

Texas Historical Statutes Project

1925
PENAL CODE
OF THE
STATE OF TEXAS



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PENAL CODE

OF THE

STATE OF TEXAS

ADOPTED AT THE REGULAR SESSION OF THE
THIRTY-NINTH LEGISLATURE
1925



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**A BILL
TO BE ENTITLED**

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

Be It Enacted by the Legislature of the State of Texas:

SECTION 1. The following Titles, Chapters and Articles are hereby adopted and shall hereafter constitute and be known as the PENAL CODE of the State of Texas:

THE PENAL CODE

of the

STATE OF TEXAS

TITLE 1

GENERAL PROVISIONS.

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CHAPTER ONE.

GENERAL OBJECTS, PRINCIPLES, AND RULES OF INTERPRETATION.

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Article 1. [1] **Design of the Code.**—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.

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

Art. 3. [3] **Penalties must be affixed by written law.**—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.

Art. 4. [4] **Common law rule of construction.**—The principles of the common law shall be the rule of construction when not in conflict with this Code or the Code of Criminal Procedure, or with some other written statute of this State. [Act Feb. 12, 1884.]

Art. 5. [5] **Special provisions control general.**—Each general provision shall be controlled by a special provision on the same subject, if there be a conflict.

Art. 6. [6] **Unintelligible law not operative.**—Whenever it appears that a provision of the penal law is so indefinitely framed or of such doubtful construction that it can not be under-

stood, 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. [9] General rule of construction.—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. 8. [10] Words, how understood.—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. 9. [11] Innocence presumed.—Every person accused of an offense shall be presumed to be innocent until his guilt is established by legal evidence beyond a reasonable doubt.

Art. 10. [12] No offense against a law not in force.—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. 11. [13] When laws take effect.—No law 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 law was enacted, unless the Legislature shall otherwise determine.

Art. 12. [14] Ignorance no excuse.—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. 13. [15] Effect of modification by subsequent law.—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 an offense committed before the second shall have taken effect. In every case the accused 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 is ameliorated he shall be punished under the second unless he elect to receive the penalty prescribed by the law in force when the offense was committed.

Art. 14. [16] Repeal, effect of.—The repeal of a law where the repealing statute substitutes no other penalty will exempt from punishment all persons who may have violated such repealed law, unless it be otherwise declared in the repealing statute.

Art. 15. [17] When new penalty is substituted.—When by the provisions of a repealing statute a new penalty is substi-

tuted for an offense punishable under the law repealed, such repealing statute shall not exempt from punishment a person who has offended against the repealing law while it was in force, but in such case the rule prescribed in article 13 shall govern.

Art. 16. [18] **Change of definition.**—If an offense be defined by one law and by a subsequent law the definition of the offense is changed, no such change shall take effect as to the offenses already committed; but one accused of violating the first law shall be tried under that law.

Art. 17. [19] **Previous offenses not affected.**—No offense committed and no fine, forfeiture or penalty incurred under existing laws previous to the time when this Code takes effect shall be effected by the repeal herein of any such laws, but the punishment of such offense and the recovery of such fines and forfeitures shall take place as if the law repealed had remained in force, except that when any penalty, forfeiture or punishment shall have been mitigated by any provision of this Code, such provision shall 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 repeal law.

Art. 18. [20] **No cumulative penalties.**—No penalty affixed to an offense by one law shall be cumulative of penalties under a former law, and 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.

CHAPTER TWO.

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Art. 19. [21] **Definition of terms.**—The terms "whoever", "any person", "any one", and the 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" imports a male person of any age, and "woman" a female person of any age.

Art. 20. [22] **Masculine includes feminine.**—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 pronouns "he" or "they" in reference thereto, includes both males and females. Words used in the masculine gender include the feminine also, unless it appears that such was not the intent.

Art. 21. [23] **Singular includes plural.**—The use of the singular number includes the plural and the plural the singular.

Art. 22. [24] **"Person".**—Whenever any property or in-

terest is intended to be protected by this Code, and the term "person" or any other general term is used to designate the party whose property it is intended to protect, the protection given shall extend to the property of the State, and of all public or private corporations.

Art. 23. [25] **"Accused" and "Defendant".**—The word "accused" is intended to refer to any person who, in a legal manner, is held to answer for an offense, at any stage of the proceeding, or against whom complaint in a lawful manner is made charging an offense, including all proceedings from the order for arrest to the final execution of the law. The word "defendant" is used in the same sense.

Art. 24. [26] **"Criminal action".**—A "criminal action" means the whole or any part of the procedure which the law provides for bringing offenders to justice; and the terms "prosecution" and "accusation" are used in the same sense.

Art. 25 [27] **"Convict".**—An accused is termed a "convict" after the judgment of conviction against him has become final.

Art. 26. [28] **"Criminal process".**—The term "criminal process" is intended to signify any *capias*, warrant, citation, attachment, or any other written order issued in a criminal proceeding, whether the same be to arrest, commit, collect money, or for whatever purpose used.

Art. 27. [30] **"Writing" and "oath".**—The word "writing" includes printing; the word "oath" includes affirmation.

Art. 28. [31] **"Signature" defined.**—The word "signature" includes the mark of a person unable to write his name.

CHAPTER THREE.

PERSONS PUNISHABLE, AND THE CIRCUMSTANCES WHICH EXCUSE, EXTENUATE, OR AGGRAVATE AN OFFENSE.

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Art. 29. [32] **Persons punishable.**—With the exceptions stated in this chapter, all persons whether inhabitants of this State or the United States or aliens are amenable to punishment for offenses punishable under this Code.

Art. 30 [34] **Children not punishable.**—No person shall be convicted of any offense committed before he was nine years old except perjury, and for that only when it shall appear by proof that he had sufficient discretion to understand the nature and obligation of an oath; nor of any other offense committed between the age 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. 31. [35] **One under 17 not punishable capitally.**—A person for an offense committed before he arrived at the age of seventeen years shall in no case be punished with death.

Art. 32. [36] **Offenses by married women.**—A married woman who commits an offense by the command or persuasion of her husband shall in no case be punished with death, but may be imprisoned for life or for a term of years, according to the nature of the crime; and in cases not capital she shall receive only one-half the punishment to which she would otherwise be liable.

Art. 33. [37] **Instigated offense.**—If it appears that a minor was instigated or aided 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 other cases the punishment shall be doubled.

Art. 34. [39] **Insanity.**—No act done in a state of insanity can be punished as an offense. No person who becomes insane after he committed 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 while in such condition.

Art. 35. [40] **Proof of insanity.**—The rules of evidence known to the common law as to the proof of insanity shall be observed in all trials where that question is an issue.

Art. 36. [41] **Intoxication as a defense.**—Neither intoxication nor temporary insanity of mind produced by the voluntary recent use of ardent spirits shall constitute any excuse for the commission of crime. Evidence of temporary insanity produced by such use of ardent spirits may be introduced by the defendant in mitigation of the penalty attached to the offense for which he is being tried. When 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 liquor, the judge shall charge the jury in accordance with the provisions of this article. [Acts 1881, p. 9.]

Art. 37. [42 and 43] **Officer justified.**—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. A peace officer is in like manner justified for any act which he is bound by law to perform without warrant or verbal order.

Art. 38. [44] **Duress.**—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 personal injury.
2. 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 must be such actual force as restrains the person from escaping, or such ill-treatment as is calculated to render him incapable of resistance.

Art. 39. [45] **Accident.**—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.

Art. 40. [46] **Mistake of law.**—No mistake of law excuses one committing an offense.

Art. 41. [47] **Mistake of fact.**—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, but the mistake of fact which will excuse 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 so acting.

Art. 42. [48] **Act done by mistake a felony.**—One intending to commit a felony and who 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, shall receive the punishment affixed to the felony actually committed.

Art. 43. [49] **Act done by mistake a misdemeanor.**—One intending to commit a felony and who 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, shall receive the highest punishment affixed to such misdemeanor.

Art. 44. [50] **Felony done by mistake.**—One intending to commit a misdemeanor and who in the act of preparing for or executing the same shall through mistake commit a felony shall receive the lowest punishment affixed to the felony.

Art. 45. [51] **Intention presumed.**—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.

Art. 46. (52) **Burden of proof on defendant.**—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.

TITLE 2
OFFENSES AND PUNISHMENTS.

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CHAPTER ONE.

DEFINITION AND DIVISION OF OFFENSES.

Art. 47. [53-58] **Offenses.**—An offense is an act or omission forbidden by positive law, and to which is annexed, on conviction, any punishment prescribed in this Code. An offense which may—not must—be punishable by death or by confinement in the penitentiary is a felony; every other offense is a misdemeanor. Felonies are either capital or not capital. An offense for which the highest penalty is death is a capital felony. Offenses are divided into felonies and misdemeanors.

CHAPTER TWO.

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Art. 48. [59] **Punishments.**—The punishments incurred for offenses under this Code are—

1. Death.
2. Imprisonment in the penitentiary.
3. Imprisonment in jail. “Jail” means the county jail.
4. Pecuniary fines. “Not exceeding” means in any sum not to exceed the amount stated.
5. Forfeiture of civil or political rights.
6. Imprisonment in training schools and simliar institutions.

Art. 49. [60] **Continuous offense suppressed.**—When an offense of which a person is convicted is in its nature continuous, there shall also be a judgment for its suppression.

Art. 50. [61] **No forfeiture in capital case.**—When a convict is executed or 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.

Art. 51. [62] **No forfeiture in any case.**—When a convict is imprisoned in the penitentiary, his property shall be controlled as directed by law; but there shall in no criminal case be a forfeiture of property of any kind to the State.

Art. 52. [63] **“Political rights” defined.**—When the penalty is deprivation of political rights, such rights are intended to include the rights of holding office, of serving on juries, and of suffrage.

Art. 53. [64] **Doubling punishment.**—When a minimum or maximum punishment is fixed, and by reason of any circumstance the law directs that the punishment be doubled, it shall be taken to mean that not less than double the smallest nor more than double the greatest punishment shall be inflicted.

Art. 54. [65] **Doubling penalty in misdemeanor.**—If fine and imprisonment are to be incurred, and punishment is doubled, then not less than double the smallest and not more than double the largest fine and not more than double the longest nor less than double the smallest period of imprisonment shall be given.

Art. 55. [66] **Doubling alternative punishment.**—When the punishment is either fine or imprisonment and the punishment is to be doubled, then the penalty is not less than double the smallest nor more than double the largest fine, or less than double the shortest nor more than double the longest period of imprisonment. This rule applies where there may be more than two kinds of punishment prescribed as alternatives.

Art. 56. [67] **Increase of penalty one-half.**—When the law directs that the punishment shall be increased one-half, it means that besides the ordinary penalty such additional punishment may be assessed as shall not be less than one-half the penalty in ordinary cases, and all the rules before prescribed as to alternative punishments are applicable where the penalty is to be so increased.

Art. 57. [68] **Decrease of punishment one-half.**—When it is provided that the punishment shall be diminished one-half, it means one-half of the penalty fixed under ordinary circumstances, and so with regard to any other proportion in which the penalty is to be diminished.

Art. 58. [69] **Diminution of punishment.**—In diminution of punishments, the same rule as to two or more penalties or as to alternative penalties shall apply as governs the increase of punishment.

Art. 59. [70] **Exceptions to rules.**—The rules as to increase or diminution of punishment have no application to capital cases, nor to any case where the penalty is total deprivation of civil or political rights.

Art. 60. [73] **Officer to be removed.**—When an offense is committed by an officer, and the same appears to the jury to be a wilful violation of duty, they shall so find, and such officer shall be removed from office.

Art. 61. [1618] [1014] [818] **Second and subsequent conviction for misdemeanor.**—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.

Art. 62. [1619] [1015] [819] **Subsequent conviction for felony.**—If it be shown on the trial of a felony less than capital that the defendant has been before convicted of the same of-

fense, 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.

Art. 63. [1620] [1016] [820] **Third conviction for felony.**—Whoever shall have been three times convicted of a felony less than capital shall on such third conviction be imprisoned for life in the penitentiary.

Art. 64. [1621] [1017] [821] **Second conviction for capital offense.**—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.

TITLE 3

PRINCIPALS, ACCOMPLICES AND ACCESSORIES

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CHAPTER ONE.

PRINCIPALS.

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Art. 65. [74] **Acting together.**—All persons are principals who are guilty of acting together in the commission of an offense.

Art. 66. [75] **Encouraging.**—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.

Art. 67. [76] **Aiding.**—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.

Art. 68. [77] **Indirect means.**—If any one by employing a child or other person who cannot 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 injury to his person or property, the offender by the use of such indirect means becomes a principal.

Art. 69. [78] **Presence.**—Any person who advises or agrees to the commission of an offense and who is present when the same is committed is a principal whether he aid or not in the illegal act.

CHAPTER TWO.

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Art. 70. [79] **Who is an accomplice.**—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.

Art. 71. [80] **Precise offense need not be committed.**—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.

Art. 72. [81] **Punishment of accomplice.**—Accomplices shall, in all cases not otherwise expressly provided for, be punished in the same manner as the principal offender.

Art. 73. [82] **When different offense is committed.**—If in the attempt to commit one offense the principal shall by mistake or accident commit some other under the circumstances set out in article 42, 43 and 44, the accomplice to the offense originally intended shall, if both offenses are felonies, receive the punishment affixed to the lower; but if the offense designed be a misdemeanor he shall receive the highest punishment affixed to such misdemeanor, whether the offense actually committed be a felony or a misdemeanor.

Art. 74. [83] **When principal is under 17.**—If the principal in an offense less than capital be under the age of seventeen, the punishment of an accomplice shall be increased so as not to exceed double the penalty affixed in ordinary cases.

Art. 75. [84] **In instigated felony.**—If the accomplice stands in the relation of parent, master, guardian or husband to the principal, he shall in all cases receive the highest punishment affixed to the offense, and the same may in felonies not capital be increased to double the highest penalty affixed to ordinary cases.

Art. 76. [85] **No accomplice in certain cases.**—There may be accomplices to all offenses except manslaughter and negligent homicide.

CHAPTER THREE.

ACCESSORIES.

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Art. 77. [86] **Who is an accessory.**—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. One who aids

an offender in making or preparing his defense at law, or procures him to be bailed though he afterwards escape, is not an accessory.

Art. 78. [87] **Who cannot be accessories.**—The following cannot be accessories; The husband or wife of the offender, his brothers and sisters, his relations in the ascending or descending line by consanguinity or affinity, or his domestic servants.

Art. 79. [88] **Punishment of accessory.**—Accessories shall be punished by the infliction of the lowest penalty to which the principal would be liable.

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Art. 80. [89] **Accomplice may be tried before principal.**—An accomplice may be tried and punished before the conviction of the principal, and the acquittal of the principal shall not bar the prosecution against the accomplice, but on the trial of an accomplice the evidence must be such as would have convicted the principal.

Art. 81. [90] **When accessory may be tried.**—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. 82. [91] **Parties to offense as witnesses.**—Persons charged as principals, accomplices or accessories, whether in the same or by different indictments, can not be introduced as witnesses for one another, but they may claim a severance, and if one or more be acquitted they may testify in behalf of the others.

TITLE 4

OFFENSES AGAINST THE STATE, ITS TERRITORY, AND REVENUE.

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CHAPTER ONE.

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Art. 83. [92] "Treason" defined.—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, P. C. 231.]

Art. 84. [93] Punishment for treason.—If any citizen of this State shall be guilty of treason he shall suffer death or imprisonment in the penitentiary for life. [P. C. 232.]

Art. 85. [94] [95] "Misprision of treason" defined.—Whoever shall know that any person has committed treason or is intending to do so, 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 confined in the penitentiary not less than two nor more than seven years. [P. C. 233, Acts 1858, p. 157.]

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Art. 86. [96] Protection of public money.—If any officer of the government who is by law a receiver or depositary of public money, or any clerk or other person employed about the office of such officer, shall fraudulently take, misapply or convert 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 confined in the penitentiary not less than two nor more than ten years. [P. C. 235, Acts 1858, p. 158.]

Art. 87. [97] **“Misapplication of public money.”**—Within the term “misapplication of public money” are included the following acts:

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 of one character of public funds for those of another. The purchase of bank checks or post-office orders for transmission to the treasury is not included in this class;

3. The deposit by an officer of the government of public money 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 so open;

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

5. The special enumeration above set forth shall not be understood to exclude any case which, by fair construction, comes within the meaning of the preceding language. 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. [Acts 1879, p. 165.]

Art. 88 [100] **Exceptions.**—Nothing in the two preceding articles shall apply to the sale or exchange of one kind of money for another by the financial officers of this State, when done in accordance with law.

Art. 89. **Diversion of donated State taxes.**—All money donated by law out of the taxes collected for the State on account of calamity or for protection to either of the cities of Galveston, Aransas Pass, Rockport, Port Lavaca, Freeport and Corpus Christi, are declared to be trust funds for the purpose of aiding each of said cities in paying the interest and sinking fund upon the issue of bonds authorized by the law donating such tax money, and the provisions of the Revised Civil Statutes making such donations are made a part of this article, and the use or diversion of such moneys for any purpose other than that provided for by law is hereby prohibited, provided that whenever the money in the hands of the city treasurer received from the State under the law donating such tax money, or under any law in effect, shall exceed the sum of one year's interest and two per cent sinking fund on the bonds herein referred to that have been issued and are outstanding, such excess shall be invested by each of said cities so situated in the purchase of said bonds, or bonds of the United States, the State of Texas, or the bonds of any county, city or town of this State, bearing interest at the rate of not less than four per cent per annum. The entire sinking

fund, when received by the city treasurer shall be invested by the municipal authorities of said city as received, in the bonds herein referred to, or bonds of the United States, the State of Texas, or the bonds of any county, city or town of this State, bearing interest at a rate of not less than four per cent per annum. A violation of any provision of this article shall constitute a misapplication of public money, and the person so offending shall be punished as provided in article 86.

Art. 90. **Diversion of seawall money.**—All funds, revenues and moneys derived from the sale of the bonds authorized by law to pay the indebtedness incurred in establishing, locating, erecting, constructing, extending, strengthening, maintaining or keeping in repair or otherwise improving any seawall or break-water, and to improve, maintain and beautify any boulevard erected in connection therewith, and all funds, revenues and moneys derived from the sale or rent of reclaimed or other lands acquired by law and from additional uses of such works as authorized by law, shall be deposited with the county or city treasurer, as the case may be, and shall be held in trust exclusively for the construction and maintenance of seawalls and breakwaters including the purchase of the right of way therefor; and all moneys derived from the assessment and levy of taxes as aforesaid are declared to be a trust fund for the payment of interest and principal of such bonds, and the use or diversion of such moneys for any other purpose whatever is hereby prohibited and a violation of this article shall constitute a misapplication of public money, and the person so offending shall be punished as provided in article 86. [Act 1901, p. 25, 1st C. S.]

Art. 91. [101] **Receiving or concealing misapplied public money.**—Whoever shall knowingly and with fraudulent intent receive or conceal any public money which has been taken, converted or misapplied by an officer or employe as set forth in articles 86 and 87, shall be confined in the penitentiary for not less than two nor more than five years. [P. C. 236, Acts 1875, p. 12.]

Art. 92. [102] **“Officer of the Government” defined.**—The term “officer of the Government,” as used in this chapter, includes 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.

Art. 93. [103] **State Treasurer receiving private funds.**—If the State Treasurer shall knowingly keep or receive into the building, safes or vaults of the treasury, any money or representative thereof belonging to any individual, except in cases expressly provided for by law, he shall be confined in the penitentiary not less than two nor more than five years. [Acts 1873, p. 61.]

Art. 94. [104] **Diverting special funds.**—Whoever shall wilfully 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, shall be confined in the penitentiary not less than two nor more than ten years.

Art. 95. [105] [103] Misapplication of county or city funds.—If any officer of any county, city or town, or any 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 secret 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 confined in the penitentiary not less than two nor more than ten years.

Art. 96. [106] [104] Receiving or concealing.—Whoever shall knowingly and with fraudulent intent receive or conceal any money or property which has been taken, misapplied or converted by an officer or employe, as set forth in the preceding article, shall be confined in the penitentiary not less than two nor more than five years. [Acts 1875, p. 12.]

Art. 97. Misapplication of school funds.—If any person who is by law a treasurer of any school district in this State, or if any officer, director, stockholder, agent or employe or any corporation that is by law the treasurer or depository of any school district in this State shall fraudulently take, misapply or convert to his own use any money, property or other thing of value belonging to such district that may have come into his possession by virtue of his being treasurer of such district or that may have come into his possession by virtue of the corporation of which he is officer, director, stockholder, agent or employe being the treasurer or depository of such district, 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 confined in the penitentiary not less than two nor more than ten years. [Acts 1917, p. 340.]

Art. 98. Officer failing to pay over public money.—Any officer or appointee authorized to receive public moneys, other than a collector of taxes, who shall wilfully or negligently fail to account for all moneys in his hands belonging to the State, and pay the same over to the State Treasurer within ten days after the same came into his possession, shall be fined not less than three hundred nor more than one thousand dollars.

Art. 99. [108] Venue.—All prosecutions for failing or refusing to pay over money belonging to the State under this chapter shall be conducted in Travis County.

Art. 100. [97-107-109-144] Collector failing to pay.—The collector of taxes shall at the end of each month pay over to the State Treasurer all moneys collected by him for the State during said month, excepting such amounts as he is allowed by law to pay in his county, reserving only his commissions on the total amount collected; and such collector shall pay over to the State

Treasurer all balances in his hands belonging to the State, and finally adjust and settle his account with the State Comptroller on or before the first day of May of each year. If any collector of taxes shall have wilfully or negligently failed at the end of each month or within ten days thereof to remit to the State Treasurer the amount due by him to the State for the preceding month, he shall be fined not less than three hundred nor more than one thousand dollars. Every such failure to remit shall be a separate offense.

Art. 101. **Collector failing to report.**—At the end of each month the collector of taxes shall, on forms to be furnished by the Comptroller of Public Accounts, make an itemized report under oath to the Comptroller showing each and every item of ad valorem, poll and occupation taxes collected by him during said month, accompanied by a summarized statement showing full disposition of all State taxes collected. Said reports for December and January of each year may not be made for twenty-five days after the end of such months if same cannot be completed by the end of such respective months. Such collector shall present such report together with the tax receipt stubs, to the county clerk who shall within two days compare said report with said stubs, and if same agree in every particular as regards names, dates and amounts, such clerk shall certify to its correctness, and such collector shall then immediately forward his report so certified to the State Comptroller, and upon the failure or refusal of such collector to comply with this article he shall be fined not less than three hundred nor more than one thousand dollars. Each such failure or refusal is a separate offense. [Acts 1893, p. 90.]

Art. 102. [110-113] **Remitting fees, etc.**—Any county officer or any district attorney to whom fees or costs are allowed by law who shall fail to charge up the fees or costs that may be due under existing laws, or who shall remit any fee that may be due under the laws, or who shall fail to make the report required by law, or who shall pay his deputy, clerk or assistant a less sum than specified in his sworn statement, or receive back as a rebate any part of the compensation allowed such deputy, clerk or assistant, shall be fined not less than twenty-five nor more than five hundred dollars. Each act forbidden by this article is a separate offense. [Act June 16, 1897.]

Art. 103. [114-1577] **Unlawfully issuing process.**—Before the clerk or his deputy shall be required or permitted to issue a subpoena in any felony case pending in any district or criminal district court of this State of which he is clerk or deputy, the defendant or his attorney or the State's attorney shall make written sworn application to such clerk of each witness desired. Such application shall state the name of each witness desired, the location and avocation, if known, and that the testimony of said witness is believed to be material to the State or the defense. As far as practicable such clerk shall include in one subpoena the names of all witnesses for the State and the defendant and such process shall show that the witnesses are summoned

for the State or defendant. If any such clerk or his deputy shall issue any subpoena for any witness in a felony case without complying with this article, or shall issue an attachment without an order of court, he shall be fined not less than twenty-five nor more than two hundred dollars. [Acts 1889, p. 145; Acts 1st C. S. 1897, p. 5; Acts 1913, p. 319.]

Art. 104. [115] **Regulating fees of officers.**—Each county and precinct officer who shall in his official capacity collect or receive any money or fees belonging to another person, shall inform such person of the collection of such money or fees, and promptly pay the same over on demand to the one entitled thereto, taking receipt therefor, which shall be entered or noted in his fee book. [Acts 1907, p. 120.]

Art. 105. [116] **Report of fees collected.**—On or before the second Mondays in March, June, September and December of each year, said officers shall make written sworn report to the commissioners court of all such moneys and fees so collected by them during the quarter last preceding and remaining in their hands uncalled for, giving the number and style of each cause in which the same accrued and the name of the person entitled thereto, which report shall be filed with the county clerk and by him kept for future reference and examination. [Id. Acts 1923, p. 223.]

Art. 106. [117] **Disposition of fees not called for.**—Each officer collecting or having the custody of any money or fees embraced within the provisions of this law at the expiration of four years from the time of collecting or receiving such money or fees, in all cases where the same have not been paid over to the person entitled thereto, shall pay the same to the county treasurer of his county, accompanying the same by an itemized statement, as provided in Article 105, which shall be filed and kept by said treasurer, and said money or fees shall be by him placed to the credit of the road and bridge fund. The treasurer shall issue to said officer his receipt for said money or fees itemizing the same as above provided, which receipt shall be filed by said officer with the county clerk. Any officer upon retiring from office having any money or fees in his hands embraced within these provisions and which are not due to be turned over to the treasurer as herein provided, shall turn the same over to his successor in office, together with an itemized list of the same, taking receipt therefor, and his successor shall report and pay over the same to the county treasurer in accordance with the provisions hereof. [Id.]

Art. 107. [118] **Penalty for three preceding articles.**—Whoever violates any provision of the three preceding articles shall be fined not less than one hundred nor more than five hundred dollars. [Id.]

