickets without such authority. Ib.

Art. 1010d. Any person or persons violating the provisions of the preceding article of this act shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by fine not exceeding five hundred dollars; and every such sale shall constitute a separate offense; provided, that the provisions of this article shall not apply to any person holding a ticket upon which there is not a notice, plainly printed, that it is a penal offense for him or her to sell, barter, or transfer said ticket for a consideration. Penalty. Ib.

Art. 1010e. It shall be the duty of every agent, who shall be authorized to sell tickets or parts of tickets, or other evidences of the holder's right to travel over any railroad within this state, upon demand, to exhibit to any person desiring to purchase a ticket, or to any officer of the law who may request it, the certificate of his authority to sell, and to keep said certificate posted in a conspicuous place in his office for the information of travelers. Agents must exhibit authority on demand. Ib.

Art. 1010f. It shall be the duty of all railroad companies in this state, or the receiver or trustee of any such railroad company, to provide for the redemption, from the holder thereof, of the whole, or any parts or coupons, of any ticket or tickets which they or any of their duly authorized agents may have sold, if for any reason the holder has not used, and does not desire to use the same, upon the following terms: If neither the ticket nor any part thereof has been used by the holder, he shall be entitled to receive the full amount he paid therefor, and where the ticket has been used in part, the holder thereof shall be entitled to receive the remainder of the price paid for the whole ticket, after deducting therefrom the tariff rate between the points for which the portion of said ticket was actually used; provided, such tickets or parts thereof shall be presented for redemption to the railroad company from which it has been purchased, or the receiver of such railroad company, or to any of the duly authorized ticket agents of such railroad company, or receiver thereof, or in case of a through ticket, to any of the authorized agents of any connecting line, within a time not exceeding ten days after the right to use said ticket has expired by limitation of time as stipulated therein. Any person or persons who shall sell any unused ticket otherwise than by presentation of the same for redemption, as herein provided, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not exceeding five hundred dollars; provided, that the provisions of this law shall not apply to any person holding a ticket upon which is not plainly printed that it is a penal offense for him or her to sell, barter, or transfer said ticket for a consideration; and any railroad company, or receiver, or trustee of such railroad company, over or on which said ticket may be used, which shall refuse or fail to redeem the whole or any part or coupon of any ticket or tickets, when presented, shall forfeit to the holder thereof a sum not less than one hundred dollars nor more than five hundred dollars, recoverable in any court of competent jurisdiction. Railway companies to redeem unused tickets; sale of except by redemption an offense.

Art. 1010g. It shall be the duty of the railway company to print conspicuously across the face of every ticket sold by its duly authorized agents in this state a notice to the holder thereof that it is a Law to be printed on tickets. Ib., p. 98.

penal offense for him to sell, barter, or transfer said ticket for a consideration, and that this ticket or any unused part thereof is redeemable by the company or its receiver at any ticket office of the company, when presented for redemption.

Unlawful boarding of train. (Act 1895, p. 173.)

Art. 1010h. Any person who shall board any passenger, freight or other railway train, whether moving or standing, for any purpose and without in good faith intending to become a passenger thereon, and with no lawful business thereon, and with intent to obtain a free ride on such train, however short the distance, without the consent of the person or persons in charge thereof, shall be guilty of a misdemeanor, and shall be punished by fine of not less than five dollars nor more than one hundred dollars.

CHAPTER FOURTEEN.

ASSIGNOR.

Secreting or concealing property from assignee..... Article 1011

Secreting or concealing property from assignee. (Act March 24, 1879, §11.)

Article 1011. If any assignor shall secrete or conceal from his assignee any portion of the property belonging to his estate other than that which is exempt from execution, or shall previous to and in contemplation of the assignment transfer any property with the intent or design to defraud his creditors, such assignor shall be adjudged guilty of a felony, and upon conviction thereof, shall be punished by imprisonment and labor in the penitentiary for not less than two nor more than five years.

CHAPTER FIFTEEN.

DUPLICATION OF PROCESS FOR WITNESSES.

Duplication of process for witnesses; penalty..... Article 1012

Duplication of process for witnesses; penalty. (Act 21st Leg., March 30, 1889, ch. 121, p. 145.)

Article 1012. It shall be unlawful for the clerk of any district court, after a witness in a felony case has been served with a subpoena or an attachment, to issue any other or further process for said witness, except upon the order of the presiding judge, made upon application to him for that purpose. When a witness has been served with process by one party it shall inure to the benefit of the opposite party in case he should need said witness, and as far as practicable the clerk shall include in one process the names of all witnesses for the state and defendant, and such process shall show that the witnesses are summoned for the state and defendant. Any district clerk who shall violate the provisions of this law shall be deemed guilty of a misdemeanor and punished by a fine of not less than ten nor more than one hundred dollars.

CHAPTER SIXTEEN.

COUNTY FINANCES.

	Article		Article
State or county officer refusing informa-		Clerk failing to keep finance ledger....	1013a
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Article 1013. If any state or county officer shall fail or refuse to give such data, statistics and information as provided for in chapter six, title fifty-two of the Revised Civil Statutes, such state or county officer shall be guilty of a misdemeanor, and upon conviction be fined in a sum not less than twenty-five nor more than one hundred dollars.

State or county officer refusing information. (Act 21st Leg., April 2, 1885, p. 23.)

[Note.—Article 1013 is retained as codified by the commission of 1893, since it was not readjusted by the joint committee on amendments to the codes; but the offense defined relates to the duties of certain officers with respect to the department of insurance statistics and history, rather than to county finances.]

Art. 1013a. If the clerk of the county court of any county in this state shall willfully fail, neglect, or refuse to keep, or cause to be kept, the finance ledger provided for in article 935 of the Revised Civil Statutes, or shall willfully fail, neglect, or refuse to make, or cause to be made, the quarterly statement as provided for in article 935a of the Revised Civil Statutes, the clerk so failing, neglecting, or refusing shall be fined in any sum not less than fifty nor more than two hundred dollars; provided, that such failure, neglect, or refusal for each quarter shall constitute a separate offense.

Clerk failing to keep finance ledger. (Act 1893, p. 161.)

Art. 1013b. Any county or city treasurer, or treasurer of the school board of each city or town having exclusive control of its schools, failing to make and transmit the report required by article 3936 of the Revised Civil Statutes and certified copy, or either, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than fifty dollars nor more than five hundred dollars.

Treasurer failing to make report. (Act 1893, p. 188.)

TITLE XIX.

Repetition of Offenses.

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Second and subsequent convictions for misdemeanor.
P. C. 818.

Article 1014. [818] If it be shown on the trial of a misdemeanor that the defendant has been once before convicted of the same offense, he shall, on a second conviction, receive double the punishment prescribed for such offense in ordinary cases, and upon a third, or any subsequent conviction for the same offense, the punishment shall be increased, so as not to exceed four times the penalty in ordinary cases.

Subsequent conviction for felony.
P. C. 819.

Art. 1015. [819] If it be shown, on the trial of a felony less than capital, that the defendant has been before convicted of the same offense, or one of the same nature, the punishment on such second or other subsequent conviction shall be the highest which is affixed to the commission of such offenses in ordinary cases.

Third conviction for felony; how punished.
P. C. 820.

Art. 1016. [820] Any person who shall have been three times convicted of a felony, less than capital, shall, on such third conviction, be imprisoned to hard labor for life in the penitentiary.

Second conviction for capital offense; how punished.
P. C. 821.

Art. 1017. [821] A person convicted a second time of any offense to which the penalty of death is affixed as an alternate punishment, shall not receive, on such second conviction, a less punishment than imprisonment for life in the penitentiary.

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