CHAPTER THREE.

ILLEGAL CONTRACTS AFFECTING THE STATE.

	Article		Article
Contracting without authority....	108	Institutions included.....	111
Storekeepers and accountants....	109	Unlawfully creating deficiency....	112
Using State's merchandise.....	110	Sale of goods to inmates.....	113

Art. 108. [106] **Contracting without authority.**—Whoever 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 without authority of law, shall be fined not less than one hundred nor more than two thousand dollars. [Act May 4, 1874, p. 221.]

Art. 109. [121] **Storekeepers and accountants.**—Any storekeeper or accountant of any institution placed by law under the control of the State Board of Control who shall sell to or in any way be concerned in the sale of any merchandise or other articles to any such institution, or who shall have any interest in any bid or contract therewith or with any other institution or department of the State Government, shall be confined in the penitentiary not less than two nor more than five years. [Acts 1899, p. 142, Acts 1915, p. 195.]

Art. 110. [122] **Using State's merchandise.**—No officer or employe created by the law governing this chapter shall ever use or receive for his own use any provisions, clothing, merchandise or other articles furnished by the State. Whoever violates the provisions of this article shall be confined in the penitentiary not less than two nor more than ten years. [Acts 1899, p. 142.]

Art. 111. **Institutions included.**—The institutions contemplated in this chapter are those for the care of the insane, deaf and dumb, the blind, the orphans, the Confederate Home, and all other State institutions, educational or eleemosynary, now or hereafter established anywhere in Texas, excepting the penitentiary system and its management, and also excepting the Senate and House of Representatives and all departments in the State Capitol, including General Land Office. [Acts 1915, p. 198.]

Art. 112. **Unlawfully creating deficiency.**—Any regent, director, officer or member of any governing board of any educational or eleemosnary institution who shall contract or provide for the erection or repair of any building or other improvements or the purchase of equipment or supplies of any kind for any such institution, not authorized by specific legislative enactment, or by written direction of the Governor acting under and consistent with the authority of existing laws, or who shall contract or create any indebtedness or deficiency in the name of or against this State, not specifically authorized by legislative enactment, or who shall divert any part of any fund provided by law to any other fund or purpose than that specifically named and designated in the legislative enactment creating such fund, or provided for in any appropriation bill, shall be imprisoned in jail not less than ten days nor more than six months; the venue to be in the county in which may be located the institution affected by such acts of such offender. [Acts 1st C. S. 1913, p. 32.]

Art. 113. **Sale of goods to inmates.**—Any person appointed as manager, superintendent, clerk, or otherwise employed in or by any eleemosynary institution under the control or management of this State, or the wife of such appointee or employe, or any other person related within the third degree by affinity or consanguinity to the person so appointed or employed in such institution, who shall own, operate, manage, or in any way be pecuniarily interested in any store or other place of business where any merchandise is sold or offered for sale to inmates of such institution, shall be fined not less than twenty-five nor more than two hundred dollars. [Act November 15, 1921.]

CHAPTER FOUR.

COLLECTION OF TAXES AND OTHER PUBLIC MONEY.

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Art. 114. [107] **Extorting excessive taxes.**—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 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 fined not exceeding five hundred dollars. [P. C. 238.]

Art. 115 [124] [108] **Tax officer exacting usury.**—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 cent per annum, he shall be fined not exceeding five hundred dollars. [P. C. 239.]

Art. 116. [125] [109] **Assuming taxes for reward.**—Within the meaning of the preceding article is included the case of an 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. [P. C. 240.]

Art. 117. [126] [110] **Collector failing to forward transcript.**—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, 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 under the law, 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 fined not less than fifty nor more than five hundred dollars. Nothing herein contained is intended to affect the liability which, in the absence of this statute, would be incurred under any penal enactment. [Acts 1879, p. 148.]

Art. 118. [127] [110a] **Unlawfully issuing receipt.**—Any tax collector who issues any occupation tax receipt without first taking or filing the affidavit required by law, shall be fined not less than ten nor more than one hundred dollars. [Acts 1895, p. 18.]

Art. 119. [128] [110b] **Wrong license no protection.**—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 for knowingly pursuing that of a higher class and failing to pay the occupation tax due therefor. [Id.]

Art. 120. [129] [111]. **Obstruction of tax collections.**—Whoever 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, shall be fined not less than one hundred nor more than five hundred dollars, and be imprisoned in 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 456. [P. C. 241.]

Art. 121. [130] [112] [110] **Pursuing occupation without license.**—Whoever 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 not less than the amount of the taxes due and not more than double that sum.

Art. 122. [131] **Plumbing without license.**—Any person, whether as master plumber, employing, or journeyman plumber, engaged in, working at, or conducting the business of plumbing without license as provided by law, shall be fined not less than twenty-five nor more than two hundred and fifty dollars. [Acts 1897, p. 237.]

Art. 123. [132] [113] **Penalty not exclusive.**—The preceding articles shall not affect any civil remedy to enforce the collection of taxes.

Art. 124. [133] [114] Payment of tax bars prosecution.— Any person prosecuted under article 121 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 on account of the failure to procure which, 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. [Acts 1881, p. 34.]

Art. 125. [134] [115] Refusal to render or swear to assessment.— Whoever 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 to the truth of his statement of taxable property, or shall fail or refuse to subscribe to any oath required by law in the rendition of such property, shall be fined not less than twenty nor more than one thousand dollars. [Acts 1876, p. 196.]

Art. 126. [135] Assessment of national bank.— If any president, vice president, or cashier of any national bank shall fail or refuse to furnish the tax assessor or deputy tax assessor, when called upon to do so by such tax assessor or deputy tax assessor, a sworn statement, showing:

1. A list of the names of all the shareholders of the stock of such bank.

2. The number and amount of the shares owned and held by each shareholder in such bank.

3. The place of residence of each stockholder in such bank, if known. (If not known that fact shall be so stated.)

4. The amount of notes issued by such bank and circulating as money, or that is intended to circulate as money (stating such amount in dollars.)

5. The amount of money on hand or in transit, or in the hands of other banks, bankers, brokers or others, subject to draft, whether the same be in or out of the State.

6. The amount of indebtedness of such bank and how such indebtedness is evidenced.

7. The amount of paper evidencing indebtedness owned by such bank, which was acquired by such bank, either at par or at a discount.

They shall be fined not less than one hundred nor more than one thousand dollars, and be confined in jail not less than ten nor more than thirty days. [Acts 1897, p. 157.]

Art. 127. [136] Money and notes defined.— By the terms money and notes, mentioned in the preceding article, is meant all money owned and on hand by such bank, whether on deposit or otherwise. [Acts 1897, p. 157.]

Art. 128. [137] [116] Pretended transfer of coin, notes or bonds.— Any evasion by the means of artifice or temporary or fictitious sale, exchange or pretended transfer upon any bank books of gold or 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. [Sec. 1, Act March 23, 1891, Acts 1891, p. 39.]

Art. 129. [138] [116] Penalty for pretended transfer.—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 fined not less than ten nor more than one hundred dollars, and in addition thereto shall be confined in jail not less than ten nor more than thirty days. [Sec. 2. Id.]

Art. 130. [139] [116] False affidavit.—All assessors of taxes shall require all tax payers 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 have been made by them, and if it should be disclosed that any such pretended sale, exchange or transfer had 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. [Sec. 3, Id.]

Art. 131. [140] [117] Failure to collect occupation taxes.—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. 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 not less than fifty nor more than five hundred dollars for every such offense. Evidence that such collector 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 prosecution under this article. [Acts 1887, p. 128.]

Art. 132. [143] [119] [114c] Officer purchasing property sold for taxes.—If any sheriff, or collector of taxes, 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 guilty of official misconduct and upon conviction shall be removed from office. [Acts 1883, p. 7.]

Art. 133. [144] [119a] **Tax collector fail to perform certain duties.**—If at the end of any month the collector of taxes shall fail to make to the Commissioners Court his itemized monthly report of all tax collections for the county, or pay over to the county treasurer the amount due by him to the county, or if he shall fail to make out and post, between April 1 and 15 of each year, a list of delinquent or insolvent tax payers, he shall be fined not less than three hundred nor more than one thousand dollars. Each failure is a separate offense. [Acts 1893, p. 91.]

Art. 134. [145] [119b] **Occupation tax receipt.**—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 fined not less than one hundred nor more than five hundred dollars. Each receipt so unlawfully issued is a separate offense. [Id.]

Art. 135. **Failure to make entry of payments.**—The collector of taxes, or his deputy, whenever any tax is paid, shall give to the person paying the same a receipt therefor, specifying the amount of State, county and district taxes, and the year for which such tax was assessed; said receipt shall also show the number of acres in each separate tract, number, abstract and name of original grantee, and any city or town lot and name of city or town, and total value of all property assessed; said receipt shall have a duplicate to be retained by such collector. The collector of taxes shall provide himself with a seal as provided by law and shall impress said seal on each receipt and duplicate given by him for taxes collected on real estate. Such collector when any taxes are paid shall insert in the margin of the tax rolls the words and figures as follows:

“Taxes paid _____ day of _____” No. of receipt _____” the date to be filled in and the receipt number to be given; and any tax collector, or his deputy, who shall fail to comply with any provision of this article imposing the duty to make such entry of taxes paid upon the tax roll, as above described, shall be fined not less than one hundred nor more than five hundred dollars. [Acts 1921, p. 136.]

Art. 136. [146] [119c] **Clerk failing to make certificate.**—If the county clerk shall fail to examine the monthly reports of the collector of taxes, and within two days after the presentation to him of said reports by the collector, fail to certify to their correctness as regards names, dates and amounts, or shall fail

to file with the reports intended for the Commissioners Court, together with the tax receipt stubs in his office for the next regular meeting of the Commissioners Court, he shall be fined not less than fifty nor more than two hundred dollars. Each failure is a separate offense. [Acts 1893, p. 92.]

Art. 137. [147] Refusal to make additional report of gross receipts.—If the Comptroller has reason to believe, that any individual, company, corporation, association, receiver or receivers subject to the provisions of the law providing for the levy of occupation taxes, has made a false return, or has failed or omitted to make a full return of gross receipts, or other statement of business done, required by any of the provisions of said law, he shall report the same in writing to the Governor, and the Governor shall immediately require the Comptroller to cause to be examined any books, papers or other records or evidence tending to show such unlawful act or omission. The person designated by the Comptroller shall check the report made with such books, papers, or other records or evidence, and make his report to the Comptroller, and if it appears from said report that any false or incorrect return has been made, or that any individual, or the president, treasurer or superintendent of any company, corporation or association, or any member of any firm required by this Act to make reports, has failed or omitted to make a full return, as required by law, then the Comptroller shall notify such individual, or the president, treasurer, or superintendent of any company, corporation or association, or receiver or receivers of any company, corporation or association, or any member of any firm, to make forthwith an additional report, and if such individual or the president, treasurer or superintendent of any company, corporation or association, or any member of a firm, or any receiver or receivers of any company, corporation or association making said original report, shall fail or refuse to make said additional report he shall be fined not less than two hundred nor more than five hundred dollars. Venue of such prosecution is hereby fixed in Travis County. [Acts 1907, p. 488.]

Art. 138. Gross receipts tax.—Every person, whether as an individual or as a member of a company, firm, partnership or unincorporated company or association, or as an officer, agent, director or employe of a corporation, who wilfully transacts business in this State upon which a gross receipts tax is required by law to be paid, without obtaining a permit from the Secretary of State to do so, or who transacts such business after such permit has been legally suspended, or who wilfully aids a corporation or a person to so unlawfully transact business, shall be fined not less than fifty nor more than two hundred and fifty dollars for each day or part of a day that such person is engaged in violating this article. Each day shall be a separate offense. [Act April 4, 1918, Sec. 4, p. 177.]

Art. 139. [148] Failing to make franchise tax report.—Every person required by the law prescribing franchise taxes to be paid by corporations to make any annual report to the Secretary of State who shall for a longer period than five days, and

every person who shall for more than ten days after the mailing by the Secretary of State demand upon him for another report, which the Secretary of State is by this law authorized to require, fail or refuse to make such report shall be fined in any sum not less than fifty nor more than two hundred dollars. Each day of such failure or refusal after the expiration of said five days or said ten days, as the case may be, is a separate offense. [Acts 1907, p. 505.]

Art. 140. Failure to file inheritance report.—Any administrator, executor or trustee of the estate of a decedent leaving property subject to taxation under the statutes relating to inheritance taxes who fails or refuses to file within the time prescribed by law a report in duplicate, one with the Comptroller and the other with the County Clerk of the county where such decedent resided at the time of his death or wherein the principal part of the estate is located, giving the information required by law as to such estate, shall be fined not less than one hundred nor more than one thousand dollars. [Acts 2 C. S. 1923, p. 67.]

Art. 141. [149] Using name of defunct corporation.—In all cases in which the charter or right to do business of any private domestic corporation heretofore or hereafter chartered under the laws of this State or the permit of any foreign corporation or its right to do business within this State shall have been or shall hereafter be forfeited it shall be unlawful for any person or persons who were or shall be stockholders or officers of such corporation at the time of such forfeiture to do business within this State in or under the corporate name of such corporation, or to use signs or advertisements of such corporation or similar to the sign or advertisements which were used by such corporation before such forfeiture. Whoever violates any provision of this article shall be fined not less than one hundred nor more than one thousand dollars. This article shall not apply where the right of such corporation to do business within this State has been revived in the manner provided by law and it is at the time in good standing. [Acts 1905, p. 335, Acts 1907, p. 507.]

CHAPTER 5.

DEALING IN PUBLIC LANDS BY OFFICERS.

	Article		Article
Officer dealing in public land.....	142	Licensed surveyor discovering public land.....	145
Misconduct of land office clerk..	143		
Furnishing advance information of survey	144		

Art. 142. [164] [123] [118] **Officer dealing in public land.**—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 not exceeding five hundred dollars. [P. C. 244, amended in revising 1879.]

Art. 143. [165] [124] [119]. **Misconduct of land office clerk.**—Any clerk or other employee in the general land office, who shall accept or receive from any person 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 any defects in any file or any paper or document in said office, or who shall perform any work out of office hours or receive extra compensation 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 not less than one hundred nor more than five hundred dollars. [Acts 1873, p. 182.]

Art. 144. [167] **Furnishing advance information of survey.**—The information obtained by any survey of the public school, university, asylum or state land made by the board of regents of the University of Texas shall not be communicated by said board or by the person making such survey to any person except the Commissioner of the General Land office until said information is published for the benefit of the general public. Anyone violating this article shall be fined not exceeding one thousand dollars, or imprisoned not to exceed two years in jail. [Act 1903, p. 234.]

Art. 145. **Surveyor discovering public land.**—If a licensed land surveyor should discover an undisclosed tract of public land he shall not make known that fact to any one except to the person or persons as may have it enclosed, but he shall forward to the General Land Office a report of the existence of such tract and the acreage therein and its probable value, and on violation of these provisions by such surveyor he shall be fined not to exceed one thousand dollars. [Acts 2nd C. S. 1919, p. 173.]

CHAPTER 6.

PERSONAL PROPERTY OF THE STATE.

Failure to make inventory.....	Article 146	Secreting or disposing of military property	Article 147
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Art. 146. [173] **Failure to make inventory.**—Any officer or other person whose duty it is under the laws of this State to make an inventory of personal property belonging to the State, who fails to make such inventory as required by such laws, shall be fined not less than one hundred nor more than five hundred dollars. Each thirty days failure to comply is a separate offense. [Acts 1899, p. 309, Acts 4th C. S. 1918, p. 72.]

Art. 147. [173a] **Secreting or disposing of military property.**—Whoever shall secrete, sell, dispose of, offer for sale, purchase, retain after demand made by a commissioned officer of the active militia of this State, or in any manner pawn or pledge any arms, uniforms, equipments or other military property, issued under any provision of the law or of the military regulations of this State, and any person who shall wear any uniform, or part thereof, or device, strap, knot or insignia of any design or character used as a designation of grade, rank or office, such as are by law or by general regulations duly promulgated, prescribed for the use of the active militia of the State, or similar thereto, except members of the army of the United States or the active militia of this or any other State shall be fined not less than one hundred nor more than five hundred dollars. [Acts 1905, p. 183, Acts 1st C. S. 1917, p. 20.]

CHAPTER 7.

THE FLAG AND LOYALTY.

Protecting the flag.....	Article 148	Disloyalty in writing.....	Article 153
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Art. 148. **Protecting the flag.**—Whoever shall in any manner, for exhibition or display, place or cause to be placed, any word, figure, mark, picture, design, drawing or any advertisement of any nature upon any flag, standard, color or ensign of the United States of America, or State flag of this State, or ensign, or shall expose or cause to be exposed to public view any such flag, standard, color, or ensign, upon which, after this Act takes effect, shall have been printed, painted or otherwise placed, or to which shall be attached, appended, affixed or annexed any word, figure, mark, picture, design or drawing, or any advertisement of any nature, or who shall after this Act takes effect, expose to public view, manufacture, sell, expose for sale, give away, or have in possession for sale, or to give away, or for use for any purpose, any article or substance being an article of merchandise, or receptacle of merchandise or article or thing for carrying or transporting merchandise, upon which after this Act takes effect, shall have been printed, painted, attached or otherwise placed a representation of any such flag or flags, standard, color

or ensign to advertise, call attention to, decorate, mark or distinguish the article or substance on which so placed, or who shall publicly mutilate, deface, defy, or defile, trample upon or cast contempt either by words or act, upon any Texas flag, standard, color or ensign, shall be fined not exceeding one hundred dollars or be imprisoned in jail for not more than thirty days, or both. The words flag, standard, color or ensign as used in this article shall include any flag, standard, color, ensign or any picture or representation of either, made of or represented on any substance, and of any size purporting to be, either of, said flag, standard, color or ensign of the United States of America, or a picture or representation, of either upon which shall be shown the colors, the stars and the stripes in any number of either or by which one seeing the same without deliberation may believe the same to represent the flag, colors, standard or ensign of the United States of America. The possession by one other than a public officer, as such, of any such flag, standard, color or ensign, on which shall be anything made unlawful at any time by this article, or of any article or substance or thing on which shall be anything made unlawful at any time by this article, shall be presumptive evidence that the same is in violation of this article, and was made, done or created after this Act takes effect, and that such did not exist when this law took effect. [Acts 3rd C. S. 1917, p. 82.]

Art. 149. **Exceptions.**—The preceding article shall not apply to any act permitted by the Statutes of the United States of America, or by the United States Army and Navy regulations, nor shall it be construed to apply to a newspaper, periodical, book, pamphlet, circular, certificate, diploma, warrant or commission of appointment to office, ornamental picture, article of jewelry or stationery for use in correspondence on any of which shall be printed, or placed said flag, disconnected from any advertisement. [Id.]

Art. 150. **Using Texas flag to advertise.**—No person shall use any imitation, label, trade-mark, design, device, imprint or form of the flag of the State of Texas for the purpose of advertising or giving publicity to any goods, wares or merchandise, or any commercial undertaking, or for any trade or commercial purpose. Any person, whether in his individual capacity or as an officer, agent or receiver of any corporation, who shall violate this article shall be fined not less than fifty nor more than one hundred dollars, and each day is a separate offense. No provision of this article shall apply to any fraternal or patriotic organizations using the Texas flag for an emblem. [Acts 1st C. S. 1913, p. 28.]

Art. 151. **Sale of article with flag thereon.**—No person shall offer or expose for sale any article or commodity of commerce bearing the imitation, design, imprint or form of the flag of the State of Texas. Any person whether in his individual capacity or as an officer, agent or receiver of any corporation who shall violate this article shall be fined not less than twenty-five nor more than fifty dollars. Each day shall be a separate offense. [Id.]

Art. 152. **Insult to United States Flag.**—Any person who

shall within this State, publicly or privately, mutilate, deface, defile, defy, tramp upon, or cast contempt upon, either by word or act any flag, standard, color, or ensign of the United States, or that of any of its officers, or on any imitation of either of them, shall be confined in the penitentiary not less than two nor more than twenty-five years. [Acts 4th C. S. 1918, p. 14.]

Art. 153. **Disloyalty in writing.**—Any person, who shall at any time and place within this State, during the time the United States is at war with any other nation, or nations, commit to writing or printing, or both writing and printing, by letters, words, signs, figures, or any other manner, and in any language, anything of and concerning the United States, the entry or continuance of the United States in the war, or of and concerning the army, navy or marine corps of the United States, any flag, standard, color, or ensign of the United States, or any imitation thereof, or uniform of any of its officers, which is abusive in character, or disloyal to the United States, and reasonably calculated to bring into disrepute the United States, the entry, or continuance of the United States in the war, the army, navy, or marine corps of the United States, any flag standard, color or ensign of the United States, or that of any of its officers, and reasonably calculated to provoke a breach of peace if written to or in the presence of a citizen of the United States, or if said in the presence and hearing of any citizen of the United States shall be confined in the penitentiary not less than two years nor more than twenty-five years. [Id.]

Art. 154. **Possessing flag of enemy.**—Whoever during the existence of a war between the United States and any other nation or nations shall knowingly within this State display, or have in his possession for any purpose whatsoever, any flag, standard, color, ensign or coat of arms of any nation with which the United States is at war or any imitation thereof, or that of any State, subdivision, city or municipality of any such nation shall be confined in the penitentiary not less than two nor more than twenty-five years. [Acts 4th C. S. 1918, p. 14.]

Art. 155. **Disloyal language.**—If any person shall, at any time or place within this State, during the time the United States of America is at war with any other nation, use any language in the presence and hearing of another person, of and concerning the United States of America, the entry, or the continuance, of the United States of America in the war, or of and concerning the army, navy, or marine corps of the United States of America, or of and concerning any flag, standard, color, or ensign of the United States of America, or any imitation thereof, or the uniform of any officer of the army of the United States of America, which language is disloyal to the United States of America, or abusive in character, and calculated to bring into disrepute the United States of America, the entry, or continuance, of the United States of America in the war, the army, navy, marine corps of the United States of America, or any flag, standard, color, or ensign of the United States of America, or any imitation thereof, or the flag, color, standard, or ensign, or the uniform of any officer of the army of the United States of America, and is of such nature as to be reasonably calculated to

provoke a breach of the peace, if said in the presence and hearing of a citizen of the United States of America, shall be confined in the penitentiary not less than two nor more than twenty-five years. [Acts 4th C. S. 1918, p. 12.]

Art. 156. Arrest without warrant. Venue.—Any officer without warrant may arrest anyone violating any provision of the four preceding articles when the offense is committed in his presence or within his view, or within the view of a magistrate, and such officer about to make such arrest is authorized to require the offender to at once desist from such violation. Travis county shall also have venue of said offenses. The Suspended Sentence Law shall not apply to such offenses. [Acts 4th C. S. 1918, p. 14.]

Art. 157.—Discrimination against uniform.—Whoever shall subject or cause to be subjected any other person to the deprivation of any right, privilege or immunity usually enjoyed by the public on account of membership in the army, navy, marine corps or revenue cutter service of the United States, or of the National Guard or naval service of this State, or otherwise in the military or naval service of the United States or of this State, wearing the uniform prescribed for him at that time by law, regulation of the service or custom, on account of his wearing such uniform or of his being in such service, subject only to the limitations established by law and applicable alike to all persons, or who on account of such membership or the wearing of such uniform shall make or cause to be made such discrimination, shall be fined not less than one hundred nor more than five hundred dollars. [Acts 1st C. S. 1917, p. 20.]

TITLE 5

OFFENSES AFFECTING THE EXECUTIVE, LEGISLATIVE AND JUDICIAL DEPARTMENTS OF THE GOVERNMENT.

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CHAPTER ONE.

BRIBERY.

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Art. 158. [174] [125] **Bribery of certain officers.**—Whoever 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, shall be confined in the penitentiary not less than two nor more than five years. [Acts 1858, p. 159, amended in revising 1879.]

Art. 159. [175] [126] **Officers accepting bribe.**—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 confined in the penitentiary not less than two nor more than ten years. [Acts 1858, p. 159, amended in revising 1879.]

Art. 160. [176] [127] **Officers specified.**—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, commissioner of insurance, superintendent of public instruction, members of the legislature, aldermen of all incorporated cities and towns, judges of the supreme, district and county courts and of the courts 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, school trustees, and all other city, county and State officials. [Acts 1885, p. 69, Acts 1899, p. 320.]

Art. 161. [177] [128] **Bribery of clerks, etc.**—Whoever 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, shall be confined in the penitentiary not less than two nor more than five years. [Acts 1858, p. 159, amended in revising 1879.]

Art. 162. [178] [129] **Accepting bribe by same.**—If any officer named in the preceding article shall accept a bribe so offered, or consent to accept the same, he shall be confined in the penitentiary not less than two nor more than five years. [Acts 1858, p. 159, amended in revising 1879.]

Art. 163. [179] [130] **Bribery of auditor, juror, etc.**—Whoever 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, shall be imprisoned in the penitentiary not less than two nor more than five years. [Acts 1858, p. 160.]

Art. 164. [180] [131] **Acceptance of bribe by same.**—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 confined in the penitentiary not less than two nor more than five years. [Acts 1858, p. 161.]

Art. 165. [181] [132] **Offense complete, when.**—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 or selected as such to sit in any particular case, civil or criminal.

Art. 166. [182] [133] **Bribery of attorneys**—Whoever bribes or offers 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, shall be confined in the penitentiary not less than two nor more than five years. [Acts 1858, p. 161.]

Art. 167. [183] [134] **Acceptance of bribe by attorney.**—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.

Art. 168. [184] [135] **Bribery of clerks of court.**—Whoever 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, shall be confined in the penitentiary not less than two nor more than five years. [Acts 1858, p. 161.]

Art. 169. [185] [136] **Acceptance of bribe by clerk.**—If any clerk or deputy clerk of any court of record shall accept or agree to accept a bribe offered for the purpose enumerated in the preceding article, he shall be confined in the penitentiary not less than two nor more than five years. [Acts 1858, p. 161.]

Art. 170. [186] [137] **Bribery of clerks to violate duty.**—Whoever shall bribe or offer to bribe any officer named in Article 168 to do or omit to do any other act not enumerated in said article in violation of the duties of his office, shall be confined in the penitentiary not less than two nor more than five years. [Acts 1858, p. 161.]

Art. 171. [187] [138] **Bribe to permit escape.**—Whoever shall bribe or offer to bribe any sheriff or other peace officer to permit any prisoner in his custody to escape shall be confined in the penitentiary not less than two nor more than five years. [Acts 1858, p. 162.]

Art. 172. [188] [139] **Bribe as to process.**—Whoever 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, shall be confined in the penitentiary not less than two nor more than five years. [Acts 1858, p. 162.]

Art. 173. [189] [140] **Bribery of peace officer.**—Whoever shall bribe, or offer to bribe, a sheriff or any other peace officer to do or to omit to do any other act not heretofore enumerated in violation of his duty as an officer, shall be confined in the penitentiary not less than two nor more than five years. [Acts 1858, p. 162.]

Art. 174. [190] [141] **Acceptance of bribe by officer.**—If any sheriff or other executive or peace officer shall accept or agree to accept a bribe offered, as mentioned in articles 171, 172 and 173, he shall receive the same punishment as is affixed to the offense of giving or offering a bribe in the particular case specified.

Art. 175. [191] [142] **Bribery of witness.**—Whoever shall bribe, or offer to bribe any witness in any case, civil or criminal, to disobey a subpoena or other legal process, or to avoid the serv-

ice of the same by secreting himself, or by any other means, shall be confined in the penitentiary not less than two nor more than five years. [Acts 1860, p. 95.]

Art. 176. [192] [143] **Acceptance of bribe by witness.**—If any witness in any case, civil or criminal, shall accept or agree to accept a bribe offered for any purpose mentioned in the preceding article, he shall be imprisoned in the penitentiary not less than two nor more than five years. [Id.]

Art. 177. [193] [144] **"Bribe"**—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 one offering the same, or some other person.

Art. 178. [194] [145] **Bribe need not be direct.**—The bribe need not be direct; it may be hidden under the semblance of a sale, wager, payment of debt, or in any other manner designed to cover the true intention of the parties. The bribe or promise thereof must precede the act which it is intended to induce the one bribed to perform.

CHAPTER TWO.

LOBBYING.

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Art. 179. [195] **Defining lobbying.**—If any person having any direct interest, or the president or any other officer of any corporation having any direct interest in any measure pending before, or thereafter to be introduced in either branch of the Legislature of this State, in any manner, except by appealing to his reason, privately attempt to influence the action of any member of such Legislature, during his term of office, concerning such measure, he shall be deemed guilty of lobbying. [Sec. 1, Act April 6, 1907, Acts 1907, p. 162.]

Art. 180. [196] **Privately soliciting vote of legislator.**—If any paid or employed agent, representative or attorney of any person, association or corporation, shall at any place in this State, after the election and during the term of office of any member of the Legislature of this State, privately solicit the vote, or privately endeavor to exercise any influence, or offer anything of value or any other inducements whatever, to any such member of the Legislature, to influence his action concerning any measure then pending or thereafter to be introduced in either branch of the Legislature of this State, he shall be deemed guilty of lobbying. [Sec. 2, Id.]

Art. 181. [197] **Exceptions.**—The provisions of this law shall not apply to the Governor or a member of the Legislature of this State, nor prohibit any person either in person, or by his agent or attorney, or any corporation by representatives, agents or attorneys from exercising the rights of petition to the Legislature, or from collecting facts, preparing petitions, procuring

evidence and submitting the same, together with arguments, to either branch of the Legislature, when in session, or to any committee thereof, in the interest of any measure in which he or it may be interested; but in such case the agency and the interest in the measure or the person so appearing shall be fully disclosed. [Sec. 3, Id.]

Art. 182. [198] **Penalty.**—Any person who shall be convicted of lobbying, shall be fined not less than two hundred nor more than two thousand dollars, and in addition may, at the discretion of the jury, be imprisoned in the penitentiary for not less than six months nor more than two years. Any violation of this law may be prosecuted in the county where the offense is committed, or in Travis County. [Sec. 4, Id.]

Art. 183. [199] **Prohibited from going on floor.**—No person employed in any manner to represent the interest in legislation of any person, association or corporation shall go upon the floor of either House of the Legislature, reserved for members thereof, while in session, except upon invitation of such House. Any person violating the provisions of this article shall be fined not to exceed one hundred dollars. [Sec. 5, Id.]

CHAPTER THREE.

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Art. 184. [200] [146] **Officer guilty of drunkenness.**—Any State or district officer who shall be guilty of drunkenness shall be subject to removal from office in the manner provided by law; and shall be fined not less than ten nor more than two hundred dollars. [Acts 1876, p. 76.]

Art. 185. [201] [147] **"State or district officer."**—Within the term "State or district officer" are included the governor, lieutenant-governor, the heads of the several executive departments at the Capitol, 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.

Art. 186. [202] [148] **County or municipal officer.**—Any county or municipal officer who shall be guilty of drunkenness shall, for the first offense, be fined 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. [Act July 31, 1876, p. 76.]

Art. 187. [203] [149] **"Drunkenness."**—Drunkenness, as used in the preceding articles 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. [Id.]

TITLE 6

OFFENSES AFFECTING THE RIGHT OF SUFFRAGE.

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CHAPTER ONE.

BRIBERY AND UNDUE INFLUENCE.

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Election officer accepting bribe. 190	Inducing to pay political assessment 195
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Bribery or attempted bribery of voter 192	Demanding contribution. 197

Art. 188. [206] **Bribery of voter to influence another.**—Any person who lends or contributes or offers or promises to lend or contribute or pay any money or other valuable thing to any voter, to influence the vote of any other person, whether under the guise of a wager or otherwise, or to induce any voter to vote or refrain from voting at an election for or against any person or persons, or for or against any particular proposition submitted at an election, or to induce such voter to go to or to remain away from the polls at an election, or to induce such voter or other person to place or cause to be placed his name unlawfully on the list of qualified voters that is required to be furnished by the county tax collector, shall be confined in the penitentiary not less than one nor more than five years, and in addition shall forfeit any office to which he may have been elected at the election with reference to which such offense may have been committed, and is rendered incapable of holding any office under the State of Texas. [Sec. 160, p. 559, Acts 1905.]

Art. 189. [207] [153] [147] **Bribery of election officers.**—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 to be done or omitted to be done contrary to his official duty in relation to such election, he shall be fined not exceeding five hundred dollars. [O. C. 259.]

Art. 190. [208] [154] [148] **Election officer accepting bribe.**—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 fined not exceeding five hundred dollars. [O. C. 260.]

Art. 191. [293] [192e] **Bribery of officer of election.**—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 to be done or omitted to be done contrary to his duty in relation to such election, he shall be fined not exceeding five hundred dollars. [Sec. 5, Act April 8, 1895, Acts 1895, p. 41.]

Art. 192. [293] [192f] **Bribery or attempted bribery of voter.**—Any person who 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, shall be fined not exceeding five hundred dollars. [Act April 8, 1895, Acts 1895, p. 41]

Art. 193. [209] **Bribery of elector.**—Any person who gives or offers to give any office, employment or thing of value, or promises to secure any office, thing of value or employment of or for any voter or to or for any other person, to vote or refrain from voting at an election for or against any person, or for or against any proposition submitted at an election, or to obtain his certificate of exemption, shall be confined in the penitentiary not less than three nor more than five years, and in addition shall forfeit any office to which he may have been elected, and becomes ineligible to any office to which he may have been elected or to any other public office. [Sec. 161, p. 559, Acts 1905.]

Art. 194. [210] **Elector accepting bribe.**—The penalty prescribed in the preceding article shall be imposed on any one who receives or agrees to receive any money, gift, loan or other thing of value, for himself or any other person, for voting or agreeing to vote, for going or agreeing to go to the polls on election day, or for remaining away or agreeing to remain away from the polls on election day, or for refraining or agreeing to refrain from obtaining his poll tax receipt or certificate of exemption, or for obtaining or agreeing to obtain the same or for voting or agreeing to vote for or against any particular person or proposition submitted to a vote of the people. [Sec. 162, p. 560, Acts 1905.]

Art. 195. [259] **Inducing to pay political assessment.**—Any officer or employe of the State or of a political subdivision thereof, who directly or indirectly uses his authority or official influence to compel or induce any officer, clerk or employe of the State or any political subdivision thereof, to subscribe, pay or promise to pay any political assessment, shall be fined not to exceed five hundred dollars. [Sec. 190, p. 564, Acts 1905.]

Art. 196. [260] **Corruptly using authority or influence.**—Any person who, while holding a public office, or seeking a nomination or appointment thereof, corruptly uses or promises to use directly or indirectly any official authority or influence possessed or anticipated in any way to aid any person in securing an office or public employment, or any nomination, confirmation, promotion, appointment or increase of salary, upon consideration that the vote or political influence or action of the person to be benefitted, or any other person, shall be given or used in behalf of any candidate, officer or party, or upon any other corrupt con-

sideration, shall be fined not to exceed five hundred dollars. [Sec. 191, p. 564, Acts 1905.]

Art. 197. [261] Demanding contribution.—Any head of any of the departments of State or other public officer who shall demand or receive any money or thing of value from any clerk or other person in his office for his election expenses, or to reimburse him for money already expended, or who shall remove from any office any competent clerk who declines to make such contribution, shall be fined not to exceed five hundred dollars. [Sec. 192, p. 564, Acts 1905.]

CHAPTER TWO.

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Art. 198. [224] Poll tax receipts.—Any collector of taxes, or any one in his employ, who wilfully fails or refuses to transcribe correctly from the original poll tax receipt or certificate of exemption and insert in the duplicate retained in the collector's office the name and other description of the citizen required by law to be given by him, or who fails to transcribe correctly from the duplicate kept in the collector's office and insert in the list of qualified voters of a precinct the name and description of the citizen as contained in said duplicate, or who issues a poll tax receipt after the first day of February in any year, bearing a date prior to the first day of February, or who wilfully fails to keep said original duplicate securely locked up when the same are not being used, or permits them to be mutilated, defaced, lost or destroyed, or who conceals, alters or destroys them, shall be fined not less than one hundred nor more than five hundred dollars. [Sec. 152, p. 558, Acts 1905.]

Art. 199. [238] Tax collector unlawfully delivering receipt.—Any tax collector who delivers a poll tax receipt or certificate of exemption to any one except the one entitled thereto and at the time when the tax is paid or the certificate of exemption is applied for, except as specially permitted by law shall be fined not less than one hundred nor more than one thousand dollars, and shall be removed from office. [Sec. 169, p. 561, Acts 1905.]

Art. 200. [249] Delivering receipt to fictitious person.—Any collector of taxes who shall wilfully issue and deliver a poll tax receipt or certificate of exemption to a fictitious person shall be confined in the penitentiary not less than three nor more than five years. [Sec. 180, p. 562, Acts 1905.]

Art. 201. [229] Becoming agent to obtain receipt, etc.—Whoever knowingly becomes agent to obtain a poll tax receipt or certificate of exemption except as provided by law, or any one who gives money to another to induce him to pay his poll tax,

shall be fined not exceeding five hundred dollars. [Sec. 157, p. 559, Acts 1905.]

Art. 202. [250] **Refusing to return receipt.**—Any one to whom a poll tax receipt or certificate of exemption may be intrusted for safe keeping who refuses on the demand of the owner to return the same to the owner thereof shall be fined not to exceed five hundred dollars. [Sec. 181, p. 563, Acts 1905.]

Art. 203. [233] **Unlawfully paying poll tax of a citizen.**—Any candidate for office or other person who pays or procures another to pay the poll tax of a citizen, except as permitted by law, shall be confined in the penitentiary not less than two nor more than five years. [Sec. 164, p. 560, Acts 1905.]

Art. 204. [239] **Loaning money to pay.**—Whoever loans or advances money to another knowing it is to be used for paying the poll tax of such other person shall be fined not to exceed five hundred dollars. [Sec. 170, p. 561, Acts 1905.]

Art. 205. [251] **Obtaining money on receipt.**—Any person who shall sell, pledge, loan or deposit his poll tax receipt or certificate of exemption for money or any other thing of value shall be fined not more than five hundred dollars, and the person who purchases, borrows or obtains possession of the same by way of pledge or loan shall be fined not more than five hundred dollars. Either of the parties to such wrongful act may be compelled to appear and testify in a proceeding against the other, but he shall not thereafter be arrested or punished for his participation in such wrongful act. [Sec. 182, p. 563, Acts 1905.]

CHAPTER THREE.

OFFENSES BEFORE ELECTION.

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Art. 206. [219] **Clerk to post names of candidates.**—The county clerk of each county shall post in a conspicuous place in his office for the inspection and information of the public the names of all candidates that have been lawfully certified to him to be printed on the official ballot for at least ten days before he orders the same to be printed on said ballot, and he shall order all the names of the candidates so certified printed on the ballot as provided by law and in case the county clerk refuses or willfully neglects to comply with this requirement he shall be fined not less than two hundred nor more than five hundred dollars. [Sec. 132, p. 554, Acts 1905.]

Art. 207. [255] **Failure to place name of candidate on ballot.**—Any county clerk or other officer charged by law with the duty of preparing or having printed the official ballot at any general or special election, and any county chairman or member of the county executive committee of any political party so charged with the duty of preparing or having printed the official ballot

to be used at any primary election of such party, who fails or refuses, except in cases permitted by law, to have the name of any candidate or candidates whose nominations have been certified to him placed or printed on such official ballot, shall be confined in the penitentiary not less than one nor more than five years. [Sec. 186, p. 563, Acts 1905.]

Art. 208. [252] **Protecting ballots, supplies and returns.**—If any person intrusted with the transmission to the precinct election judges of official ballots, poll tax receipts and exemption certificate rolls, sample cards, distance markers and any supplies required to conduct an election wilfully fails to deliver the same within the time required by law, or wilfully does any act to defeat the delivery thereof, or not being a person intrusted therewith, shall do any act to defeat the due delivery thereof, he shall be fined not less than two hundred nor more than five hundred dollars. [Sec. 158 and 183, Acts 1905.]

Art. 209. [244] **Refusing employe privilege of voting.**—Whoever refuses to an employe entitled to vote the privilege of attending the polls, or subjects such employe to a penalty or deduction of wages because of the exercise of such privilege, shall be fined not to exceed five hundred dollars. [Sec. 175, p. 562, Acts 1905.]

Art. 210. [262] **Certificate of naturalization.**—Whoever wilfully procures from any court, clerk or other officer a certificate of naturalization, which has been allowed, signed or sealed in violation of the laws of the United States or of this State, with intent to enable him or any other person to vote at any election, when he or such person is not entitled by the laws of the United States to become a citizen or to exercise the elective franchise, shall be confined in the penitentiary not less than five nor more than ten years. [Sec. 193, p. 564, Acts 1905.]

Art. 211. [236] **Political advertising.**—Anything published in a newspaper, pamphlet or printed journal in favor of or in opposition to any candidate for any public office or in favor of or opposition to the success of any public officer or in favor of any political party, or any proposition submitted to a vote of the people, when the same is published in consideration of the receipt or promise of money or thing of value, shall be known as political advertising; and any editor, publisher, manager or agent of any newspaper, pamphlet or printed journal who shall publish political advertising other than as advertising matter, which shall be labeled at the beginning or end thereof with the word "advertisement," or who shall wilfully demand or receive for the publication of such political advertising money or other thing of value in excess of the sum due for such service at the regular advertising rates of such newspaper, pamphlet or printed journal, or any person who shall pay, or offer to pay the editor, publisher, manager or agent of any newspaper, pamphlet or printed journal for such service any money or thing of value in excess of the sum due at regular advertising rates, or any person who shall pay or offer to pay any editor, publisher, manager or agent of a newspaper, pamphlet or printed journal any money or thing of value for the publication of political advertising, except

as advertising matter, shall be fined not less than five hundred nor more than one thousand dollars, or be imprisoned in jail not less than ten nor more than thirty days. Nothing herein shall be construed as applying to announcements of candidates for office. [Sec. 167, p. 560, Acts 1905.]

Art. 212. [237] **Pay for editorial matter.**—If any editor or manager of a newspaper or printed journal, or any person having control thereof, shall demand or receive any money, thing of value, reward or promise of future benefit for publishing anything as editorial matter in advocacy of or opposition to any candidate, or for or against any proposition submitted to a vote of the people, he, and also the one offering such reward shall be punished as in the preceding article, and if the offense be committed by the president of any corporation, or by any officer thereof, with the knowledge or consent of its president, in addition to punishment of the individual, its charter shall be forfeited. Either party to a violation of this and the preceding article may be compelled to testify regarding thereto, but shall not be punished for any act regarding which he may have been required to testify. [Sec. 168, p. 561, Acts 1905.]

Art. 213. [263] **Corporation contributing.**—No national bank, or any other corporation organized by authority of any law of Congress, and doing business in this State, or authorized to do business in this State, or any other corporation organized by the authority of the laws of this State, or of any foreign country, or any corporation authorized by the authority of the laws of any other State of the United States doing business in this State, or authorized to do business in this State, shall make any money contribution, or its equivalent, or offer to pay at any future time any money, or its equivalent, directly or indirectly, for the purpose of aiding or defeating the election of any candidate for the office of Representative in Congress, or Presidential or Vice Presidential Electors from this State, or any candidate for any State, district, county or precinct office in this State, or the success or defeat of any political measure submitted to a vote of the people of this State. Every officer or director of any corporation who shall consent to any contribution as above provided by the corporation in violation of the foregoing provisions shall be fined not less than five hundred nor more than one thousand dollars, or be imprisoned in the penitentiary not less than two nor more than five years, or be both so fined and imprisoned. [Acts 1907, p. 169.]

Art. 214. **Using money donated by corporation.**—If any officer, agent or employe of any bona fide association, incorporated or unincorporated, organized for and actively engaged for one year prior to such contribution in purely religious, charitable or eleemosynary activities, or local, district or statewide commercial or industrial clubs, or associations, or other civic enterprises or organizations not in any manner nor to any extent directly or indirectly engaged in furthering the cause of any political party, or aiding in the election or defeat of any candidate for office, or aiding in defraying the expenses of any candidate for office, or defraying or aiding in defraying the expenses of any political

campaign, or political headquarters, or aiding or assisting the success or defeat of any question to be voted upon by the qualified voters of this State or any subdivision thereof, shall use or permit the use of any stock, money, assets or other property contributed to such organizations by any corporations, to further the cause of any political party, or to aid in the election or defeat of any candidate for office, or to pay any part of the expenses of any candidate for office, or part of the expenses of any political campaign, or political headquarters or to aid in the success or defeat of any political question to be voted on by the qualified voters of the State, or any subdivision thereof, such officer, agent or employe, shall be fined not less than five thousand nor more than ten thousand dollars, and be imprisoned in the penitentiary not less than two nor more than five years. [Acts 1917, p. 25.]

CHAPTER FOUR.

OFFENSES BY OFFICERS OF ELECTION.

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Art. 215. [223] **List of Qualified voters.**—Any person who being an officer, clerk or employe of the county collector of taxes, precinct judge, or clerk of election who knowingly puts in the certified list of qualified voters of a precinct any other number than that written when the poll tax receipt or certificate of exemption was issued; or who knowingly delivers to or receives from any voter any poll tax receipt or certificate of exemption on which is placed any other name than that first written when it was issued, shall be fined not to exceed five hundred dollars. [Sec. 151, p. 558, Acts 1905.]

Art. 216. [227] **Permitting illegal voting.**—Any judge of an election or primary who wilfully permits a person to vote, whose name does not appear on the list of qualified voters of the precinct and who fails to present his poll tax receipt or certificate of exemption or make affidavit of its loss or misplacement or inadvertently left at home, except in cases where no certificate of exemption or tax receipt is required, shall be fined not exceeding five hundred dollars. [Sec. 155, p. 558, Acts 1905.]

Art. 217. [216] **Refusing to permit voter to vote.**—Any judge of any election who shall refuse to receive the vote of any qualified elector who, when his vote is objected to shows by his own oath that he is entitled to vote, or who shall refuse to deliver an official ballot to one entitled to vote under the law, or who shall wilfully refuse to receive a ballot after one entitled to vote has legally folded and returned same, shall be fined not to exceed five hundred dollars. [Articles 216 and 241.]

Art. 218. [228] **Influencing voter.**—Any judge, clerk, or other person who may be in the room where an election, either primary, special or general, is being held, who there indicates by word or sign how he desires a citizen to vote or not to vote, shall be fined not less than two hundred nor more than five hundred dollars and be confined in jail not less than ten nor more than thirty days. [Sec. 156, p. 559, Acts 1905.]

Art. 219. [241] **Illegal acts of judge of election.**—Any judge of election who wilfully permits the removal of ballots before the closing of the polls or wilfully fails to keep order within the polling place, or permits any person, except the clerks and judges of election or those who enter for the purpose of voting, to come within the guard rail, or knowingly permits anyone to remove, alter or deface a stamp number or signature legally placed on a ballot for future identification shall be fined not to exceed one hundred dollars. [Sec. 172, p. 561, Acts 1905.]

Art. 220. [217] [162] [156] **Intimidation by election officer.**—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 fined not exceeding one thousand dollars. [O. C. 268.]

Art. 221. [214] [158] [152] **Election officer opening ballot.**—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 confined in the penitentiary not less than one nor more than two years. [Act Aug. 23, 1876, Sec. 16, Act April 19, 1879, Acts 1879, p. 119.]

Art. 222. [215] [159] [292] **Election officer divulging vote.**—Any presiding officer, judge, clerk, or other officer of any general or primary election who shall from an inspection of the tickets and not in a judicial investigation divulge how any person has voted at such election shall be fined not less than one hundred nor more than five hundred dollars. [Acts Aug. 23, 1876, Act. April 19, 1879, Act April 8, 1895.]

Art. 223. [212] [157] [151] **Interfering with ballot.**—If any manager, judge or clerk of any election shall put into or permit to be put in the ballot box any ballot not given by a voter, or take out or permit to be taken out of such box any ballot deposited therein except in the manner prescribed by law, or change any ballot given by an elector, he shall be fined not less than one hundred nor more than one thousand dollars. [O. C. 264.]

Art. 224. **Aid in marking ballot.**—Not more than one person at the same time shall be permitted to occupy more than one compartment, voting booth or place prepared for a voter, nor shall any assistance be given a voter in preparing his ballot ex-

cept when a voter is unable to prepare the same himself because of some bodily infirmity such as renders him physically unable to write, or is over sixty years of age and is unable to read and write, in which case two judges of such election shall assist him, they having been first sworn that they will not suggest by word or sign or gesture how such voter shall vote, and that they will confine their assistance to answering his questions, to naming candidates and the political parties to which they belong, and that they will prepare his ballot as such voter himself shall direct; provided that the voter must in every case explain in the English language how he wishes to vote, and no judge of the election shall use any other than the English language in aiding the voter, or in performing any of his duties as such judge, and in all cases where assistance is given hereunder, two judges of the election shall assist such voter, they having been first sworn that they will not suggest by word, sign or gesture, how such voter shall vote, that they will confine their assistance to answering his questions in the English language, to naming candidates and if the voting be at a general election to naming the parties to which such candidates belong and that they will prepare the ballot as such voter directs, in the English language. If the election be a general election, the judges who assist such voter shall be of different political parties, if there be such judges present, and if the election be a primary election, a supervisor, or supervisors may be present when the assistance herein permitted is being given, but such supervisor must remain silent except in cases of irregularity or violation of this law. Any judge or other officer of an election who shall violate any provision of this article shall be fined not less than two hundred nor more than five hundred dollars, or be confined in jail for not less than two nor more than twelve months, or both. [Acts 1919, p. 94.]

Art. 225. [258] Aid to voter.—Any judge or other officer at an election who assists any voter to prepare his ballot except when a voter is unable to prepare the same on account of blindness or some bodily infirmity such as renders him unable to write, or is over sixty years of age, or who shall aid such voter by using any other than the English language, and any judge or other officer of an election who in assisting a voter so incapacitated, or over sixty years of age in the preparation of his or her ballot shall prepare the same otherwise than said voter shall direct in the English language shall be fined not less than \$200.00 nor more than \$500.00 or by confinement in jail not less than two nor more than twelve months, or both. [Acts 1905, p. 564, Act Mar. 23, 1918, Act 1919, p. 95.]

Art. 226. [218] [163] [157] Presiding officer failing to deliver ballot.—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 the time provided by law, 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 jail not exceeding six months. [Act Aug. 23, 1876, Act April 19, 1879, Act April 4, 1881, Act April 9, 1883.]

Art. 227. [225] **Making false canvass.**—Any judge or clerk of an election, chairman or member of a party executive committee, or officer of a primary, special or general election, who wilfully makes any false canvass of the votes cast at such election, or a false statement of the result of a canvass of the ballots cast shall be confined in the penitentiary not less than two nor more than five years. [Sec. 153, p. 558, Acts 1905.]

Art. 228. [242] **False certificate by chairman.**—Any chairman of a county executive or district or State executive committee who is charged with the duty of certifying the names of the candidates selected by a primary convention or primary election who wilfully omits to certify the name of any candidate legally chosen, or who certifies falsely regarding anyone chosen or defeated, shall be fined not exceeding five hundred dollars. [Sec. 173, p. 562, Acts 1905.]

Art. 229. [264] [164] [158] **Giving false certificate of election.**—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 jail not less than one month nor more than one year. [O. C. 269.]

Art. 230. [226] **Wilfully failing or refusing to discharge duty.**—Any judge, clerk, chairman or member of an executive committee, collector of taxes, county clerk, sheriff, county judge or judge of an election, president or member of a State Convention, or Secretary of State who wilfully fails or refuses to discharge any duty imposed on him under the law, shall be fined not to exceed five hundred dollars, unless the particular act under some other law is made a felony. [Sec. 154, p. 558, Acts 1905.]

Art. 231. **“Election” defined.**—The term “election” as used in this chapter, means any election, either general, special, or primary, held under authority of law within this State, or within any town, city, district, county, precinct, or any other subdivision within this State for any purpose whatever.

CHAPTER FIVE.

ILLEGAL VOTING.

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Art. 232. [271] [171] [165] **Illegal voting.**—If any person knowing himself not to be a qualified voter, shall at any election vote for or against any officer to be then chosen, or for or against any proposition to be determined by said election, he shall be

confined in the penitentiary not less than two nor more than five years. [O. C. 275, Acts 1887, p. 37.]

Art. 233. [273] [174] [167] **Instigating illegal voting.**—Whoever shall procure, aid, or advise another to give his vote at any election, knowing that the person is not qualified to vote, or shall procure, aid, or advise another to give his vote more than once at such election, shall be fined not less than one hundred nor more than five hundred dollars, and may in addition thereto be imprisoned in jail not exceeding one month. [O. C. 276, Acts 1876, p. 311.]

Art. 234. [274-283] **False swearing by voter.**—Whoever shall swear falsely as to his own qualifications to vote, or who shall swear falsely as to the qualifications of a person offering to vote who is challenged as unqualified, shall be confined in the penitentiary not less than two nor more than five years.

Art. 235. [275] [176] [169] **Procuring voter to swear falsely.**—Whoever wilfully and corruptly procures any person to swear falsely, as prescribed in the preceding article, shall be confined in the penitentiary not to exceed three years, or be fined not exceeding three thousand dollars. [O. C. 279.]

Art. 236. [289] [192a] **Illegal voting at primary.**—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 fined not exceeding five hundred dollars, or be imprisoned in jail not exceeding sixty days, or both. [Acts 1895, p. 40.]

Art. 237. [290] [192b] **Procuring an illegal vote.**—Whoever shall knowingly procure any illegal vote to be cast at such primary election shall be punished as provided in the preceding article. [Acts 1895, p. 40.]

Art. 238. **Absentee voting.**—Any person wishing to vote as an absentee voter who shall vote or offer to vote illegally, or in any case or at any place where he is not entitled to vote, or who shall make false representation in any effort to vote, or who shall attempt to vote on any poll tax receipt issued to a person other than himself, shall be fined not more than one thousand dollars or be imprisoned in the county jail not more than two years or both so fined and imprisoned. This law applies to any and all elections including general, special and primary elections. [Acts 1923, p. 318]

Art. 239. [246] **Falsely personating another.**—Whoever attempts to falsely personate at an election another person, and vote or attempt to vote on the authority of a poll tax receipt or certificate of exemption not issued to him by the county tax collector, shall be confined in the penitentiary not less than three nor more than five years. [Sec. 177, p. 562, Acts 1905.]

Art. 240. [240] **Voting at both primary elections.**—Whoever votes or offers to vote at a primary election or convention

of a political party, having voted at a primary election or convention of any other party on the same day, shall be fined not less than one hundred nor more five hundred dollars. [Sec. 171, p. 561, Acts 1905.]

Art. 241. [221] **Voting more than once.**—Whoever at a general, special or primary election votes or attempts to vote more than once shall be fined not less than one hundred nor more than five hundred dollars. [Sec. 149, p. 558, Acts 1905.]

Art. 242. [213] **Using dummy ballot.**—Any judge may require a citizen to answer under oath before he secures an official ballot whether he has been furnished with any paper or ballot on which is marked the names of any one for whom he has agreed to vote, or for whom he has been requested to vote, or has such paper or marked ballot in his possession, and he shall not be furnished with an official ballot until he has delivered to the judge such marked paper or ballot, if he has one. Any person who gives, receives or secures or is interested in giving or receiving an official ballot or any paper whatever, on which is marked, printed or written the name of any person for whom he has agreed to vote, or for whom he has been requested to vote, or has such paper marked, written or printed in his possession as a guide by which he could make out his ticket, shall be fined not less than one hundred nor more than five hundred dollars, and be confined in jail thirty days. [Sec. 70, p. 536, Acts 1905.]

Art. 243. [231] **Illegal acts while voting.**—Any voter who shall show his ballot so as to reveal the vote cast by him, or who marks it otherwise than required by law for identification or who after voting delivers to the precinct judge of election any ballot other than the one delivered to him by the judge at the polling place, shall be fined not exceeding five hundred dollars. [Acts 1905, Sec. 559, p. 159.]

CHAPTER SIX.

OFFENSES AFTER ELECTION.

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Altering or destroying ballots, etc. 244	County clerk to keep ballot box... 249
Messengers tampering with ballot. 245	County clerk to destroy ballots... 250
Failing to deliver returns..... 246	Not applicable in cases of contest. 251
Preventing delivery of returns.... 247	Candidate failing to file statement. 252
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Art. 244. [248] **Altering or destroying ballots, etc.**—If any person shall wilfully alter or obliterate, suppress or destroy any ballots, election returns or certificates of election, he shall be confined in the penitentiary not less than three nor more than five years. [Sec. 179, p. 562, Acts 1905.]

Art. 245. [230] **Messenger tampering with ballot.**—Any person legally intrusted with the ballots cast at an election who shall open and read a ballot or permit it to be done before delivering the same to the person directed shall be fined not exceeding five hundred dollars. [Acts 1905, p. 559.]

Art. 246. [276] [178] [171] **Failing to deliver returns.**—If any persons intrusted with the transmission of an election

return, shall wilfully do any act that shall defeat the delivery thereof or shall wilfully neglect to deliver the same as directed by law, he shall be fined not exceeding one thousand dollars. [O. C. 281.]

Art. 247. [277] [179] [172] **Preventing delivery of returns.**—Whoever shall take away any election return from any person intrusted therewith, either by force or in any other manner, or wilfully do any act that shall defeat the due delivery thereof, as directed by law, shall be fined not exceeding two thousand dollars. [O. C. 282.]

Art. 248. [253] **Failure to keep ballot box.**—Whoever fails to keep securely any ballot box containing ballots voted at an election, when committed to his charge by one having authority over the same, shall be fined not to exceed five hundred dollars. [Sec. 184, p. 563, Acts 1905.]

Art. 249. [279] [181] [174] **County clerk to keep ballot box.**—If any county clerk shall fail, neglect or refuse to keep securely any ballot box containing tickets of election committed to his custody by the presiding officer of any election precinct, he shall be fined not less than fifty nor more than five hundred dollars, and, in addition thereto, he may be imprisoned in jail not exceeding six months. [Acts 1876, p. 308.]

Art. 250. [280] [182] [175] **County clerk to destroy ballots.**—If any county clerk 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. [Acts 1876, p. 308.]

Art. 251. [281] [183] [176] **Not applicable in cases of contest.**—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. [Acts 1876, p. 308.]

Art. 252. [232] **Candidate failing to file statement.**—Any candidate for any public office, whether elected or not, who fails to file with the county judge of his county within ten days after the date of a general election an itemized statement of all money or things of value paid or promised by him before or during his candidacy for such office, including his traveling expenses, hotel bills and money paid to newspapers, and make an affidavit to the correctness of such account, showing to whom paid or promised, shall be fined not less than two hundred nor more than five hundred dollars. [Sec. 163, p. 560, Acts 1905.]

CHAPTER SEVEN.

RIOTS AND UNLAWFUL ASSEMBLIES AND MISCONDUCT AT ELECTIONS.

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Art. 253. [265] [165] [159] **Riot at election.**—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 fined not exceeding one thousand dollars. [O. C. 271.]

Art. 254. [266] [166] [160] **Unlawfully assembly to prevent election.**—If any unlawful assembly meets 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 fined not exceeding five hundred dollars. [O. C. 272.]

Art. 255. [267] [167] [161] **Disturbance at election.**—If any person shall disturb any election by inciting or encouraging a tumult or riot, or shall cause any disturbance in the vicinity of any poll or voting place, he shall be fined not less than one hundred nor more than five hundred dollars, and in addition thereto may be imprisoned in jail not exceeding one month. [Acts 1876, p. 311.]

Art. 256. [268] [168] [162] **Intimidation of electors.**—Whoever shall, by force or intimidation, obstruct or influence, or attempt to obstruct or influence, any voter in the free exercise of the elective franchise, shall suffer the punishment prescribed in the preceding article. [Id.]

Art. 257. [269] [169] [163] **Carrying arms about election.**—Whoever, 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, shall be punished as described in article 255. [Acts 1873, p. 29, Acts 1876, p. 311.]

Art. 258. [256] **Person in service of United States interfering with voter.**—Any person in the civil or military service of the United States in this State who by threats, bribery, menace or other corrupt means attempts to control or controls the vote of an elector, or annoys, injures or punishes him for the manner in which he exercises his elective franchise in any election, shall be fined not more than five hundred dollars, and may be arrested and tried at any future time when he may be found in Texas. [Sec. 187, p. 563, Acts 1905.]

Art. 259. [231] **Electioneering near polls.**—Whoever shall do any electioneering or loitering within one hundred feet of the entrance of the place where the election is to be held, or who shall hire any vehicle for the purpose of conveying voters to the polling place, or shall wilfully remove any ballots from the polling place, except as permitted by law, shall be fined not exceeding five hundred dollars. [Sec. 159, p. 559, Acts 1905.]

Art. 260. [243] **Defacing election booth, etc.**—Any person who, during an election, wilfully defaces or injures an election booth or compartment, or wilfully removes any of the supplies provided for elections, or before the closing of the polls wilfully defaces or destroys any list of candidates to be voted for at an election which has been posted in accordance with law, shall be

fined not exceeding five hundred dollars. [Sec. 174, p. 562, Acts 1905.]

Art. 261. [270] [170] [164] **Illegal arrest of voter.**—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 fined not exceeding three hundred dollars. [O. C. 270.]

CHAPTER EIGHT.

LIMITING EXPENDITURE IN PRIMARY ELECTION.

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Limiting expenditure by candidate.	264	Giving or accepting	268
Campaign contributions	265	Sworn statement	269
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Art. 262. **Definitions.**—The word “candidate” shall mean any person who has announced to any other person or to the public that he is a candidate for the nomination for any office which the laws of this State permit to be determined by a primary election. The words “county nomination” shall mean the nomination for any office to be filled by the choice of the voters residing in only one county or less than one county and the words “District nomination” shall mean the nomination for any office to be filled by the choice of the voters residing in more than one county. The words “State nomination” shall mean the nomination for any office to be filled by the choice of the voters of the entire State.

In all cases where second primary elections may be held in compliance with any law of this State, the first and second primary elections shall for the purposes of this law be considered together as one primary election. [Sec. 1, Act Mar. 20, 1919. Acts 1919, p. 139.]

Art. 263. **Appointing manager.**—Every candidate for a State or District nomination may designate a campaign manager by written appointment filed with the Secretary of State. Every candidate for a county nomination may designate a campaign manager by written appointment to be filed with the county clerk of his county, and each candidate for State or District nomination, or the lawfully designated campaign manager of such candidate, may also designate an assistant campaign manager for each county affected by such candidacy by written appointment to be filed with the county clerk of the county. [Sec. 2. Id.]

Art. 264. **Limiting expenditures by candidate.**—Any candidate for any nomination for a State, county, district or precinct office, to be determined by a primary election held under the laws of this State, or any campaign manager for such candidate, who shall himself, or by or through any other person or persons, or on behalf of any other person or persons, directly or indirectly, give, pay or expend any money, or pay or give anything of value, or promise to give, pay or expend any money or to pay or to give anything of value, or authorize any expenditure or

assume any pecuniary liability in furthering or opposing the candidacy of any person for any nomination to be determined by such primary election, except for the purposes provided for by the laws of this State governing such primary elections; or any candidate or any campaign manager of any candidate or his clerk or agent, or assistant campaign manager, or his clerk or agent, in furthering or opposing the candidacy of any person for any nomination in any such primary election, who shall expend any money, or give or promise to give or pay any money or anything of value, in excess of the amount fixed and prescribed by the laws of this State regulating expenditures by candidates and campaign managers, at such primary elections, shall be fined not exceeding one thousand dollars, or confined in jail for not more than one year, or both, or be confined in the penitentiary for not less than one nor more than five years. [Sec. 3. Id.]

Art. 265. Campaign contributions.—It shall be lawful for any person to make campaign contributions to be paid directly to the candidate or his lawfully appointed campaign manager or by citizens of any county to the lawfully designated and appointed assistant campaign manager for such county, such contributions to be used for lawful purposes. It shall be lawful for any citizens residing in any locality to raise by voluntary contributions a fund not exceeding fifty dollars for the purpose of defraying the expenses of any political meeting to be held in such locality, such expense to include the cost of advertising such meeting, or providing a place to hold the same, or providing music therefor, or the bonafide traveling expenses and hotel bills of speakers. A statement of all receipts and disbursements for such purposes signed and sworn to by the person or persons receiving and disbursing the same shall be filed with the county clerk of the county in which such meeting is held, within twenty-four hours after it is held. It shall be lawful for any person to expend a sum for postage, or telegraph or telephone tolls, or for cost of any correspondence or any other lawful purpose out of his own funds where the sum is not to be repaid to him in behalf of any one candidate a sum which shall not in the aggregate exceed ten dollars. It shall be lawful for any person to contribute bona fide his own personal services and personal traveling expenses, including hotel bills while traveling in the support of any candidacy. Except as expressly permitted by the foregoing provisions of this article, it shall be unlawful for any person other than candidates for nomination to be determined by primary elections or the campaign managers or assistant campaign managers of such candidate lawfully designated as provided in this chapter or the agents of such campaign managers or assistant campaign managers lawfully authorized as provided in this chapter, either himself or by or through any other person or on behalf of any other person directly or indirectly to give, pay or expend any money or give or pay anything of value or promise to give, pay or expend any money or authorize any expenditure or assume any

pecuniary liability for the purpose of aiding, or defeating or helping to defeat the nomination at any such primary election of any candidate for any nomination to be determined thereby. Any person who shall violate any provision of this article shall be punished by a fine not to exceed one thousand dollars or by confinement in jail for not more than one year, or by both such fine and imprisonment, or by confinement in the penitentiary for not less than one nor more than five years. [Sec. 4, Id.]

Art. 266. Paid workers.—Whoever otherwise than in compliance with the provisions of this chapter, shall hire or employ or offer to hire or employ or shall reward or give to any person anything of value for his services or for loss of time or for reimbursement for his expenses in consideration of such person directly or indirectly working, electioneering or making public addresses for or against any candidate for a nomination in a primary election, or who rewards or offers to reward any person for his vote or influence or the promise of his vote or influence for or against any candidate for nomination in a primary election, shall be fined not to exceed one thousand dollars, or be confined in jail for not more than one year, or both, or be confined in the penitentiary not less than one nor more than five years. [Sec. 5, Id.]

Art. 267. One candidate contributing to another.—Any candidate for a nomination in a primary election or his campaign manager or his assistant campaign manager, who shall directly or indirectly himself or by or through another person, give, pay, expend or contribute any money or thing of value for the furtherance of the candidacy of any other candidate shall be fined not to exceed one thousand dollars or be confined in jail not to exceed one year, or both. [Sec. 6, Id.]

Art. 268. Giving or accepting.—Any candidate or other person who furnishes, gives, or delivers to another person any money or other thing of value to be used in violation of or for any purpose prohibited by any provision of this chapter and any person who receives or accepts any money or thing of value to be used in violation of or for any purpose prohibited by any provision of this chapter shall be punished by a fine not to exceed \$1000.00, or by confinement in jail for not more than one year, or by both such fine and imprisonment, or by confinement in the penitentiary for not less than one nor more than five years. [Sec. 7, Id.]

Art. 269. Sworn statement.—Each candidate for nomination in a primary election and every campaign manager or assistant campaign manager for any such candidate, is hereby required to keep an accurate record of all funds received and disbursed for campaign purposes, which record shall be preserved for a period of twelve months, and shall be open to inspection of all opposing candidates and qualified voters, and every candidate and campaign manager is hereby required to file a sworn statement of all monies previously received or disbursed by him, including money borrowed and liabilities in-

curred but not paid, not more than thirty nor less than twenty-five days prior to the date of the primary election, and not more than twelve nor less than eight days prior to the date of the primary election. Each such statement shall include all items contained in all statements previously made in accordance with the requirements of this article if any, and shall include the names of all contributors to any campaign fund handled by the party making the same, and the names of all persons from whom any money has been received or from whom any money has been borrowed for such fund, and the names of all persons to whom disbursements exceeding ten dollars in amount have been made and the purposes of such disbursements. Such statement shall also set forth that it is as full and explicit as the party making it is able to make, and the party making it shall before some officer qualified to administer oaths, take and subscribe the following oath, which shall be filed with said statement.

“I do solemnly swear that the foregoing statement filed herewith correctly shows all moneys received by me and disbursed by me or in my behalf or with my knowledge or consent through or by any other person in connection with the candidacy of _____ for the nomination for _____ before the _____ primary election, and that I have neither directly or indirectly arranged or assented to, encouraged or connived at the spending of any money other than as shown in said statement, and that I have not violated any provision of the laws of Texas, governing primary elections of the expenditure of funds in connection with a candidacy for a nomination in such primary election in letter or in spirit.”

Such statements and oaths shall be filed within the times required by this article by candidates for State and District nominations and their campaign managers with the Secretary of State, and by candidates for County nominations and their campaign managers and by the assistant campaign managers of candidates for State and District nominations with the County Clerk of the County in which they reside.

Whoever shall wilfully and corruptly make any false oath, affidavit or sworn statements in complying with the requirements of this article shall be fined not to exceed \$1000.00 or be confined in jail for not more than one year, or both, or be confined in the penitentiary not less than one nor more than five years. [Sec. 8, Id.]

CHAPTER NINE.

ELECTION FOR CONSTITUTIONAL AMENDMENTS.

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Art. 270. Refusing judge, clerk and supervisor.—Whenever any proposed amendment to the Constitution of this State is to

be voted upon by the qualified voters of this State, either at an election held for that purpose or at any election for the State officers, the county chairman of any organization advocating, and the county chairman of any organization opposing the adoption of such amendment, or if such county chairman fails to act, then three members of the county executive committee of any organization advocating, or three members of the county executive committee opposing the adoption of such constitutional amendment may at any time not less than five days before the election at which such proposed amendment is to be voted upon, nominate one judge, one clerk and one supervisor to serve as judge, clerk and supervisor, respectively, for the voting precinct or box for which they are so selected, who shall be qualified voters of the voting precinct or box for which they are chosen, by presenting in writing to the county judge of the county the names of such judges, clerks and supervisors so selected, and such county judge shall appoint the parties nominated to act in such capacities at the respective voting precincts and boxes for which they are respectively selected. Should the county judge fail or refuse to appoint such officers, they shall apply to the officers and judges of the voting precinct or box for which they were respectively nominated, and the manager and judges of such precinct or box shall permit such persons so selected to act in the capacities named. The managers or judges of the election so refusing, shall be fined not less than one hundred nor more than five hundred dollars, and imprisoned in jail for not less than twenty and not more than sixty days. [Secs. 1 and 2, Act March 17, 1911, Acts 1911, p. 144.]

Art. 271. Making false return or false certificate of result.—Any manager, judge or clerk of any such election, who shall knowingly make any false return or false certificate of the result of any such election, shall be confined in the penitentiary not less than one nor more than five years. [Sec. 5, Id.]

Art. 272. Intimidating voter.—Any election officer or supervisor who shall intimidate or attempt to intimidate any voter, or knowingly refuse to allow any qualified voter to vote, or any person who, within one hundred feet of the voting box on election day, shall intimidate or attempt to intimidate any qualified voter from voting, or in any manner by word or act attempt to influence any voter to cast his vote for or against any question provided under this Act to be voted upon, shall be fined not less than fifty nor more than five hundred dollars. [Sec. 5a, Id.]

Art. 273. False certificate.—Any officers of any county upon whom is placed by law the duty of making and certifying to the Secretary of State returns of any such election, who shall knowingly make or certify to any false certificate or false statement of the result of any such election shall be confined in the penitentiary for not less than one nor more than five years. [Sec. 5, Id.]

Art. 274. County judge refusing to appoint officers.—If any county judge refuses to appoint the officers as provided for and required by law, he shall be fined not less than fifty nor more than five hundred dollars, and be imprisoned in jail not less than ten nor more than thirty days, and such refusal shall be grounds for his impeachment and removal from office. [Sec. 7, Id.]

CHAPTER TEN.

ELECTION OF UNITED STATES SENATOR.

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Art. 275. Offenses at primary election.—At each primary election held in this State for the nomination of a candidate for United States Senator, each provision of the laws of this State which has for its object the protection of the ballot and the safeguarding of the public against fraudulent voting, undue influence, corrupt practices, and in fact each restriction of whatever kind as applied to any election held in this State whether general, special or primary shall be held to apply to a primary election held for or when a candidate for United States Senator is to be nominated when not in conflict with the provisions of this chapter. The violation of any such provision or restriction at any such primary election shall be punished in the same manner as prescribed by law for the violation of any election law whether general, special or primary. [Sec. 6, p. 102, Acts 1st. C. S. 1913.]

Art. 276. Failing to make statement.—Each person who shall receive any payment directly or indirectly, for political purposes in a campaign before a general election for United States Senator whether as salary or as expenses, shall within thirty days after such payment has been made or promised make a sworn statement showing in detail said payment or promised payments, by whom made and what services were rendered for same. This statement shall be filed with the secretary of State. Any person who comes within the provisions of this article and fails to make such statements, shall be confined in jail not less than ten nor more than thirty days. [Sec. 24, p. 107, Id.]

Art. 277. Failure of duty.—Any person other than a candidate for United States Senator and any member of any personal campaign committee or any party committee, who shall fail to do and perform any thing required of him in reference to the disbursement or collection, or the payment of money, or thing of value for political purposes, as defined by this chapter, shall be confined in jail not less than thirty nor more than one hundred days, and in addition thereto may be fined not less than one hundred nor more than five hundred dollars. [Sec. 30, p. 108, Id.]

Art. 278. **Unlawful act.**—Any person (not a candidate) and any member of any personal campaign committee or party committee who shall do any of the things forbidden by this chapter with reference to the payment, collection or disbursement of money or other thing of value for political purposes, as defined herein, shall be confined in jail not less than thirty nor more than one hundred days, and in addition thereto may be fined not less than two hundred nor more than five hundred dollars. [Sec. 31, Id.]

Art. 279. **Candidate failing to perform duty.**—Any candidate for United States Senator who shall fail to do any act required of him under the provisions of this chapter relating to the disbursement or collection of money or anything of value for political purposes, shall be confined in jail not less than thirty nor more than one hundred days, and in addition thereto may be fined not less than two hundred nor more than five hundred dollars. [Sec. 32, p. 108, Id.]

Art. 280. **Candidate doing unlawful acts.**—If any candidate for United States Senator shall do any act forbidden by any provision of this chapter with reference to the disbursement or collection of money, or anything of value, for political purposes as defined by this chapter, he shall be confined in jail not less than thirty nor more than one hundred days, and in addition thereto may be fined not less than two hundred nor more than five hundred dollars. [Sec. 33, p. 108, Id.]

TITLE 7

RELIGION AND EDUCATION.

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CHAPTER ONE.

DISTURBANCE OF RELIGIOUS WORSHIP.

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Art. 281. [296] [193] **Disturbing congregation.**—Any person who, by loud or vociferous talking or swearing, or by any other noise or in any other manner wilfully disturbs any congregation or part of a congregation assembled for religious worship and conducting themselves in a lawful manner, or who wilfully 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 not less than twenty-five nor more than one hundred dollars. [O. C. 284, Acts 1873, p. 43, Acts 1883, p. 17, Acts 1897, p. 102.]

Art. 282. [297] [194] **Offender may be bound over.**—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.

CHAPTER TWO.

SUNDAY LAWS.

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Art. 283. [299] [196] [183] **Working on Sunday.**—Any person who shall labor, or compel, force, or oblige his employes, workmen, or apprentices to labor on Sunday, or any person who shall 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. [Act Dec. 16, 1863, Act Dec. 2, 1887, Acts 1887, p. 108.]

Art. 284. [300] [197] **Not applicable.**—The preceding article shall not apply to household 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. [Act Dec. 2, 1871, Acts 1871, p. 62. Amended in revising 1879.]

Art. 285. [301] [198] **Horse racing or gaming on Sunday.**—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 oher consideration, within the limits of any city or town on Sunday, shall be fined not less than twenty nor more than fifty dollars. [Acts 1871, p. 62.]

Art. 286. [302] [199] [186] **Selling goods on Sunday.**—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. [Act Dec. 2, 1871, Acts 1883, p. 66, Acts 1887, p. 108.]

Art. 287. **Permitting the sale of gasoline and lubricants on Sunday.**—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 sales 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, nor to sales of gasoline or other motor fuel, nor to vehicle lubricants. [Acts 1925, p. 347.]

CHAPTER THREE.

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Art. 288. **Shall use English language.**—Every teacher, prin-

cipal and superintendent employed in the public free schools shall use the English language exclusively in the conduct of the work of the schools and recitations and exercises of the school shall be conducted in the English language, and the trustees shall not prescribe any texts for elementary grades not printed in English. It is lawful to teach Latin, Greek, French, German, Spanish, Bohemian, or other language as a branch of study in the high school grades as outlined in the state course of study. Any such teacher, principal, superintendent, trustee, or other school official having responsibility in the conduct of the work of such schools who fails to comply with the provisions of this article shall be fined not less than twenty-five nor more than one hundred dollars, cancellation of certificate or removal from office, or both fine and such cancellation or fine and removal from office. [Acts 4th C. S., 1918, p. 170.]

Art. 289. Shall teach patriotism.—The daily program of every public school shall be so formulated by the teacher, principal or superintendent as to include at least ten minutes for the teachings of intelligent patriotism, including the needs of the State and Federal Governments, the duty of the citizen to the State, and the obligation of the State to the citizen. Any official or employe of the public free schools who fails to perform his legal duty in connection with the provisions of this law shall be subject to a fine of not more than five hundred dollars or removal from office or both fine and removal from office. [Acts 4th C. S., 1918, p. 67.]

Art. 290. To teach Texas History.—The History of Texas shall be taught in all public schools in and only in the history course of all such schools. The said course shall not be less than two hours in any one week. The State Superintendent of Public Instruction shall notify the different county and city superintendents as to how said course shall be divided, and any city or county superintendent who fails or refuses to follow out the provisions of this article shall be fined not less than twenty-five nor more than two hundred dollars. [Acts 1917, p. 302.]

Art. 291. [1512] [1006] Approving voucher without certificate.—Any county or city superintendent or school trustee who approves any teacher's contract or voucher until the person has presented a valid certificate shall be fined not less than twenty-five nor more than one hundred dollars. [Acts 1891, p. 187.]

Art. 292. [1513] Traffic in examination questions.—Whoever shall sell, barter, or give away, prior to any forthcoming examination, to applicants for teachers' certificates, or to any person, the questions prepared by the State Superintendent of Public Instruction to be used by the county, summer normal, or any board of examiners in the examination of teachers at said forthcoming examination; or any person who shall accept or otherwise obtain possession of such questions, or the answers thereto, prior to any such examination; or whoever shall use the

same fraudulently at the time of said examination, or thereafter; or who shall permit or aid in the substitution of examination papers fraudulently prepared to be substituted for examination papers prepared during the examination; or who accepts remuneration for the granting of certificates or for aiding others to obtain certificates, except as provided for by law, shall be fined not less than one hundred and not more than five hundred dollars and imprisoned in jail for not less than twenty nor more than sixty days. [Acts 1901, p. 272, Acts 1905, p. 296, Acts 3rd C. S. 1920, p. 114.]

Art. 293. **Violating Textbook Law.**—Any person who willfully violates any provision of the law providing for the purchase and distribution of free text books for the public free school shall be fined not less than five nor more than one hundred dollars. [Acts 1919, p. 47.]

Art. 294. [418] **Refusal to answer census trustee.**—Every person having control of any child which will be over seven and under seventeen years of age on the first of September next thereafter and who, being requested by the census trustee to prepare the form prescribed by law giving the information showing the name, sex and date of birth of each child of which he has control and which is within said ages, or to give the information necessary to enable the trustee to prepare the same, shall refuse to do so, or shall refuse to make oath to such form when filled according to his statement of facts in regard to said children, or shall fail to return the form left at his home in his absence to the census trustee as required by law, shall be fined not less than five nor more than ten dollars. [Acts 1893, p. 199, Acts 1905, p. 285.]

Art. 295. [1514] **Loitering on school grounds.**—Any person who loiters or loafs upon any public school grounds during the session of such school after being warned by the person in charge of such school to leave such grounds shall be fined not less than five nor more than twenty-five dollars. [Acts 1907, p. 452.]

Art. 296. **Transfer of school children.**—In the case of conditions arising from public calamity in any section of the State such as serious floods, prolonged drouth, or extraordinary border disturbances, resulting after the scholastic census has been taken, in such sudden changes of the scholastic population of any county as would work a hardship in the support of the public free schools of the said county, the State apportionment of any child of school age may, on approval of the State Board of Education, be ordered by the State Superintendent of Public Instruction to be transferred to any other county or independent school district in any other county; providing that the facts warranting such transfer shall be sent to the State Superintendent by the county or district board of trustees of schools to which transfer is to be made with a formal request for the said transfer before the first of August of the year in which such

unusual conditions occur, and provided further that no application for emergency transfers shall be granted unless the number of transfers applied for exceeds twenty per cent of the number of children assigned to said district including regular transfers as a result of the last preceding census. The State Superintendent shall in such case notify the county superintendent of the county to which the funds are to be transferred and the county superintendent of the county from which the funds are to be transferred that final apportionments of school funds cannot be made under these circumstances before August 15. All arrangements for the said emergency transfers must be completed by the 15th of August following the unusual conditions causing the emergency. Children whose State funds are thus transferred to any county shall be included in the number of children for whom the county school apportionment of the said county is made. Any county judge serving as ex-officio county superintendent, or any county superintendent, district, city or town superintendent or any school officer who refuses to comply with the provisions of this article shall be fined not less than \$50.00 nor more than \$500.00, or be confined in jail not more than sixty days, or both. [Acts 1923, p. 253.]

Art. 297. School attendance required.—Every child in this State who is eight years and not more than fourteen years old shall be required to attend the public schools in the district of its residence, or in some other district to which it may be transferred as provided by law, for a period of not less than one hundred days. The period of compulsory school attendance at each school shall begin at the opening of the school term unless otherwise authorized by the district school trustees and notice given by the trustees prior to the beginning of such school term; provided that no child shall be required to attend school for a longer period than the maximum term of the public school in the district where such child resides. [Acts 1915, p. 94, Acts 1923, p. 255.]

Art. 298. Exempt from attendance.—The following classes of children are exempt from the requirements of the compulsory attendance law:

(a) Any child in attendance upon a private or parochial school which shall include in its course a study of good citizenship, and shall make the English language the basis of instruction in all subjects.

(b) Any child whose bodily or mental condition is such as to render attendance inadvisable, and who holds definite certificate of a reputable physician specifying this condition and covering the period of absence.

(c) Any child who is blind, deaf, dumb, or feebleminded, for the instruction of whom no adequate provision has been made by the school district.

(d) Any child living more than two and one-half miles by direct and traveled road from the nearest public school sup-

ported for children of the same race and color of such child, and with no free transportation provided.

(e) Any child more than twelve years of age who has satisfactorily completed the work of the seventh grade of a standard elementary school of seven grades, and whose services are needed in support of a parent or other person standing in parental relation to the child, may, on presentation of proper evidence to the county superintendent of public instruction, be exempted from further attendance at school. [Acts 1915, p. 94, Acts 1921, p. 235, Act. Mar. 23, 1923, Acts 1923, p. 255.]

Art. 299. Duties of parent or guardian.—If any parent or person standing in parental relation to a child within the compulsory school attendance ages who is not properly excused from attendance upon school for some exemption provided by law fails to require such child to attend school regularly for such period as is required by law, it shall be the duty of the attendance officer who has jurisdiction in the territory where said parent or person standing in parental relation resides, to warn such parent or person standing in parental relation that this law must be immediately complied with, and upon failure of said parent or person standing in parental relation to immediately comply with this law after such warning has been given, the official discharging the duties of the attendance officer shall forthwith file complaint against such parent or person standing in parental relation to said child, which complaint shall be filed in the County Court, or in the Justice Court in the precinct where such parent or guardian resides. Any parent or other person standing in parental relation upon conviction for failure to comply with the provisions of this law shall be fined for the first offense five dollars, and for the second offense ten dollars, and for each subsequent offense twenty-five dollars. Each day that said child remains out of said school after said warning has been given or after said child has been ordered in school by the Juvenile Court, may constitute a separate offense. [Acts 1915, p. 96.]

Art. 300. Habitual truant.—If any parent or person standing in parental relation to any child within the compulsory school attendance ages shall present proof that he or she is unable to compel said child to attend school, said person shall be exempt from the penalties provided in the preceding article as regards the non-attendance of such child, and such child may be proceeded against as an habitual truant and be subject to commitment to the State Juvenile Training School or any other suitable school agreed upon between such parent or guardian and the judge of the Juvenile Court. [Id.]

Art. 301. School reports.—The State Superintendent of Public Instruction shall require of Judges acting as ex-officio county superintendents of public schools, of county, city and town superintendents, of county and city treasurers and depositories, and of treasurers and depositories of school boards, and of other school officers and teachers, such school reports relat-

ing to the school fund and to other school affairs as he may deem proper for collecting information and advancing the interests of the public schools, and shall furnish the county, city and town superintendents, treasurers, and depositories, and other school officers and teachers for the use of such teachers and officers the necessary blanks and forms for making such reports and carrying out such instructions as may be required of them. All teachers, librarians, school presidents, superintendents, principals, or other school officers employed by all schools supported wholly or partly by the State, shall fill out and send to the State Department of Education, before the expiration of the first school month of each annual session, a registration card, supplied by the State Department of Education, which card shall furnish blanks for useful statistical information, and said teachers, librarians, school presidents, superintendents, and principals shall not be paid the salary for the first month's services, except on the presentation of a receipt certifying that the said registration card has been received by the State Department of Education. The monthly salary of any county judge acting as ex-officio county superintendent of public schools, or any county, district, city or town superintendent, or principal or any teacher or librarian in any school supported wholly or partly by the State, or any assessor, county treasurer, treasurer in county school depository or treasurer of any school district depository, shall be withheld by the officials or authorities paying the said salary, on notification by the State Superintendent of Public Instruction that said county judge, acting as ex-officio county superintendent of public schools, county, district, city or town superintendent or principal, teacher, librarian, assessor, county treasurer, treasurer of county school depository or treasurer of school district depository, has refused or failed to make the reports required of him; provided, that this notification shall not be sent by the State Superintendent until at least two written requests have been made for the desired information and until thirty days have elapsed from the time of the first request without the receipt of the information required; in such case the aforesaid monthly salary shall be withheld until a notice is received from the State Superintendent, certifying that the information requested has been furnished by the delinquent person.

Any employe of the State or of any district, county, city, town or school, who may be responsible for the payment of the salary of any county judge acting as ex-officio county superintendent of public schools, or any county, district or town superintendent or principal, or other school officer, or any teacher, librarian, assessor, county treasurer, treasurer of county school depository, or treasurer of school district depository, after notice by the State Superintendent that the said person has failed to comply with the provisions of this article who shall fail to comply with the provisions of this article shall be fined not less than fifty nor more than five hundred dollars. [Acts 1917, p. 294, Acts 2nd C. S. 1919, p. 185.]

TITLE 8

OFFENSES AGAINST PUBLIC JUSTICE.

	Chapter	Chapter
Perjury	1	False certificate or entry by officer
False swearing	2	Extortion and peculation....
Subornation	3	Failure of duty.....
Arrest and custody of prisoners	4	Miscellaneous offenses

CHAPTER ONE.

PERJURY.

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"Perjury"	302	In what sort of proceeding.....
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Oath must be legally administered.	304	Punishment
And about something past or present	305	Perjury in capital case.....

Art. 302. [304] [201] [188] **"Perjury"**—Perjury is a false statement, either written or verbal, deliberately and wilfully 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. [O. C. 287.]

Art. 303. [305] [202] [189] **Mistake or agitation.**—A false statement made through inadvertence, or under agitation, or by mistake, is not perjury.

Art. 304. [306] [203] [190] **Oath must be legally administered.**—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.

Art. 305. [307] [204] [191] **And about something past or present.**—The false statement must be of something past or present; oaths of office, or any other promissory oaths, are not included in the definition of perjury, except that part of the official oath which relates to dueling.

Art. 306. [308] [205] [192] **In what sort of proceeding.**—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 perjury.

Art. 307. [309] [206] [193] **Immaterial statement.**—The statement of any circumstance wholly immaterial to the matter in respect to which the declaration is made is not perjury.

Art. 308. [310] [207] [194] **Punishment.**—The crime of perjury, except as in cases provided for in the next article shall be punished by imprisonment in the penitentiary not less than two nor more than ten years. [O. C. 292, Acts 1897, p. 146.]

Art. 309. [311] [208] [195] **Perjury in capital case.**—

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 convicted and suffers the penalty of death, the punishment of the perjury so committed shall be death. [O. C. 293.]

CHAPTER TWO.

FALSE SWEARING.

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Art. 310. [312] [209] [196] **False swearing.**—If any person shall deliberately and wilfully, 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 confinement in the penitentiary not less than two nor more than five years. [O. C. 294.]

Art. 311. [313] [210] [197] **Past or present.**—The false swearing must, as in regard to perjury, be relative to something past or present.

Art. 312. [314] [211] [198] **As to public money.**—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. [Acts 1874, p. 182.]

Art. 313. [315] [212] **As to quarantine matters.**—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 confined in the penitentiary not less than two nor more than five years. [Acts 1883, p. 27.]

Art. 314. [316] [213] **Divulging grand jury proceedings.**—Any grand juror or any person after being sworn according to law as a witness before said grand jury, who shall afterwards divulge either by word or sign any matter about which said witness may have been interrogated, or any proceeding or fact said juror or witness may have learned by reason of said witness appearing before said jury, shall be fined not less than one hundred nor more than one thousand dollars, or be imprisoned in jail not exceeding six months. This article shall not apply to persons required to testify to any of these matters before a judicial tribunal. [Acts 1887, p. 131.]

CHAPTER THREE.

SUBORNATION OF PERJURY AND FALSE SWEARING.

Subornation of Perjury or false swearing	Article 315	Attempt to suborn.....	Article 316
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Art. 315. [318] [214] [199] **Subornation of perjury or false swearing.**—Whoever shall designedly induce another to commit perjury or false swearing shall be punished as if he had himself committed the crime.

Art. 316. [319] [215] [200] **Attempt to suborn.**—Whoever by any means whatever corruptly attempts to induce another to commit the offense of perjury or false swearing, shall be confined in the penitentiary not less than two nor more than five years.

CHAPTER FOUR.

ARREST AND CUSTODY OF PRISONERS.

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Art. 317. [320] [216] [201] **Wilfully permitting escape in capital case.**—Any officer, jailer, or guard having the legal custody of any person accused or convicted of a capital offense who wilfully permits such person to escape or to be rescued shall be confined in the penitentiary not less than two nor more than ten years. [O. C. 312.]

Art. 318. [321] [217] [202] **Wilfully permitting escape in a felony.**—Any officer, jailer, or guard who has the legal custody of any person accused or convicted of a felony not capital who wilfully permits such person to escape or to be rescued shall be confined in the penitentiary not less than two nor more than five years. [O. C. 313.]

Art. 319. [322] [218] [203] **Wilfully permitting escape in misdemeanors.**—Any officer, jailer, or guard having the legal custody of a person accused or convicted of a misdemeanor who

wilfully permits such person to escape or to be rescued shall be fined not exceeding one thousand dollars. [O. C. 314.]

Art. 320. [323] [219] [204] **Negligently permitting escape in capital case.**—Any officer, jailer, or guard who has the legal custody of a person accused or convicted of a capital offense, who negligently permits such person to escape or to be rescued shall be fined not exceeding two thousand dollars. [O. C. 315.]

Art. 321. [324] [221] [205] **Negligently permitting escape in felony.**—Any officer, jailer or guard who has the legal custody of a person accused or convicted of a felony not capital who negligently permits such person to escape or to be rescued shall be fined not exceeding one thousand dollars. [O. C. 316.]

Art. 322 [325] [221] 206] **Negligently permitting escape in misdemeanor.**—Any officer, jailer or guard who has the legal custody of a person accused or convicted of a misdemeanor who negligently permits such person to escape or to be rescued shall be fined not exceeding five hundred dollars. [O. C. 317.]

Art. 323. [326] [222] [207] **Officers refusing to arrest or receive in felony.**—Any sheriff or other officer who wilfully refuses or fails from neglect to execute any lawful process in his hands requiring the arrest of a person accused of a felony, whereby such person escapes, or wilfully 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. [O. C. 318, Acts 1860, p. 96.]

Art. 324. [327] [223] [208] **Refusing to arrest or receive in misdemeanor.**—Any sheriff or other officer who wilfully 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 wilfully 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 fined not exceeding five hundred dollars. [O. C. 319, Acts 1860, p. 96.]

Art. 325. [328] [224] [209] **Private person appointed to execute warrant.**—If any private person, appointed with his own consent to execute a warrant of arrest shall be guilty of any offense heretofore enumerated in this chapter, he shall be punished in the same manner as an officer in a like case. [O. C. 320.]

Art. 326. [329] [225] [210] **Aiding one charged with felony to escape from jail.**—Whoever 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, shall be imprisoned in the penitentiary not less than two nor more than five years. [O. C. 321, Acts 1858, p. 162.]

Art. 327. [330] [226] [211] **Aiding one charged with misdemeanor to escape from jail.**—Whoever shall, by any means contemplated in the preceding article, aid in the escape of a person legally confined in jail upon an accusation for a misdemeanor, shall be fined not exceeding five hundred dollars. [O. C. 323.]

Art. 328. [331] [227] [212] **Breaking into jail to rescue prisoner.**—Whoever 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, shall be imprisoned in the penitentiary not less than two nor more than six years. [O. C. 322.]

Art. 329. [332] [228] [213] **Aiding one charged with felony to escape.**—Whoever wilfully aids 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, shall be confined 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 confined in the penitentiary not less than two nor more than ten years. [O. C. 325.]

Art. 330. [333] [229] [214] **Aiding one charged with misdemeanor to escape from officer.**—Whoever wilfully aids a prisoner to escape from the custody of an officer by whom he is legally detained in custody after conviction of a misdemeanor or while being so detained in custody on an accusation for misdemeanor, by doing an act calculated to effect that object, shall be fined not exceeding five hundred dollars; and if in aiding in the escape he shall make use of arms, he shall be fined not exceeding one thousand dollars. [O. C. 326, Acts 1905, p. 377.]

Art. 331. **State Home for children.**—Whoever shall persuade, coerce, employ or induce in any manner any child who has been committed to the State Home for Dependent and Neglected Children, from any institution or from any home selected by the person empowered by law to make such selection, without the knowledge and consent of such persons, shall be fined not less than one hundred, nor more than five hundred dollars, or be imprisoned in jail for not less than sixty days nor more than six months, or both. [Acts 1919, p. 304.]

Art. 332. **Colony for the Feebleminded.**—Whoever entices a patient away from the State Colony for Feebleminded, or assists any such patient to escape therefrom, or shall remove or abduct or kidnap any such patient therefrom, as the terms “abduct” and “kidnap” are defined in this Code, or conceals any patient who has escaped or been enticed, removed, abducted or kidnapped from such colony, shall be confined in the penitentiary for any term not more than five years. [Acts 1923, p. 174.]

Art. 333. Interfering with custody of girl committed to Training School.—Whoever shall persuade, coerce, employ or induce in any manner any girl who has been committed to the Girls Training School, from such institution or from any home selected by the persons empowered by law to make such selection, without the knowledge and consent of such persons, shall be fined not less than one hundred nor more than five hundred dollars, or be imprisoned in jail not less than thirty nor more than sixty days, or both. [Acts 1913, p. 291.]

Art. 334. [334] [230] Assisting escape of juvenile.—Whoever shall knowingly assist any inmate lawfully confined in the State Juvenile Training School 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 confined in the penitentiary not less than two nor more than five years.

Art. 335. [335] [231] [215] Telegraph officer divulging process.—Any executive officer, director, superintendent, manager, operator, clerk, messenger or other party in the employ of a telegraph company, who shall wilfully 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 be fined not less than five hundred nor more than one thousand dollars, or be confined in the penitentiary not less than two years nor more than five years. [Acts 1871, p. 40.]

Art. 336. [336] [232] [216] Preventing execution of civil process.—Whoever 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, shall be fined not exceeding five hundred dollars; evading the execution of such process is not an offense under this article. [O. C. 327.]

Art. 337. [337] [233] [217] Offenses complete without actual escape.—The offenses enumerated in articles 326, 327, 328, 329 and 330 are complete without actual escape of the prisoner. 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 tried and acquitted.

Art. 338. [339] [235] [219] Opposing arrest of another for felony.—Whoever shall wilfully oppose or resist an officer in executing or attempting to execute any lawful warrant for the arrest of another person in a felony case shall be confined in the penitentiary not less than two nor more than five years. If arms be used in such resistance, he shall be confined in the penitentiary not less than two nor more than seven years. [O. C. 331; Acts 1858, p. 163.]

Art. 339. [340] [236] [220] Opposing arrest of another for misdemeanor.—If any person shall wilfully oppose or resist

an officer in executing or attempting to execute any lawful warrant for the arrest of another person in a misdemeanor case, 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 fined not less than twenty-five nor more than five hundred dollars, and if arms be used, be fined not less than fifty nor more than one thousand dollars. [O. C. 332; Acts 1881, p. 108.]

Art. 340. [341] [237] [221] **Resisting execution of civil process.**—Whoever shall wilfully resist or oppose an officer in executing or attempting to execute, any process in a civil cause shall be fined not exceeding five hundred dollars; and if arms be used in such resistance, the punishment shall be doubled. [O. C. 333.]

Art. 341. [344] [238] [222] **Accused resisting warrant.**—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. If arms be used in making the resistance, in such manner as would make him liable for an 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. [O. C. 334.]

Art. 342. [345] [239] [223] **Process must be executed in legal manner.**—To render a person guilty of any offense included within the meaning of articles 338 and 339 the warrant or process must be executed or its execution attempted in a legal manner. [O. C. 335.]

Art. 343. [346] [240] [224] **“Accusation”.**—The word “accusation” as used in 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. One is said to be “accused” of an offense from the time that any “criminal action” shall have been commenced against him.

A legal arrest with or without warrant; a complaint to a magistrate, or an indictment are examples of accusation. [O. C. 356.]

Art. 344. [347] [241] [225] **“Legally confined in jail”.**—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 legal manner. [O. C. 337.]

Art. 345. [348] [242] [226] **“Jail”.**—The word “jail” means any place of confinement used for detaining a prisoner. [O. C. 338.]

Art. 346. [349] [243] [227] **“Officer”.**—By “Officer,” as used in this chapter, is meant any peace officer, as sheriff, deputy sheriff, constable, marshal or policeman of a city or town, any jailer or guard, or any person specially authorized by warrant to arrest. [O. C. 339.]

Art. 347. [350] [244] [228] **“Arms”**.—The term “arms,” as used in this chapter, includes any deadly weapon.

Art. 348. [351] [245] [229] **Refusing to aid an officer**.—If any person, being called on by a magistrate or peace officer shall fail or refuse to aid such officer in any manner 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 fined not exceeding one hundred dollars. [O. C. 339; Acts 1858, p. 163.]

Art. 349. [1610] **Excessive whipping of prisoners**.—The Prison Commission may adopt such modes of punishment as may be necessary, such punishment being always humane, and placing prisoners in stocks shall be prohibited. Whipping with not exceeding twenty lashes on the bare rump and thighs may be resorted to with prisoners of the third class, who cannot be made to observe the rules by milder methods of punishment. The strap to be used must be of leather, not over two and one-half inches wide, and twenty-four inches long, attached to a wooden handle; no convict shall be whipped until same has been authorized by at least two members of the Prison Commission upon their written order, and such order so issued shall be executed only in the presence of a prison physician, and a sworn report shall be made by the officer executing such order to the Penitentiary Commission, who shall keep a record of all such reports in a well bound book to be kept for that purpose, which shall be at all times open to public inspection; and such report so to be made by such officer executing the order of the Prison Commission, shall state the name of the convict whipped, the number of strokes administered, the size of the strap used, the time and place thereof, in whose presence same was done, and the cause thereof. The Prison Commission shall make a semi-annual report of the whipping of convicts to the district judge of the county where such whippings occurred, who shall report the same to the grand jury, which shall make investigation thereof, if they deem same advisable. The utmost care must be used by the officer executing the order of the Commission not to break the skin of the prisoner whipped, and any person guilty of whipping a prisoner more lashes than as provided herein, or striking a prisoner, except in self-defense, shall be fined not less than twenty-five nor more than two hundred and fifty dollars and imprisoned in jail not less than thirty days nor more than six months. [Sec. 33, Act September 17, 1910.]

Art. 350. **To report death of prisoner**.—The Prison Commission or other persons in charge of prisoners, upon the death of any prisoner under their care and control, if he die suddenly or from accident or injury, shall at once notify the nearest justice of the peace of the county in which said prisoner dies of such death. It shall be the duty of such justice of the peace, notified of the death of such prisoner, to go and make a personal examination of the body of such prisoner, and such justice shall reduce to writing the evidence taken during such inquest and

shall furnish a copy of the same to the district judge of the county in which said prisoner dies. The copy so furnished to said district judge shall be turned over by him to the succeeding grand jury; and the said judge shall charge the grand jury if there be any suspicion of wrong doing shown by the inquest papers to thoroughly investigate the cause of such death. No inquest shall be required when the prisoner dies from natural causes, and has been under the care of the prison physician. Any officer or employe of the prison system having charge of any prisoner at the time of the death by accident, injury or sudden death of such prisoner, who fails to immediately notify a justice of the peace of the death of such prisoner, shall be fined not less than one hundred nor more than five hundred dollars, and be confined in jail not less than sixty days, nor more than one year. [Acts 1910, p. 156, Acts 1st. C. S. 1917, p. 52.]

Art. 351. [1614] **Report of prison physician.**—Each physician employed in the prison system shall at the end of each month file with the Prison Commission a written sworn report which shall state the name, race and sex of each prisoner treated, or examined by him during said month, the malady or disease with which each was afflicted, and if any shall be suffering with wounds or injuries inflicted by accident or some individual, he shall state the nature and extent of said injuries, by whom and by what means inflicted, or how the same occurred, and all such further information concerning said matters, and the condition of each prisoner treated or examined by him during said month, as he may possess. For a failure to make such a report or any false statement knowingly made by any such physician in any such report he shall be prosecuted for perjury. [Acts September 17, 1910, Sec. 50.]

Art. 352. [1616] **Financial interest in contract.**—Any officer, agent or employe in any capacity connected with the prison system who shall be financially interested either directly or indirectly in any contract for the furnishing of supplies or property to the prison system, or the purchase of supplies or property for the prison system, or who shall be financially interested in any contract to which said prison system is a party, or who shall knowingly and fraudulently sell or dispose of any property belonging to the prison system below its reasonable market value, or who shall be financially interested in any other transaction connected with the prison system shall be confined in the penitentiary not less than two nor more than five years. Each transaction is a separate offense. [Sec. 56, Id.]

Art. 353. [1617] **Unauthorized punishment of prisoner.**—

Any sergeant, guard or other officer or employe of the prison system who shall inflict any punishment upon a prisoner not authorized by the rules of the prison system shall be guilty of an assault. It shall be the duty of the Prison Commission to make complaint before the proper officer of any county in which such assault was committed upon such prisoner. In all cases where

any person is charged by complaint or indictment with an offense against a prisoner, prisoners and ex-prisoners shall be permitted to testify. [Sec. 57, Id.]

CHAPTER FIVE.

FALSE CERTIFICATE OR ENTRY BY AN OFFICER.

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Art. 354. [352] [246] [230] **Commissioner giving false certificate.**—Whoever 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 approved shall be confined in the penitentiary not less than two nor more than five years. [O. C. 340.]

Art. 355. [353] [247] [231] **"Instrument of writing".**—By "instrument of writing" is meant any deed, conveyance, transfer, release, obligation or other written instrument of any kind whatever which such commissioner is, by law, authorized to authenticate for record. [O. C. 341.]

Art. 356. [354] [248] [232] **Falsely certifying to deposition.**—If any such commissioner shall falsely certify to any deposition to have been taken before him, and to be used in any cause pending in a court of this State, he shall be punished as is prescribed in article 354. [O. C. 342.]

Art. 357. [355] [249] [233] **Certifying falsely to affidavit.**—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 354. [O. C. 343.]

Art. 358. [356] [250] [234] **Clerk of court making false entry.**—If any clerk of a court shall knowingly make any false entry upon the record of his court which may prejudice or injure the rights of any person he shall be confined in the penitentiary not less than two nor more than five years. [O. C. 344.]

Art. 359. [357] [251] [235] **Clerk giving false certificate.**—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. [O. C. 345.]

Art. 360. [358] [252] [236] **Notary public giving false**

certificate.—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 confined in the penitentiary not less than two nor more than five years. [O. C. 346.]

Art. 361. [359] [253] [237] **Officer giving blank certificate.**—If any officer authorized by law to take depositions or administer oaths in this State, shall falsely certify that any deposition 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 imprisoned 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. [O. C. 347, Acts 1858, p. 163.]

Art. 362. [360] [254] [238] **Failing to keep record of acknowledgments.**—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 wilfully 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 not less than one hundred nor more than five hundred dollars. [Acts 1874, p. 156.]

Art. 363. [361] [255] [239] **Requisites of such record.**—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 the grantee of such instrument, its date, if proved by a subscribing witness the name and 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. [Acts 1874, p. 156.]

Art. 364. [362] [255a] **False certificate of corporate indebtedness, etc.**—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 issuance and sale of bonds by any county, city or town in this State, 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 confined in the penitentiary not less than one nor more than five years. [Acts 1893, p. 85.]

CHAPTER SIX.

EXTORTION AND PECULATION.

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Art. 365. [363] [256] [240] **Collecting illegal fees.**—If any officer or person authorized by law to demand or receive fees of office, shall wilfully collect for himself or for another any fee or fees not allowed by law, or any money as a purported fee for a service or act not done, or any fee or fees due him by law in excess of the fee or fees allowed by law for such service, he shall be confined in the penitentiary not less than two or more than five years for each offense. [O. C. 352, Acts 1883, p. 5; Acts 1907, p. 307.]

Art. 366. [364] [256a] **Demanding illegal fees.**—If any officer or other person authorized by law to demand or receive fees of office shall wilfully make out his account for fees in excess of those allowed by law, or for fees not allowed by law, and shall present or file such account with the proper officer with whom the law requires the same to be presented or filed, he shall be fined not less than twenty-five nor more than two hundred and fifty dollars for each offense. [Acts 1907, p. 307.]

Art. 367. [365] [257] [241] **Applies to all officers.**—The two preceding articles apply 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. [O. C. 353.]

Art. 368. [370] [262] [246] **State officer buying claims against State.**—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 one thousand dollars. [Act May 3, 1873, p. 62.]

Art. 369. [371] [263] [247] **“State officer” defined.**—By the term “officer of this State” as used in the preceding article is meant the Governor, Lieutenant Governor, any head or employe 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.

Art. 370. [372] **Officers and employes of the penitentiary.**—No officer or employe of the State penitentiaries shall be permitted to purchase any goods or merchandise or other property from the State or penitentiary system, except such surplus fruits, vegetables, ice, water, steam and lights as may be produced or manufactured on the premises of the penitentiary, or to appropriate to his private use or employment the labor, services or use of any State penitentiary convict, or of any animal, vehicle or other personal property belonging to the State, unless it be by the express consent of the penitentiary board had by an order to that effect entered of record on the minutes of said board, providing for the amount to be paid by such officer or employe, for the use, employment and services of such convict or convicts or the use of any personal property belonging to the State; and no employe or officer using any State property shall be allowed to use same in keeping boarders for profit unless such boarder or boarders be in the employ of the State penitentiary system; and no penitentiary sergeant, guard or other officer or employe of the penitentiary shall accept or receive any salary or other compensation from any person or corporation hiring or otherwise employing State convicts. Any such officer or employe who shall violate any provision of this article shall be punished by dismissal from his office or employment and by a fine of not less than twenty-five nor more than two hundred dollars and if the conviction be for accepting or receiving any salary or compensation from a hirer or employer of State convicts, the party so convicted shall, in addition to the penalty above described, be confined in jail not less than one month nor more than one year.

Any person or any member of a co-partnership or firm, or any agent, servant or representative of such person, co-partnership or firm, or any officer, agent, servant or representative of any corporation, hiring or employing State convicts by contract with the State or penitentiary system of hire, lease, or for any share or portion or per cent of the crops or other products of the labor of such convicts, who shall pay or promise or offer to pay, either directly or indirectly, to any sergeant, guard or other employe of the State having such convicts in charge or under his control, either in whole or in part, any money or other valuable thing, shall be confined in the penitentiary for two years. [Acts 1903, p. 161.]

Art. 371. [373] [264] [248] County or city officer trading in claims.—Any officer of any county or of any city or town 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 fined 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. Within the term "officer," is included ex-officers until they have made a final settlement of their official accounts. [Acts 1874, p. 47.]

Art. 372. [374] Public utility corporations.—No Mayor or any member of any City Council or Board of Aldermen, of any city or town in this State, shall accept directly or indirectly any frank, privilege, free light or water, or sewerage service, or other service, or a lower rate therefor than the regular rate established by said Council or Board of Aldermen, or any gift or anything of value from any water, gas, light and sewer companies, corporations or persons. The servants, agents, officers or employes, or any person acting directly or indirectly in behalf of any of said companies, corporations or persons mentioned, who shall directly or indirectly give or grant any privilege, frank, free water, light, gas, sewerage service or free service of any kind, or any gift of anything of value to any Mayor, or to a member of such City Council, Board of Aldermen, or any such Mayor, or a member of any such Council or Board of Aldermen who shall receive, accept or enjoy such free light, water, gas, or sewerage service, or other free service, or a lower rate than the regular rate, or any gift of anything of value as prohibited herein shall be fined not less than one hundred nor more than one thousand dollars, or be confined in jail not exceeding twelve months, or both. [Acts 1907, p. 218.]

Art. 373. [376] [266] [250] County or city officer interested in contracts.—If any officer of any county, or of any city or town 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 not less than fifty nor more than five hundred dollars. [Acts 1874, p. 48.]

Art. 374. [377] Interest in contract of Navigation District.—If any county judge or any county commissioner, any member of the Navigation Board or navigation and canal commissioner,

or engineer shall directly or indirectly become interested in any contract for any work to be done by any Navigation District or in any fee paid by such district whereby he or others shall receive any money consideration or other thing of value, except in payment of services as provided by law, he shall be imprisoned in jail for not less than six months nor more than one year. [Acts 1909, p. 45.]

Art. 375. [378] **Interest in contract of Levee District.**—If the county judge or any county commissioner or any district supervisor or the district engineer of any Levee Improvement District shall directly or indirectly become interested in any contract for any work to be done by said district whereby he shall receive any money consideration or other thing of value other than such pay as is provided for by law, he shall be imprisoned in jail for not less than six months nor more than one year. [Acts 1909, p. 154, Acts 1915, p. 247.]

Art. 376. **Interest in drainage contract.**—If the county judge or any county commissioner or drainage commissioner or the drainage engineer shall become interested in any contract for the construction of any work to be done by any drainage district or in any fee paid by such district whereby he shall receive any money consideration or other thing of value, he shall be imprisoned in jail for not less than six months nor more than one year. [Acts 1907, p. 91, Acts 1911, p. 263.]

Art. 377. [379] **Interest in contract of Improvement District.**—If any director of any Water Improvement District or any engineer or employe thereof shall directly or indirectly become interested in any contract for the purchase of any material required or construction of any work by said district, he shall be fined not to exceed one hundred dollars or be confined in jail for not less than six months nor more than one year, or both. [Acts 1905, p. 250, Acts 1913, p. 386, Acts 1917, p. 180.]

Art. 378. **Interest in water supply contract.**—If the supervisor, engineer or any employe of any Fresh Water Supply District shall directly or indirectly become interested in any contract for the purchase of any material required or for the construction of any work by said district he shall be fined not to exceed one thousand dollars, or be imprisoned in jail for not less than six months nor more than one year, or both, and shall be removed from office and disqualified for further employment. [Acts 2nd C. S. 1919, p. 127.]

Art. 379. **Interest in contract of Water Control District.**—If any director of any Water Control and Preservation District or any engineer or other employe thereof, shall be directly or indirectly interested either for themselves or as agents for any one else, in any contract for the construction of any work or improvement, or repair or reconstruction of such improvements by said district, he shall be confined in the penitentiary not less than one nor more than five years. [Acts 4th C. S. 1918, p. 95.]

Art. 380. [380] [267] [251] **Purchase of witness fees by**

officer.—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 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 fined not exceeding one hundred dollars. [Acts 1858, p. 164.]

CHAPTER SEVEN.

FAILURE OF DUTY.

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Art. 381. [388] [268] [252] **Refusing to issue or execute process, etc.**—Whenever any officer who is by law charged with the issuance or execution of process, either in civil or criminal actions corruptly and wilfully refuses to issue or execute such process, or corruptly or wilfully 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 fined not exceeding five hundred dollars, and may be imprisoned in jail not exceeding one year. [O. C. 348.]

Art. 382. [389] [269] [253] **Failure to arrest offender.**—If any justice of the peace, sheriff or other peace officer shall wilfully 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 wilfully 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 fined not less than seventy-five nor more than five hundred dollars. [O. C. 354.]

Art. 383. [368] [260] [244] **Officer failing to deposit trust funds, etc.**—Any officer of any court having the custody by law of any money, evidence of debt, script, 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 accessible 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 fined not less than ten nor more than two hundred dollars, or be imprisoned in jail not exceeding three months; and may, in addition thereto, be punished for contempt. [Acts 1876, p. 7.]

Art. 384. [369] [261] [245] **Failing to turn over funds to successor.**—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. [Id.]

Art. 385. [390] **Sheriff or constable violating militia law.**—Any sheriff or constable who refuses or neglects to perform any duty imposed on him by the law for the organization of the militia, or to execute any lawful process which shall have been issued by the Governor or proper officer of a court martial shall, in the district court, be fined not more than five hundred dollars, and may be imprisoned in jail not exceeding one year. [Sec. 128, p. 203, Acts 1905.]

Art. 386. [391] **District or county attorney violating militia law.**—Any district or county attorney who refuses to perform any duty imposed upon him by the law for the organization of the militia shall in the district court be fined not more than five hundred dollars, and, may be imprisoned in jail not exceeding one year. [Sec. 129, p. 203, Acts 1905.]

Art. 387. [392] **County clerk violating militia law.**—Any county clerk who marks "Exempt" any person enrolled as liable to military duty, whom he knows not to be exempt shall be fined not more than five hundred dollars, and may be imprisoned in jail not exceeding one year. [Sec. 130, p. 203, Acts 1905.]

Art. 388. [393] [207] [254] **Officers of old county failing to deliver records to new.**—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 not less than one hundred nor more than one thousand dollars, or be confined in jail not exceeding one year. [Acts 1874, p. 188]

Art. 389. [394] [271] [255] **Approving official bond with nonresident surety.**—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 fined not less than one hundred nor more than five hundred dollars. [Acts 1874, p. 93.]

Art. 390. [395] [272] [256] **Officer failing to report collections for State.**—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 come into his hands for the use of the State since the last term of said court, from whom collected, and by virtue of what process, shall be fined not less than twenty nor more than two hundred dollars. [Acts 1874, p. 182.]

Art. 391. [396] [273] [257] **Officer failing to report collections for county.**—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 fined not less than twenty nor more than two hundred dollars. [Id.]

Art. 392. [397] [274] [258] **Town or city officer failing to report collections.**—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 fined not less than twenty nor more than two hundred dollars. [Id.]

Art. 393. [398] [275] **Justice to report jury service.**—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 num-

ber 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. Every justice failing to make and file such report shall be fined not less than twenty-five nor more than two hundred and fifty dollars. [Acts 1881, p. 32.]

Art. 394. [399] [276] [259] **Commissioners court failing to make statement.**—If the commissioners court of any county shall wilfully 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 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 wilfully 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 wilfully 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 not less than twenty nor more than one hundred dollars. [Acts 1891, p. 91.]

Art. 395. [400] **Tax assessor failing to report.**—The Commissioner of Agriculture shall furnish blank forms to the tax assessors of each county before the first day of January of each year, including forms as to the acreage in cotton, grain and other leading products of the State, to be filled out by persons assessed for taxes, together with such instructions as will properly direct said assessor in filling them out. Said tax assessor shall return said blanks, with accurate answers to the Commissioner of Agriculture on or before the first day of June following. Failure upon the part of any county tax assessor to make such reports as are required by law shall be deemed a misdemeanor and upon conviction thereof such tax assessor shall be fined not less than fifty nor more than two hundred and fifty dollars. [Acts 1907, p. 129.]

Art. 396. [401] **Duty as to county treasurer's report.**—When the Commissioners Court has compared and examined the quarterly report of the Treasurer and found the same correct, it shall cause an order to be entered upon the minutes of the court stating the approval thereof, which order shall recite separately the amount received and paid out of each fund by the Treasurer since the preceding Treasurer's quarterly report, and the balance of such fund, if any, remaining in the Treasurer's hands, and shall cause the proper credit to be made in the ac-

counts of the Treasurer in accordance with said order, and said court shall actually inspect and count all the actual cash and assets in the hands of the Treasurer belonging to the county at the time of the examination of his said report; and prior to the adjournment of each regular term of the court, the county judge and each commissioner shall make affidavit that the requirements of this article have been in all things fully complied with by them at said term of said court, and that the cash and other assets mentioned in the county Treasurer's quarterly report made by said Treasurer to said court, and held by him for the county, have been fully inspected and counted by them, giving the amount of said money and other assets in his hands, which affidavits of the members shall be filed with the county clerk of the county, and by him recorded in the minutes of the said commissioners court of the term at which the same were filed, and the same shall be published in some newspaper published in the county, if there be a newspaper published in the county, for one time, to be paid for at the same rate as other legal notices.

Any county judge, county commissioner, or county clerk who shall negligently or intentionally fail or refuse to comply with the requirements of this article, shall be fined not less than twenty-five nor more than five hundred dollars. [Acts 1897, p. 27.]

Art. 397. [402] [277] [259a] **Commissioner failing to attend court.**—Should any member of the commissioners court of any county wilfully 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 fined not less than two hundred nor more than five hundred dollars. [Acts 1885, p. 51.]

Art. 398. [403] [278] **Treasurer failing to make report.**—If any county treasurer in this State shall fail, neglect or refuse to furnish to the commissioners court of his county, upon demand, a detailed statement of the amount of county funds, including permanent and available county school funds, received by him from any given time, and when and from whom received, the amount of each fund on hand, the amount paid out, when and to whom paid; on what account, and the kinds of funds received and disbursed; or shall fail, neglect or refuse to exhibit to said commissioners court upon demand, all his books and accounts from any given time, together with all vouchers relating to the same, for the inspection and auditing by said court; or shall fail, neglect or refuse to forthwith produce to said commissioners court, upon demand, all cash and other assets in his hands belonging to his county to be counted by said commissioners court, he shall be fined not less than one hundred nor more than five hundred dollars, and may be punished for contempt by said court. [Acts 1905, p. 369.]

Art. 399. [404] [279] [261] **Clerk failing to keep indexes.**—Any clerk of the county or district court 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 all 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. Each month's failure is a separate offense. [Acts 1876, p. 25.]

Art. 400. [405] [280] [262] **Withdrawal of deeds when records are burned.**—Any clerk or deputy clerk of the county court of any county, the land records or records of title in which have been burned, who shall permit any deed filed for record in his office to be withdrawn within twelve months after the same is filed, shall be fined not less than one hundred nor more than five hundred dollars, and may in addition thereto, be imprisoned in jail not to exceed one year. [Acts 1876, p. 252.]

Art. 401. [406] [281] [263] **To what deeds not applicable.**—The preceding article shall not apply to deeds executed or purporting to have been executed subsequent to the destruction of such records. [Id.]

Art. 402. [407] [282] [264] **County judge practicing law.**—Any county judge in this State who shall practice or offer or attempt to practice as an attorney 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. [Acts 1876, p. 216.]

Art. 403. [408] [283] **Exceptions to preceding article.**—County judges in those counties wherein the civil or criminal jurisdiction of the county court has or may be diminished shall if a licensed lawyer have the right to practice in all justice and county courts in cases where the courts over which they preside have neither original nor appellate jurisdiction. [Acts 1879, S. S. p. 12.]

Art. 404. [409] [284] [265] **Issuing marriage license without consent.**—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, or if there be no parent or guardian without the consent of the county judge of the county of the residence of such minor, 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. [Acts 1860, p. 101; Acts 1911, p. 63.]

Art. 405. [410] [285] [266] **Father's consent sufficient.**—If both parents of any minor be alive, the consent of the father alone shall be sufficient to authorize the issuance of license to the minor. [Acts 1858, p. 186.]

Art. 406. [411] **Performing marriage without license.**—If any person authorized by law to celebrate the rites of matrimony in this State performs the marriage ceremony without a

license first having been issued as required by law, he shall be fined not less than fifty nor more than five hundred dollars. [Acts 1899, p. 307.]

Art. 407. [412] [286] [267] **Failure to return corrected field notes.**—If any 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 not less than double nor more than four times the amount of the fees originally paid him for such survey. [Act October 24, 1871.]

Art. 408. [163] [122] [117] **Unlawfully handling Land Office files.**—Whoever 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, shall be fined not less than one nor more than five hundred dollars. [O. C. 244.]

Art. 409. **Mining claim survey.**—Anyone interfering with, removing or destroying any monument, post or notice of any locator of a mining claim shall be fined not to exceed one hundred dollars, or be imprisoned in jail for thirty days, or both. [Acts 2nd C. S. 1919, p. 242.]

Art. 410. [417] [289] [270] **Failure to survey mining claim.**—Upon receiving the application for the survey of any mining claim and fee provided by law, 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 be fined not less than twenty nor more than one hundred dollars. [Acts 1905, p. 198.]

Art. 411. **Lands omitted from taxation.**—If any tax assessor, county judge, or any member of the commissioners court shall wilfully neglect, fail or refuse to perform any duty required of him by the laws of this State relating to the assessment of lands in his county subject to taxation which have not been assessed for taxation, he shall be fined not less than one hundred nor more than five hundred dollars or be imprisoned in jail not less than one month nor more than one year or both. [Acts 1905, p. 322.]

Art. 412. **Delinquent taxes.**—Any State or county officer who is by law charged with any duty relating to the collection and bringing suit for collection of delinquent taxes due the State or any county who shall fail or refuse to perform any of said duties shall be fined not less than one hundred nor more than one thousand dollars. [Acts 1915, p. 252.]

Art. 413. [420] **Intangible Tax Board.**—Any county tax

assessor who shall violate or in any respect fail to comply with any provision of the law creating the State Intangible Tax Board, and any member of any board of equalization and any county tax assessor who shall modify or change or vote to modify or change in any manner whatsoever the finding, valuation or apportionment of any intangible assets as so fixed, determined, declared and certified by said State Tax Board shall be fined not less than one hundred nor more than one thousand dollars. [Acts 1907, p. 476.]

Art. 414. [426] [294] [275] **Wilful neglect of official duty.**—If any officer of the law shall wilfully 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 punished as prescribed in the succeeding article. [Acts 1864, p. 7.]

Art. 415. [430] [295] [276] **General penalty.**—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 fined not exceeding two hundred dollars. [O. C. 349, Acts 1863, p. 12.]

Art. 416. [427] **Neglect in drawing juries.**—Between the first and fifteenth days of August of each year, in all counties having therein a city containing a population aggregating twenty thousand or more people, as shown by the preceding Federal census, the tax collector or one of his deputies, together with the tax assessor or one of his deputies, together with the sheriff or one of his deputies, and the county clerk or one of his deputies, and the district clerk or one of his deputies, shall meet at the court house of the county and shall select from the list of qualified jurors of such county as shown by the tax lists in the tax assessor's office for the current year the jurors for service in the district and county courts of such county for the ensuing year in the manner provided by the Revised Statutes for the selection of jurors in all counties having a city therein which contains twenty thousand or more people. If any officer mentioned in this article shall wilfully or negligently fail to serve as herein provided, or if any said officer shall wilfully or negligently fail to designate one of his deputies for such service, or after such designation such deputy shall wilfully or negligently fail to serve, the officer so failing to serve or designate a deputy, or the deputy so failing to serve shall be fined not less than fifty nor more than five hundred dollars. [Acts 1907, p. 269; Acts 1911, p. 150.]

Art. 417. [428] **Stuffing jury wheel.**—Whoever shall put into a jury wheel or take from the wheel, except at the times and in the manner provided for by law, a card or cards bearing the name of any person, shall be fined not less than fifty nor more than five hundred dollars. [Acts 1907, p. 272.]

Art. 418. [429] **Violating jury wheel law.**—If any person

shall violate any provision of the laws of this State providing for drawing juries from the wheel, or shall wilfully or negligently fail or neglect to perform any duty therein required of him, then where no penalty is specifically imposed, he shall be fined not less than fifty nor more than five hundred dollars. [Id.]

Art. 419. [431] [296] [277] **Malfeasance in office.**—All offenses committed by officers of the law, when not otherwise designated are known as malfeasance in office. By “officers of the law”, is meant any magistrate, peace officer or clerk of a court.

Art. 420. [433] [298] [278a] **Sheriff failing to report fugitives.**—Any sheriff failing or refusing to make out and forward to the Adjutant General certified lists of fugitives from justice within the time and according to the forms provided for by the laws of this State governing such fugitives, shall be fined not less than ten nor more than one hundred dollars. [Acts 1887, p. 44.]

Art. 421. [434] **Sheriff appointing too many deputies.**—Any sheriff who shall appoint any more deputies than are provided for by law shall be fined not less than one hundred nor more than five hundred dollars. This article shall not apply to counties having more than one district court. [Acts 1903, p. 160.]

Art. 422. [1578] [1013] **Officer refusing to give data.**—Any State or county officer who fails or refuses to give any statistics or information required of him by law shall be fined not less than twenty-five nor more than one hundred dollars. [Acts 1899, p. 23.]

Art. 423. [1579] **Failing to keep finance ledger.**—Any county clerk or county auditor who shall wilfully fail, neglect or refuse to keep or cause to be kept the finance ledger provided for by law, or who shall fail, neglect or refuse to make the quarterly statement provided for by law, shall be fined not less than fifty nor more than two hundred dollars. Such failure, neglect or refusal for each quarter is a separate offense. [Acts 1893, p. 161.]

Art. 424. [1580] [1013b] **Treasurers to report.**—Any county or city treasurer or treasurer of the school board of each city or town having exclusive control of its schools, who fails to make and transmit any report and certified copy thereof, or either, required by law, shall be fined not less than fifty nor more than five hundred dollars. [Acts 1893, p. 188.]

Art. 425. [1581] [1582] **Failure to vote on depository law.**—Any member of the commissioners court who shall fail or refuse to vote at any February term thereof next following each general election for a compliance with the requirements of the law providing for the selection of a bank or banker as the depository of the funds of such county shall be fined not less than one hundred nor more than five hundred dollars or be imprisoned in jail not less than one nor more than six months,

or both. Such failure or refusal is ground for removal from office. [Acts 1907, p. 208; Acts 1917, p. 16.]

Art. 426. [1583] **Disclosing bid on depository.**—Any city secretary of any incorporated city or any other person who shall before the city council meets for the purpose of selecting a bank or banker as the depository of the funds of such city open any proposal from any bank or banker desiring to be selected as depository of such funds, or who shall before the selection of such depository disclose directly or indirectly to any person, the amount of any bid from such bank or banker, shall be fined not less than ten nor more than one hundred dollars. [Acts 1907, p. 132.]

Art. 427. [1584] **Checks and warrants on city depository.**—No check shall be drawn upon the city depository by the treasurer except upon a warrant signed by the mayor and attested by the secretary. No warrant shall be drawn by the mayor and secretary upon any special funds, created for the purpose of paying the bonded indebtedness of said city in the hands of the city treasurer, or in the depository, for any purpose whatsoever other than to pay the principal or interest of said special fund, or for the purpose of investing said special fund according to law. No city treasurer shall pay off, or issue a check to pay any money out of any special fund created for the purpose of paying any bonded indebtedness of said city other than for the purpose to pay interest due on said bonds, the principal of said bonds, or for the purpose of making an investment of said funds according to law. Any mayor who shall draw a warrant against a special fund as above defined for any other purpose than above specified, or any city treasurer who shall pay, or issue a check to pay a warrant drawn on the special fund of any city other than for the legal purpose of paying interest due on said bonds, the principal of said bonds or for investing said sinking fund according to law, shall be confined in the penitentiary not less than one nor more than five years. [Acts 1905, p. 397.]

CHAPTER EIGHT.

MISCELLANEOUS OFFENSES.

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Art. 428. [422] [291] [272] **Compounding a crime.**—Whoever has knowledge that an offense against the penal laws of this State has been committed, and shall agree with the offender, directly or indirectly, not to prosecute or inform on him in consideration of money or other valuable thing paid, delivered or promised to him by such offender, or other person for him, shall be fined not less than one hundred nor more than one thousand dollars. (Added in revising, 1879.)

Art. 429. [424] [293] [273] **False personation.**—Whoever falsely assumes or pretends to be a judicial or executive officer of this State or justice of the peace, sheriff or deputy, constable, or any other judicial or ministerial officer of any county in this State, and takes upon himself to act as such, shall be confined in jail not exceeding six months or be fined not exceeding five hundred dollars. (Act Nov. 12, 1866, Acts 1866, p. 201.)

Art. 430. [421] **Barratry.**—Whoever shall, for his own profit or with the intent to distress or harass the defendant therein, wilfully instigate, maintain, excite, prosecute or encourage the bringing, in any court of this State, of a suit at law or equity in which he has no interest; or shall, for his own profit or with such intent, wilfully bring or prosecute any false suit of his own at law or equity; or shall wilfully instigate, maintain, excite, prosecute or encourage the bringing or prosecution of any claim in which he has no interest, for his own profit or with the intent to distress or harass the person against whom such claim is brought or prosecuted; or shall seek to obtain employment in any claim to prosecute, defend or collect the same by means of personal solicitation of such employment, or by procuring another to solicit for him employment in such claim; or shall, by himself or another seek or obtain such employment by giving, directly or indirectly, to the person from whom the employment is sought, money or other thing of value, or shall, directly or indirectly pay the debts or liabilities of the person from whom such employment is sought, or who shall loan or promise to give, loan or otherwise grant money or other valuable thing to the person from whom such employment is sought before such employment whether the same be done directly by him or through another; or any attorney at law who shall seek or obtain employment in any suit or case at law, or in equity, to prosecute or defend the same by means of personal solicitation of such employment, or by procuring another to solicit for him employment in such cases; or who shall, by himself or another, seek or obtain such employment by giving directly or indirectly to the person from whom employment is sought money or other thing of value, or who shall directly or indirectly pay the debts or liabilities of the person from whom such employment is sought, or who shall loan or promise to give, loan or otherwise grant money or other valuable thing to the person from whom such employment is sought, before such employment, in order to induce such employment, whether the same shall be done directly by him or through another, shall be fined not to exceed five hundred dollars, and may in addition thereto be imprisoned in jail not exceeding three months. The penalties herein prescribed shall apply not only to attorneys at law, but to any other person who may be guilty of any of the things set forth in this article. The term attorney shall include counsel at law. (Acts 1901, p. 125, Acts 1917, p. 336.)

Art. 431. [1486] **Examination of records of corporation.**—

If any president, vice-president, treasurer, secretary, manager, agent or other officer of any corporation doing business under permit or charter from this State shall fail or refuse to permit the Attorney General or any of his assistants or representatives who may be authorized in writing by the Attorney General to make such examination, to examine or to take copies of any or all of the books, accounts, records, minutes, letters, memoranda, documents, checks, vouchers, telegrams, constitution and by-laws and other records of said corporation, he shall be fined not less than one hundred nor more than one thousand dollars, and be imprisoned in jail not less than thirty nor more than one hundred days. Each day of such failure or refusal shall be a separate offense. (Acts 1907, p. 35.)

Art. 432. [381] **"Nepotism."**—No officer of this State or any officer of any district, county, city, precinct, school district, or other municipal subdivision of this State, or any officer or member of any State, district, county, city, school district or other municipal board, or judge of any court, created by or under authority of any general or special law of this State, or any member of the Legislature, shall appoint, or vote for, or confirm the appointment to any office, position, clerkship, employment or duty, of any person related within the second degree by affinity or within the third degree by consanguinity to the person so appointing or so voting, or to any other member of any such board, the Legislature, or court of which such person so appointing or voting may be a member, when the salary, fees, or compensation of such appointee is to be paid for, directly or indirectly, out of or from public funds or fees of office of any kind or character whatsoever. [Acts 1909, p. 85, Acts 1915, p. 149.]

Art. 433. [382] **Officers included.**—The inhibitions set forth in this law shall apply to and include the Governor, Lieutenant Governor, Speaker of the House of Representatives, Railroad Commissioners, head of departments of the State government, judges and members of any and all Boards and courts established by or under the authority of any general or special law of this State, members of the Legislature, mayors, commissioners, recorders, aldermen and members of school boards of incorporated cities and towns, public school trustees, officers and members of boards of managers of the State University and of its several branches, and of the various State educational institutions and of the various State eleemosynary institutions, and of the penitentiaries. This enumeration shall not be held to exclude from the operation and effect of this law any person included within its general provisions. [Acts 1909, p. 86.]

Art. 434. [383] **Evading nepotism law by trading.**—No officer or other person included within any provision of this law shall appoint or vote for appointment or for confirmation of appointment to any such office, position, clerkship, employment or duty of any person whose services are to be rendered under his direction or control and to be paid for, directly or indirectly

out of any such public funds or fees of office, and who is related by affinity within the second degree or by consanguinity within the third degree to any such officer or person included within any provision of this law, in consideration, in whole or in part, that such other officer or person has theretofore appointed, or voted for the appointment or for the confirmation of the appointment, or will thereafter appoint or vote for the appointment, or for the confirmation of the appointment to any such office, position, or clerkship, employment or duty of any person whomsoever related within the second degree by affinity or within the third degree by consanguinity to such officer or other person making such appointment. [Id.]

Art. 435. [385] **Shall not approve account.**—No officer or other person included within the third preceding article shall approve any account or draw or authorize the drawing of any warrant or order to pay any salary, fee or compensation of such ineligible officer or person, knowing him to be so ineligible. [Id.]

Art. 436. [387] **Official stenographer.**—No district judge shall appoint as official stenographer of his district any person related within the third degree to the judge or district attorney of such district. [Id.]

Art. 437. [386] **Punishment.**—Whoever violates any provision of the five preceding articles shall be guilty of a misdemeanor involving official misconduct, and shall be fined not less than one hundred nor more than one thousand dollars. [Id.]

Art. 438. **Exceptions.**—That nothing in this law shall apply to any appointment to the office of a notary public, or to the confirmation thereof; or to the appointment of a page, secretary, attendant or other employee by the Legislature for attendance on any member of the Legislature who, by reason of physical infirmities, is required to have a personal attendant. [Acts 1925, p. 148.]

TITLE 9

OFFENSES AGAINST THE PUBLIC PEACE.

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CHAPTER ONE.

UNLAWFUL ASSEMBLIES.

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Art. 439. [435] [299] **"Unlawful assembly."**—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.

Art. 440 [436] [300] **To prevent elections.**—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 254.

Art. 441. [437] [301] **To prevent execution of law, etc.**—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 to exceed five hundred dollars.

Art. 442. [438] [302] **To effect rescue of capital felon.**—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 to exceed one thousand dollars.

Art. 443. [439] [303] **To effect rescue of non-capital felon.**—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.

Art. 444. [440] [304] **To rescue one accused of capital felony.**—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.

Art. 445. [441] [305] **To rescue one accused of lesser felony.**—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.

Art. 446. [442] [306] **To rescue one accused of misdemeanor.**—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.

Art. 447. [443] [307] **To prevent the sitting of any tribunal.**—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. 448. [444] [308] **To prevent collection of taxes.**—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.

Art. 449. [445] [309] **To prevent any person from pursuing his labor.**—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.

Art. 450. [446] [310] **To frighten anyone by disguise.**—If the purpose of the unlawful assembly be to alarm and frighten any person by appearing in disguise, so that the real person 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.

Art. 451. [447] [311] **To disturb families.**—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 private residence may be either a public or private house.

Art. 452. [448] [312] **To effect any other illegal object.**—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 fined not more than two hundred dollars.

Art. 453. [449] [313] **Lawful meeting not included.**—No public meeting for the purpose of exercising any political, religious or other lawful rights or for the purpose of lawful amusement or recreation is within the meaning of this chapter.

Art. 454. [450] [314] **Lawful meetings included.**—Where the persons engaged in an 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 439.

CHAPTER TWO.

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Art. 455. [451] [315] **"Riot"**—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.

Art. 456. [452] [316] **To prevent collection of taxes.**—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 fined not less than two hundred nor more than one thousand dollars, although the purpose of the riot be not effected; and if such illegal purpose be effected, in addition thereto, imprisonment in jail not exceeding two years may be added.

Art. 457. [453] [317] **Execution of law.**—If any person, by engaging in a riot, shall prevent the execution or enforcement of any law of this State, or the lawful decree of any court in a civil case, he shall be confined in jail not exceeding two years, and be fined not less than two hundred nor more than one thousand dollars.

Art. 458. [454] [318] **Rescue of felon under death sentence.**—Whoever by engaging in a riot shall rescue one lawfully convicted and given the death penalty or under lawful sentence of death shall be confined in the penitentiary not less than five nor more than ten years.

Art. 459. [455] [319] **Rescue of felon less than capital.**—Whoever by engaging in a riot shall rescue any prisoner lawfully convicted of felony less than capital, or lawfully under sentence for such offense, shall be confined in the penitentiary not less than two nor more than seven years.

Art. 460. [456] [320] **Rescue of one convicted of misdemeanor.**—Whoever by engaging in a riot shall rescue any prisoner lawfully convicted of a misdemeanor, shall be confined in jail not less than six months nor more than two years.

Art. 461. [457] [321] **Rescue of one imprisoned for capital felony.**—Whoever by engaging in a riot shall rescue any prisoner lawfully arrested or imprisoned for a capital felony, shall be confined in the penitentiary not less than two nor more than seven years.

Art. 462. [458] [322] **Felony less than capital.**—Whoever by engaging in a riot shall rescue any prisoner lawfully arrested or imprisoned for a felony less than capital shall be confined in the penitentiary not less than two nor more than seven years.

Art. 463. [459] [323] **Misdemeanor.**—Whoever by engaging in a riot shall rescue any prisoner lawfully arrested or imprisoned for a misdemeanor shall be confined in jail not less than six nor more than twelve months.

Art. 464. [460] [324] **Preventing any person from labor.**—Whoever 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, shall be confined in jail not less than six months nor more than one year.

Art. 465. [461] [325] **Disturbing residence.**—Whoever 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, shall be fined not less than fifty nor more than five hundred dollars. A residence may be either a public or private house.

Art. 466. [462] [326] **Committing any other illegal act.**—Whoever by engaging in a riot shall commit any illegal act other than those mentioned in the ten preceding articles shall, in addition to receiving the punishment affixed to such illegal act, be also confined in jail not exceeding one year, or be fined not exceeding one thousand dollars.

Art. 467. [463] [327] **Penalty when object not accomplished.**—When the purpose of the riot was to effect any 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.

Art. 468. [464] [328] **All participants guilty.**—One engaged in any riot whereby an illegal act is committed shall be deemed guilty of the offense of riot, according 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. 469. [465] [329] **Where assembly was at first lawful.**—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.

Art. 470. [466] [330] **One may be prosecuted.**—Anyone engaged in an unlawful assembly or riot may be prosecuted and convicted before the others are arrested.

Art. 471. [467] [331] **Indictment.**—The indictment must state the illegal act which was the object of the meeting, or which they proceeded to do if the assembly was originally lawful, and must state and it must be proven on the trial, that three or more persons were assembled, and their names must be given if known; if unknown, it must be so alleged

Art. 472. [468] [332] **Duty of officers in case of riot.**—If any persons shall be unlawfully or riotously assembled together, it is the duty of any magistrate or peace officer, so soon as it may come to his knowledge to go to the place of such 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.

CHAPTER THREE.

AFFRAYS AND DISTURBANCES OF THE PEACE.

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"Public place".....	475	Shooting in a public place.....	480
Profane language over telephone. 476		Horse racing on road or street..	481
Drunk in public place.....	477	Abusive language.....	482

Art. 473. [469] [333] [313] **Affray.**—If any two or more persons shall fight together in a public place they shall be fined not exceeding one hundred dollars.

Art. 474. [470] [334] **Disturbing the peace.**—Whoever 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 place or house, shall be fined not to exceed one hundred dollars.

Art. 475. [472] [335] **"Public place"**—A "public place," as used in the two preceding articles, is any public road, street or alley of a town or city, or any store or work shop or any place at which people are assembled or to which people commonly resort for purposes of business, amusement or other lawful purpose.

Art. 476. **Profane language over telephone.**—Whoever uses any vulgar, profane, obscene or indecent language over or through any telephone shall be fined not less than five nor more than one hundred dollars. [Acts 1909, p. 87.]

Art. 477. [204] [150] **Drunk in public place.**—Whoever shall get drunk or be found in a state of intoxication in any public place, or at any private house except his own, shall be fined not exceeding one hundred dollars. [Acts 1913, p. 177.]

Art. 478. [205] **Drinking liquor on train.**—Whoever shall drink intoxicating liquor in or upon any railway passenger train, coach, closet, vestibule or platform connected therewith, while said train or coach is in the service of passenger transportation, shall be fined not less than ten nor more than one hundred dollars. Nothing herein shall prevent the use of such liquor as stimulant in case of actual sickness of the person using it. [Acts 1907, p. 51.]

Art. 479. **Peddler refusing to leave.**— Any peddler or

hawker of goods or merchandise who enters upon premises owned or leased by another and wilfully refuses to leave said premises after having been notified by the owner or possessor of said premises, or his agent, to leave the same, shall be fined not less than one nor more than twenty-five dollars. [Acts 1913, p. 142.]

Art. 480. [473] [336] **Shooting in public place.**—Any person who discharges any gun, pistol or firearm of any kind, or discharges any cannon cracker or torpedo on or across any public square, street or alley of any town or city or within one hundred yards of any business house in this State shall be fined not more than one hundred dollars. A “cannon cracker” is any combustible package more than two inches long and more than one inch through. [Acts 1901, p. 300.]

Art. 481. [474] [337] **Horse racing on road or street.**—Whoever shall run or be in any way concerned in running any horse race in, along or across any public road or any public square, street or alley in any city, town or village, shall be fined not less than twenty-five nor more than one hundred dollars.

Art. 482. [1020] [599] **Abusive language.**—Any person who 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, shall be fined not more than one hundred dollars. [Acts 1887, p. 13.]

CHAPTER FOUR.

UNLAWFULLY CARRYING ARMS.

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Art. 483. [475] [338] [318] **Unlawfully carrying arms.**—Whoever 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 the purposes of offense or defense, shall be punished by fine not less than \$100.00 nor more than \$500.00, or by confinement in jail for not less than one month nor more than one year. [Acts 1887, p. 6. Acts 1905, p. 56. Acts 1918, p. 194.]

Art. 484. [476] [339] [319] **Not applicable.**—The preceding article shall not apply to a person in actual service as a militiaman, nor to any peace officer in the actual discharge of his official duty, nor to the carrying of arms on one’s own premises or place of business, nor to persons traveling, nor to any deputy constable, or special policeman who receives a compensation of forty dollars or more per month for his services as such officer, and who is appointed in conformity with the statutes authorizing such appointment; nor to the Game, Fish and Oyster Commissioner, nor to any deputy, when in the actual discharge

of his duties as such, nor to any game warden, or local deputy Game, Fish and Oyster Commissioner when in the actual discharge of his duties in the county of his residence, nor shall it apply to any game warden or deputy Game, Fish and Oyster Commissioner who actually receives from the State fees or compensation for his services. [Acts 1871, p. 25, Acts 1918, p. 194.]

Art. 485. [477] [340] Carrying arms in any assembly.—If any person shall go into any church or any religious assembly, any schoolroom, ballroom, 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 social gathering, or to any election on the day or days of any election where any portion of the people of this State are collected to vote at an election, or to any other place where people may be assembled to muster or perform any other public duties, and shall have or carry about his person any pistol or other firearm, dirk, dagger, slung shot, sword cane, spear, brass knuckle, bowie knife, or any other kind of a knife made and manufactured for the purpose of offense and defense, he shall be fined not less than one hundred nor more than five hundred dollars, or be confined in jail not less than thirty days nor more than twelve months, or both. [Acts 1871, p. 25; Acts 1915, p. 132.]

Art. 486. [478] [341] Not applicable to whom.—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. [Acts 1871, p. 25. Revision of 1879.]

Art. 487. [479] [342] Arrest without warrant.—Any person violating any article of this chapter may be arrested without warrant by any peace officer and carried before the nearest justice of the peace. Any peace officer who shall fail or refuse to arrest such person on his own knowledge, or upon information from some reliable person, shall be fined not exceeding five hundred dollars. [Acts 1871, p. 26.]

Art. 488. Dope seller carrying arms.—Whoever shall carry on or about his person a pistol or any other weapon or arm mentioned in the first article of this chapter while possessing for the purpose of unlawful sale, furnishing or giving away any drug, narcotic, derivative or preparation or marijuana mentioned in article 720 of this Code, shall be confined in the penitentiary for not less than one nor more than ten years. [Act June 18, 1923, p. 164.]

Art. 489. [1048] Sale of weapon to minor.—Whoever shall knowingly sell, give or barter, or cause to be sold, given or bartered to any minor a pistol or any other weapon or arm mentioned in the first article of this chapter, without the written consent of the parent or guardian of such minor, or of some one standing in lieu thereof, shall be fined not less than twenty-five nor more than two hundred dollars, or be imprisoned in jail not less than ten nor more than thirty days, or both. [Acts 1897, p. 221.]

TITLE 10

OFFENSES AGAINST MORALS, DECENCY AND CHASTITY.

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CHAPTER ONE.

UNLAWFUL MARRIAGES.

	Chapter		Chapter
Bigamy	490	"Negro" and "white person"	493
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Art. 490. [481] [344] [324] **Bigamy.**—Any person who has a former wife or husband living who shall marry another in this State shall be confined in the penitentiary not less than two nor more than five years.. [Acts 1887, p. 37.]

Art. 491. [482] [345] **Defensive matter.**—The preceding article does not apply to one 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 one marrying again not knowing the other to be living within that time, nor to any one who has been legally divorced.

Art. 492. [483] [346] [326] **Miscegenation.**—If any white person and negro shall knowingly intermarry with each other in 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 confined in the penitentiary not less than two nor more than five years.

Art. 493. [484] [347] [327] **"Negro" and "white person".**—The term "negro" includes also a person of mixed blood descended from negro ancestry from the third generation inclusive, though one ancestor of each generation may have been a white person. Any person not included in the foregoing definition is deemed a white person within the meaning of this law.

Art. 494. [485] [348] [328] **Proof of marriage.**—In trials for any offense included in this chapter, proof of marriage by mere reputation shall not be sufficient.

CHAPTER TWO.

INCEST.

	Article		Article
Punishment	495	Who women may not marry	497
Who men may not marry	496	Evidence	498

Art. 495. [486] [349] **Punishment.**—All persons who are forbidden to marry by the succeeding articles who shall inter-

marry or carnally know each other shall be confined in the penitentiary not less than two nor more than ten years.

Art. 496. [487] [350] [330] **Who men can not marry.**—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.

Art. 497. [488] [351] [331] **Who women can not marry.**—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 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.

Art. 498. [489] [352] **Evidence.**—On a trial for incest the fact of the relationship between the parties may be proved as in civil suits, and proof of carnal knowledge shall be in all cases sufficient without proof of marriage.

CHAPTER THREE.

ADULTERY AND FORNICATION.

	Article		Article
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Art. 499. [490] [353] [333] **"Adultery"**—"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.

Art. 500. [491] [354] **Proof of marriage.**—Proof of marriage in such cases may be made by the original or a certified copy of the marriage license and return thereon, or by the testimony of any one present at the marriage or who has known the husband and wife to live together as married persons.

Art. 501. [492] [355] **Both guilty.**—When adultery has been committed, both parties are guilty though only one may be married.

Art. 502. [493] [356] **Punishment for adultery.**—Every one guilty of adultery shall be fined not less than one hundred nor more than one thousand dollars.

Art. 503. [494] [357] **"Fornication".**—"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.

Art. 504. [495] [358] **Punishment for fornication.**—Every one guilty of fornication shall be fined not less than fifty nor more than five hundred dollars.

CHAPTER FOUR.

SEDUCTION.

	Article		Article
Seduction	505	"Seduce"	508
Marriage obliterates offense.....	506	Liability of married man.....	509
Abandonment after seduction and marriage	507		

Art. 505. [1447] [967] [814] **Seduction.**—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 confined in the penitentiary not less than two nor more than ten years. [Acts 1858, p. 185; Acts 1903, p. 221.]

Art. 506. [1449] [969] [816] **Marriage obliterates offense.**—If the parties marry each other at any time before the defendant pleads to the indictment before a court of competent jurisdiction, the prosecution shall be dismissed. If after the prosecution is begun and before he pleads to the indictment before a court of competent jurisdiction, the defendant in good faith offers to marry the female so seduced and she refuses to marry him, such refusal shall be a bar to further prosecution. This article shall not apply to the case of a defendant who was in fact married at the time of committing the offense. [O. C. 790; Acts 1903, p. 221.]

Art. 507. [1450] **Abandonment after seduction and marriage.**—If any person by promise of marriage shall seduce an unmarried female under the age of twenty-five years and shall have carnal knowledge of said female, and if after prosecution has begun, the parties marry each other at any time before the defendant pleads to the indictment before a court of competent jurisdiction, and if the defendant within two years after said marriage without the fault of said wife, such fault amounting to acts committed by her after said marriage as would entitle him to a divorce under the laws of this State, shall abandon her or refuse to live with her, or shall be so cruel to her as to compel her to leave him, or shall be guilty of such outrages or cruelties toward her as to make their living together insupportable thereby leaving her or forcing her to leave him and live apart from each other, he shall be confined in the penitentiary not less than two nor more than ten years. Such female so seduced and subsequently married and abandoned shall be a competent witness against said defendant. [Acts 1909, p. 97.]

Art. 508. [1448] [968] [815] **"Seduce".**—The word "seduce" is used in the sense in which it is commonly understood.

Art. 509. [1451] [970] [817] **Liability of married man.**—No one who was married at the time of committing the offense and that fact known to the woman, shall be held liable for the offenses defined in this chapter.

CHAPTER FIVE.

BAWDY AND DISORDERLY HOUSES.

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"Bawdy house".....	510	Owner, lessee or agent liable....	515
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"House".....	512	Duty of officers.....	517
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Keeping bawdy or disorderly house.	514	house.....	518

Art. 510. [496] **"Bawdy house".**—A bawdy house is one kept for prostitution or where prostitutes are permitted to resort or reside for the purpose of plying their vocation. [Acts 3rd C. S. 1910, p. 32.]

Art. 511. [497] **"Assignment house".**—An assignment house is a house, room or place where men and women meet by mutual appointment, or by appointment made by another, for the purpose of sexual intercourse. [Acts 3rd C. S. 1910, p. 32.]

Art. 512. [499] [360] [340] **"House".**—Any room or part of a building or other place appropriated for either of the purposes above mentioned is a bawdy or a disorderly house within the meaning of this chapter. [O. C. 397.]

Art. 513. [496] **"Disorderly house".**—A disorderly house is any assignation house, or any house to which persons resort for the purpose of smoking or in any manner using opium. [Acts 3rd C. S. 1910, p. 32.]

Art. 514. [500] [361] [341] **Keeping bawdy or disorderly house.**—Any person who shall directly, as agent for another, or through an agent, keep or be concerned in keeping, or aid or assist or abet, in keeping a bawdy or disorderly house in any house, building, edifice or tenement, or shall knowingly permit the keeping of a bawdy or disorderly house in any house, building, edifice or tenement owned, leased, occupied or controlled by him or her, directly, as agent for another or through any agent, shall be fined two hundred dollars and confined in jail for twenty days for each day he or she shall keep, be concerned in keeping or knowingly permit to be kept such bawdy or disorderly house. [Acts 1907, p. 247.]

Art. 515. [501] [361] [341] **Owner, lessee or agent liable.**—Any owner, lessee, or the agent of either, controlling the premises, having information that such premises are being kept, used or occupied as a bawdy or disorderly house, shall be guilty of knowingly permitting the premises to be kept as a bawdy or disorderly house, unless he shall immediately proceed to prevent such keeping, use or occupancy by giving such information to the county or district attorney, or take such other action as may reasonably accomplish such result. [Acts 1907, p. 247.]

Art. 516. [502] [362] [341a] **Employing prostitutes.**—Any person who shall directly, as agent for another, or through an agent, knowingly employ or have in his service in any capacity in any theater, play house or dance house, any prostitute, lewd woman or woman of bad reputation for chastity, or permit such woman to display or conduct herself therein in an indecent

manner, shall be fined not less than one hundred nor more than five hundred dollars and confined in jail for twenty days for each day that such woman is kept in service or so permitted to display or conduct herself. [Acts 1889, p. 38; Acts 1907, p. 247.]

Art. 517. [506] [363] **Duty of officers.**—All peace officers are especially charged to discover and report and aid in the enforcement of the articles of this chapter; judges are required to give them specially in charge to the grand juries, and each grand jury is required to call before them all officers charged with enforcing said articles and examine them as to their knowledge and information of violations thereof and their diligence in their enforcement. [Acts 1889, p. 33.]

Art. 518. **Liquor in bawdy or disorderly house.**—If any person, whether the owner, lessee, manager, housekeeper, proprietor, servant, agent, employe, inmate, visitor or any other person shall give away or drink or permit to be given away or drunk any spirituous or vinous or malt liquors, whether capable of producing intoxication or not, in any bawdy house, disorderly house or assignation house, he shall be confined in jail for not less than thirty nor more than ninety days and be fined not less than fifty nor more than five hundred dollars. [Acts 1911, p. 23.]

CHAPTER SIX.

PANDERING.

	Article		Article
"Pandering"	519	Keeping resort to aid pandering..	522
Defenses and venue.....	520	Marriage no defense.....	523
Female competent to testify.....	521		

Art. 519. **"Pandering".**—Any person who shall procure or attempt to procure or be concerned in procuring with or without her consent a female inmate for a house of prostitution, or who by promises, threats, violence or by any device or scheme shall cause, induce, persuade or encourage a female to become an inmate of a house of prostitution, or shall procure a place as inmate in a house of prostitution for a female person; or shall by such means persuade or encourage an inmate of such a house to remain therein as such inmate; or shall by fraud or artifice, or by duress of person or goods, or by abuse of any position of confidence or authority procure any female person to become or remain an inmate of such a house, or to enter any place in which prostitution is encouraged or allowed in this State or to come into or leave this State for the purpose of prostitution, or who shall procure any female person to become an inmate of a house of ill-fame within this State, or to come into or to leave this State for the purpose of prostitution, or who shall give or agree to receive or give any money or thing of value for procuring or attempting to procure any female person to become an inmate of a house of ill-fame within this State, or to come into this State or leave this State, for the purpose of prostitution, shall be confined in the penitentiary for any term of years not less than five. [Acts 1911, p. 29.]

Art. 520. **Defenses and venue.**—It is no defense that any part of any act prohibited by the preceding article was committed outside this State, and the offense shall in such case be deemed and alleged to have been committed and the accused tried in any county in which the prostitution was intended to be practiced or in which the offense was consummated, or in which any overt act in furtherance thereof was done. [Id.]

Art. 521. **Female competent to testify.**—Any such female shall be a competent witness to testify for or against the accused as to any act or words with him or by him with another in her presence, notwithstanding her having married him before or after the violation of the law, whether called as a witness during the existence of the marriage or after its dissolution. No testimony or statement given by such female during the trial for any such offense above named shall be used against her in any criminal prosecution. [Id.]

Art. 522. **Keeping resort to aid pandering.**—Any person who shall keep or be concerned in keeping or maintaining any house or station or rendezvous or place of resort for females under the guise of securing for such female a place of employment, but with the intent to place such female in a house of prostitution or in the possession of another person to be used for prostitution, shall be punished by confinement in the penitentiary for any term of years not less than five. Any person keeping such house or station or place of rendezvous or resort for females who shall employ any other person to procure any female to go to such place or resort shall be confined in the penitentiary for any term of years not less than five. [Id.]

Art. 523. **Marriage no defense.**—The act or state of marriage shall not be a defense to any violation of any article of this chapter. [Id.]

CHAPTER SEVEN.

MISCELLANEOUS OFFENSES.

	Article		Article
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Desecration of grave	528	Contributing to delinquency of child	534
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Art. 524. [507] [364] [342] **Sodomy.**—Whoever commits with mankind or beast the abominable and detestable crime against nature shall be confined in the penitentiary not less than five nor more than fifteen years. [Acts 1860, p. 97.]

Art. 525. [498] [359a] **Procuring.**—Whoever shall invite, solicit, procure, allure or use any means in alluring or procuring any female to visit and be at any particular house, room or place for the purpose of meeting and having unlawful sexual intercourse with any male person, or to take part or in any way participate in any immoral conduct with men or women, or to use at such place any intoxicating liquor; or give to any person the

name and address, or either, or photograph of any female for the purpose of enabling the person to whom the same is given to meet and have unlawful sexual intercourse or to bring about or procure such intercourse with such female shall be fined not less than fifty nor more than two hundred dollars and be confined in jail not less than one nor more than six months. [Acts 1907, p. 246.]

Art. 526. [508] [365] [343] **Indecent publications and exposures.**—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. [O. C. 399.]

Art. 527. [509] **Immoral publications.**—Whoever shall within this State engage in the business of editing, publishing or disseminating any newspaper, pamphlet, magazine, or any printed paper devoted mainly to the publications of scandals, whoring, lechery, assignations, intrigues between men and women and immoral conduct of persons; or shall knowingly have in his possession for sale, or shall keep for sale or distribute or in any way assist in the sale or shall give away any such newspaper, pamphlet, magazine or printed matter in this State shall be confined in the penitentiary not less than two nor more than five years. [Acts 1897, p. 160.]

Art. 528. [510] [366] [344] **Desecration of graves.**—If any person shall wrongfully destroy, mutilate, deface, injure or remove any tomb, monument, grave stone 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 fined not exceeding five hundred dollars or be imprisoned in jail not to exceed six months. [Acts 1858, p. 166.]

Art. 529. [511] [367] [345] **Interference with dead bodies.**—If any person not authorized by law or by a relative or friend for the purpose of re-interment, 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 fined not exceeding two thousand dollars. [O. C. 399b. Acts 1858, p. 166.]

Art. 530. [512] **Traffic in dead bodies.**—No school, college, physician or surgeon shall be allowed or permitted to receive any dead human body until bond shall have been given as provided by law, and whosoever shall sell or buy any such body or in any way traffic in the same, or shall transmit or convey, or procure to be transmitted or conveyed, any said body to any place outside the State shall be fined not exceeding two hundred dollars or be imprisoned not exceeding two years in jail. [Acts 1907, p. 119.]

Art. 531. [513] Violating Anatomical Board Act.—Any person having duties imposed upon him by the provisions of the Anatomical Board Act who shall refuse, neglect or omit to perform any of them as required by said law, shall be fined not less than one hundred nor more than five hundred dollars for each offense. [Id.]

Art. 532. Traveling women dancers.—Any person, or aggregation of persons traveling from place to place composed in whole or in part of women who shall show or exhibit in any dancing performances, or as dancers in a tent, inclosure, temporary structure or in any location whatever, shall be fined not less than one hundred nor more than five hundred dollars and be confined in jail not less than thirty days nor more than one year. [Acts 1919, p. 26.]

Art. 533. Exceptions.—It shall not be unlawful under the preceding article for any regularly organized show, theatrical company or troupe to show or exhibit dancing performances in permanently established opera houses, play houses or auditoriums, or for any licensed circus not exhibiting more than one day in succession in any town or city to give dancing exhibitions in connection with any regular performance. [Id.]

Art. 534. Contributing to delinquency of child.—In all cases where any child shall be a “delinquent child” or a “neglected or dependent child,” as defined in the statutes of this State, the parent, guardian or person having the custody of, or the person responsible for such child who by any act encourages, causes or contributes to the delinquency or dependency of such child, or any other person who shall in any manner cause, encourage or contribute to the delinquency of such child shall be fined not exceeding five hundred dollars or be imprisoned in jail not to exceed one year, or both. By the term “delinquency,” as used herein, is also meant any act which tends to debase or injure the morals, health or welfare of such child, and includes the use of tobacco in any form, drinking intoxicating liquor, going into or remaining in any bawdy house, and any act which would constitute such child a “delinquent child.” [Acts 1907, p. 209, Acts 1918, 4th C. S. p. 125.]

Art. 535. [1047] [625a] Enticing minor from legal custody.—Any person in this State who shall knowingly entice or decoy any minor in the State away from the custody of the parent or guardian or person standing in the stead of the parent or guardian of such minor shall be fined 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 care and support, such institutions under their agencies and rules are considered as standing in the stead of the parent. [Acts 1893, p. 114.]

TITLE 11

OFFENSES AGAINST PUBLIC POLICY AND ECONOMY.

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CHAPTER ONE.

BANKING.

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Art. 536. [514] [368] Issuing bills to pass as money.—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 nor more than fifty dollars for each bill, promissory note, check or other paper so issued.

Art. 537. [515] [369] Includes corporations.—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.

Art. 538. [516] [370] Indorsement of foreign bills.—Whoever brings 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, is guilty of the offense mentioned in article 536.

Art. 539. [517] [371] Passing paper of broken bank.—Whoever 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, shall be confined in the penitentiary not less than two nor more than five years.

Art. 540. [518] [372] Not applicable to National banks.—The provisions of the four preceding articles shall not apply to any bank incorporated under the laws of the United States, nor to bills issued to such bank.

Art. 541. [519] [520] **Misappropriating savings funds.**—Any officer or director of any bank or bank and trust company which shall establish or maintain or continue to maintain, a savings department, or which shall use the word “savings”, as provided by law, who shall knowingly misappropriate any moneys or funds belonging to such savings department, or use or consent to the use of any such moneys or funds otherwise than for the payment of lawful demands of savings depositors, and in making such investments as are prescribed by law, and in the payment of such dividends to the shareholders as are allowed by law to be paid therefrom, or borrow any of the funds belonging to such savings department, or in any way be an obligor for moneys loaned by or borrowed of such savings department, or receive or accept, directly or indirectly, any commission, brokerage or other valuable thing or favor of any kind by reason of any loan or investment made out of the funds of such savings department, or sell such savings department any security or other investment, or wilfully or knowingly do, or perform, any act or transaction by or as a result of which at any time the assets of such savings department, including cash, shall not at least equal in amount the deposits in such savings department, at least fifteen per cent of which shall be actual cash in such savings department, shall be confined in the penitentiary for not less than one nor more than five years. [Acts 1909, p. 406.]

Art. 542. [521] **Certificate of authority.**—All State banks transacting business in this State shall be required to hold a certificate of authority to transact a banking business, issued by the Banking Commissioner in compliance with the provisions of the laws of this State. The said Commissioner shall issue to each State bank entitled to transact a banking business, a certificate of authority to be signed by him under his official seal, certifying that such State bank is authorized under the laws of this State to engage in the banking business. Such certificate of authority, when issued to guaranty fund banks, shall contain the following statement on the face thereof in bold type: “The non-interest bearing and unsecured deposits of this bank are protected by the State bank guaranty fund.” And, when issued to bond security banks, shall contain the following statement on the face thereof in bold type: “All deposits of this bank are protected by security bond under the laws of the State of Texas.” And, when issued to the State banks other than guaranty fund banks and bond security bonds, it shall contain neither of these nor any similar statement. Said Commissioner shall deliver the certificate herein provided for, upon such corporation showing to the satisfaction of the State Banking Board that it has complied with the State banking laws.

Any person or persons who shall in any capacity transact, or hold themselves out as transacting, the business of banking for or on behalf of any State bank or State banking and trust

company, without such bank or banking and trust company's holding a certificate of authority from the said Commissioner, as herein provided for, shall be fined not less than one hundred nor more than one thousand dollars, or be imprisoned in jail for not less than one nor more than twelve months, or both. Each day is a separate offense. [Id.]

Art. 543. [522] **False statement as to system.**—Any officer, director, or stockholder of any State bank or State bank and trust company doing business under the laws of this State, or any other person acting for such bank or bank and trust company, who shall write, print, publish, or advertise in any manner any false statement as to the Guaranty Fund system or the bond security system of the State banks of Texas, or any person who shall write, print, publish, or advertise any false statement as to the Guaranty Fund system or bond security system of the State banks of this State authorized to be used by State banks or State bank and trust companies of this State, shall be fined not less than one hundred nor more than five hundred dollars, or be confined in jail not less than three nor more than twelve months, or both. [Acts 1923, p. 92.]

Art. 544. [523] **Embezzling or misapplying funds.**—Every president, cashier, director, teller, clerk, or agent of any State bank or bank and trust company incorporated under the laws of Texas, who embezzles, fraudulently abstracts or wilfully misapplies any of the moneys, funds or credits of such bank or bank and trust company, shall be confined in the penitentiary not less than five nor more than ten years. It shall not be necessary to allege in the indictment nor to prove on the trial that such embezzlement, abstraction or misapplication was without the consent of anyone. If the accused had the consent of anyone authorized to consent to his act, he may prove it. [Acts 1909, p. 406.]

Art. 545. [523] **Acts without authority.**—Every president, cashier, director, teller, clerk, or agent of any State bank or banking and trust company incorporated under the laws of Texas, who, without authority from the directors, issues or puts forth any certificate of deposit, draws any order or bill of exchange, makes any acceptance, assigns any note, bond, draft, bill of exchange, mortgage, judgment or decree, or who makes any false entry in any book, report or statement of such bank or banking and trust company, with intent, in either case to defraud such bank or banking and trust company, or any other corporation, body politic, or any person, firm, or association, or to deceive any officer of such bank or banking and trust company, the Banking Commissioner or any examiner or special agent authorized by law to examine the affairs of any such bank or banking and trust company, shall be confined in the penitentiary not less than five nor more than ten years. [Id.]

Art. 546. [524] **Director borrowing funds.**—Any director of a State bank or banking and trust company, incorporated

under the laws of this State, who shall, either directly or indirectly, borrow any of the funds of such bank in excess of ten per cent of its capital and surplus, without the consent of a majority of the directors of the bank first having been obtained and made a matter of record at a regular meeting of the board, or without the written consent of such majority of the directors, other than the borrowers, being jointly executed by them and filed in the archives of such bank before the loan is made; and any officer of a State bank who shall knowingly become indebted to such bank, directly or indirectly, in any sum whatever, without the consent of a majority of the board, other than the borrower, obtained or recorded or filed in like manner, and any officer or director of such bank who shall knowingly loan or assent to the loaning of any of its funds to any officer, or any of its funds to any director in excess of ten per cent of its capital and surplus, without such consent being first obtained and recorded or filed, or who shall knowingly permit any such officer or director to become indebted to the bank or liable to it without such consent, shall be confined in the penitentiary for a term of not less than two years. [Id.]

Art. 547. [525] **Officer or director, failure of duty.**—Any officer, director or employe of any State bank or trust company who wilfully fails or refuses to perform any duty imposed upon him by law, or who shall do or perform, or assist in doing or performing any act or transaction prohibited by the provisions of the laws of this State governing such banks or companies, for the punishment of which provision is not otherwise made in this chapter, shall be fined not less than five hundred nor more than one thousand dollars, or be imprisoned in jail not less than thirty nor more than ninety days, or both. [Id.]

Art. 548. [526] [527] **Commissioner financially interested.**—Neither the Banking Commissioner nor any regularly appointed clerk or employe of the department of banking, nor any State bank examiner, shall, at any time during his incumbency, be financially interested, directly or indirectly, in any State bank or banking and trust company, subject to the supervision of the department of banking, or knowingly be or become indebted, either directly or indirectly, to any such State bank or banking and trust company. Any officer or employe above named violating any provision hereof shall be fined not exceeding five hundred dollars. The venue in such case shall be in the county wherein such bank or banking and trust company is located. The violation of the provisions of this article shall work a forfeiture of the office or position held by the person guilty of such violation. [Id.]

Art. 549. [528] **Certifying check without funds.**—Any officer, clerk or agent of any State bank or banking and trust company incorporated under the laws of Texas, who shall wilfully certify to any check before the amount thereof shall have been regularly entered to the credit of the drawer, upon the books of such State bank or banking and trust company, shall be fined

not less than five hundred nor more than five thousand dollars, or be confined in the penitentiary for not more than one year, or punished by both such fine and imprisonment. [Id.]

Art. 550. [529] **Notice of violation.**—Any State bank examiner, or special agent, who shall knowingly and intentionally fail or refuse to notify the Banking Commissioner in writing of any violation of any criminal provision of this law within ten days after the same shall come to his notice or attention, unless such notice shall, within his knowledge, have been previously given by some other bank examiner or special agent; or any Banking Commissioner who shall knowingly and intentionally fail or refuse to notify in writing the county or district attorney charged by law with the duty of the prosecution thereof, of any such violation, within ten days after the same shall have come to his knowledge or attention, shall be fined not less than one hundred nor more than five hundred dollars, or be imprisoned in jail not less than three nor more than twelve months, or both, and, upon conviction, shall be removed from office. [Id.]

Art. 551. [530] **Examiner violating oath of office.**—For any violation of his oath of office, or of any duty imposed upon him by law, any examiner shall be confined in the penitentiary for a term not exceeding five years, and upon indictment of any such examiner for any violation of this law, he shall be disqualified from further discharging the duties of such office until such indictment is fully disposed of. [Acts 1905, p. 489.]

Art. 552. [531] **Statement.**—The Banking Commissioner, not less than twice during any one year, shall call upon each bank organized under the laws of this State, and each trust company or savings bank doing business under the provisions of such laws, for a statement as provided by law; and he may call upon any one or more of such corporations to make such statements at any time, though it be more than a second statement within the year. Said Commissioner shall give no notice to any person whatsoever of the day on which he will call for such statement. For a violation of this prohibition, or of any other duty herein imposed upon him, he shall be deemed to have committed a misdemeanor in office, and, upon conviction of the same, he shall be punished by removal from office, and by a fine of not less than five hundred dollars for each violation of this law. Should any president, cashier or secretary, or any officer of such corporation, or any director thereof, refuse to make the statement so required of him or them, or wilfully and corruptly make a false statement, he shall be fined for each offense not less than one hundred nor more than five hundred dollars, or be imprisoned not less than one nor more than twelve months in jail, or both. [Id.]

Art. 553. **Accepting bonus for loan.**—Any officer, director, or employe of any State bank or banking corporation organized under the laws of Texas who demands or accepts directly or indirectly, any commission or consideration or any other compensation on account of the making by any such corporation of any

loan or extension of credit to any person, firm or corporation, shall be fined not less than one hundred nor more than five hundred dollars, or be confined in jail not less than thirty nor more than ninety days, or both. [Acts 1917, p. 470.]

Art. 554. **Exceeding loan limit.**—No incorporated bank or trust company chartered under the laws of this State shall loan its money, directly or indirectly, or permit any individual, corporation, company, or firm to become at any time indebted or liable to it in a sum exceeding twenty-five per cent of its capital stock actually paid in and surplus, or permit a line of loans or credits to any greater amount to any individual, corporation, company or firm. Any agent or officer of any incorporated bank or trust company who violates any provision of this article shall be fined not less than one hundred nor more than five hundred dollars, or be imprisoned in jail for not less than thirty nor more than ninety days, or both. All loans to members of any unincorporated company or firm shall be considered as if they were loans to such company or firm in determining the limitation here prescribed. The discount of commercial or business paper actually owned by the person negotiating the same shall not be considered as borrowed money; a permanent surplus, the setting apart of which shall have been certified to the Banking Commissioner and which can not be diverted without due notice to and consent of said officer, may be taken and considered as a part of the capital stock for the purpose of this article. In no event shall any such loan exceed 25 per cent of the authorized capital stock and certified surplus. [Acts 1917, p. 472.]

Art. 555. **Exceptions.**—The preceding article shall not be held to interfere with the rules and regulations of any clearing house association in this State in reference to the daily balances between banks; nor does it apply to balances due from correspondents subject to draft. The discount of the following classes of paper shall not be considered as money borrowed within the meaning of the preceding article:

1. The discount of bills of exchange, drawn in good faith, against actual existing values.

2. The discount of paper upon collateral security or warehouse receipts, covering agricultural and manufactured products in store in elevators and warehouses, under the following conditions: first, that the actual market value of the property held in store and covered by such receipts shall at all times exceed by at least twenty-five per cent the amount loaned upon the same; second, that the full amount of such loans shall at all times be covered by policies of fire insurance issued by companies lawfully doing business in this State, to the extent of their ability to cover such loans; and all such policies shall be made payable in case of loss to the bank or holder of the warehouse receipts.

Any State banking corporation may accept drafts or bills of exchange drawn upon it and growing out of transactions involv-

ing the importation and exportation of goods having not more than six months sight to run; but no bank shall accept such bills to an amount equal at any time in the aggregate to more than one-half of its paid up capital and surplus. [Id.]

Art. 556. Unlawfully accepting deposits.—No director, officer or employe of any State bank or banking corporation organized under or subject to the general banking laws of this State, or any person for any such bank or banking corporation, shall receive any deposit at any time after such bank or banking corporation has failed or refused within the time required, to comply with any order or requirement of the State Banking Board, pursuant to the provisions of the laws regulating such deposits, when its total demand and time deposits and savings accounts shall in the aggregate amount to more than the limitations placed upon deposits by laws of this State; and such acceptance of deposits by any director, officer, or employe of any such bank or banking corporation or by any person therefor, shall be punishable by a fine of not less than one hundred nor more than five hundred dollars, or by imprisonment in jail for not less than thirty nor more than ninety days, or by both. Each acceptance or receipt of a deposit in violation hereof is a separate offense. [Acts 1921, p. 115.]

Art. 557. Accepting deposits when insolvent.—If any president, director, manager, cashier, or other officer, of any banking institution, or the owner, agent, or manager, of any private bank or banking institution, or the president, vice-president, secretary, treasurer, director or agent, of any trust company or institution, doing business in this State, shall receive or assent to the reception of any deposit of money or other valuable thing into such bank or banking institution, or trust company or institution, or if any such officer, owner, or agent, of such bank or banking institution, or if any president, vice-president, secretary, treasurer, director, or agent, of such trust company or institution, shall create or assent to the creation of any debt, debts, or indebtedness, in consideration of or by reason of which indebtedness any money or valuable property shall be received into such bank or banking institution, or trust company or institution, after he shall have had knowledge of the fact that such bank, banking institution, or trust company or institution, or the owner or owners of any private bank, is insolvent or in failing circumstances, he shall be confined in the penitentiary not less than two nor more than ten years. The failure of any such bank or banking institution, or trust company or institution, shall be prima facie evidence of knowledge on the part of any such officer or person that the same was insolvent or in failing circumstances when the money or property was received on deposit. [Acts 1897, p. 130.]

Art. 558. Organizing private bank.—No additional private banking institution or business shall be organized or established after the taking effect of this Act, and it shall be unlawful for any person, association of persons, partnerships, or trustee

or trustees acting under any common law declaration of trust, to hereafter organize or establish, or begin the operation of any banking institution or business within this State, or to resume such operations, except as provided in this Act. [Acts 1923, p. 422.]

Art. 559. Deceptive advertising.—No persons, association of persons, partnerships or any trustee or trustees acting under any common law declaration of trust, shall hereafter use, advertise or put forth any sign as a bank, trust company, bank and trust company or savings bank, or in any way solicit or receive business as such, or use as their name or part of their name on any sign, advertising or letter head or envelopes the word bank, banker, banking, banking company, trust, trust company, bank and trust company, savings bank, savings, or any other term which may or might be confused with the name of a corporation organized under the general provisions of the banking laws of this State. No such person, association of persons, partnership or any trustee or trustees acting under any common law declaration of trust shall adopt or use any artificial name or business title, or use any other than the name of the person or one or more of the persons, or a member or one or more of the members of the association of persons or partnership, or a member or one or more of the members of such common law trust association, in the management, conduct or operation of any private banking institution or bank of deposit within this State. [Id.]

Art. 560. Speculative venture.—No person or association of persons, trustee or trustees, acting under any common law declaration of trust, engaged in the business of banking or operating a bank of deposit in this State shall employ any part of the funds of the depositors of said institution in any speculative venture or enterprise owned or promoted by said bank or any of the partners, officers or managers thereof. [Id.]

Art. 561. Affidavit of solvency.—Annually, not later than January 15th of each year, each person or persons, association of persons or partnerships, or trustee or trustees acting under any common law declaration of trust, or the officers or the managers thereof, owning or operating any bank of deposit within this State, shall file with the county clerk of the county wherein the principal business of said institution is conducted an affidavit stating that said person or association of persons, partnership or institution, operating under a common law declaration of trust, is solvent and has and owns property and assets in this State the value of which is in excess of any and all of the liabilities of such person, association of persons, partnership or institution operating under a declaration of trust. [Id.]

Art. 562. Statement of private bank.—Every person, partnership or association of persons, the trustee or trustees of every joint stock association, or institution operating under any common law declaration of trust, owning or operating a bank of deposit within this State, shall annually, not later than Jan-

uary 20th, file with the county clerk of the county in which the principal office of said joint stock association or institution operating under a common law declaration of trust is located, a written sworn statement giving the names of each partner or stockholder, or member holding or owning any financial interest or stock in such partnership or institution operating under a common law declaration of trust or association of persons; and a copy of such statement shall be published by the institution, partnership or association of persons, trustee or trustees of such institution, in some newspaper of general circulation in said county, if such newspaper be published within said county. [Id.]

Art. 563. **Advertisement of responsibility.**—No person, association of persons, partnership, or any trustee or trustees, acting under any common law declaration of trust, owning or operating any private banking institution or bank of deposit within this State, shall advertise in any newspaper or otherwise within this State, that said person or association of persons, partnership or institution operating under any common law declaration of trust, owns, possesses or has a financial responsibility in excess of, or above the real and true financial responsibility of such person, association of persons, partnership or institution operating under a declaration of trust. By the term “financial responsibility” as herein used, is meant money or real or personal property within this State. [Id.]

Art. 564. **Punishment.**—The violation of any provision of the six preceding articles by any person, association of persons, partnership, or trustees acting under any common law declaration of trust, shall constitute a misdemeanor as to such person, as to each member or association of persons, and as to each and every trustee acting under such common law declaration of trust, punishable by a fine of not less than one hundred nor more than one thousand dollars, or by imprisonment in jail for not less than thirty days nor more than twelve months, or by both such fine and imprisonment. Each day said business is carried on or attempted to be carried on shall be a separate offense. [Id.]

Art. 565. **Insolvent private bank accepting deposits.**—Any person, association of persons, partnership, or any trustee or trustees acting under any common law declaration of trust, or any manager, cashier or other person owning or operating any unincorporated bank or banking institution, banking company, trust company, bank and trust company, savings bank, or the trustee or manager thereof doing business in this State who shall receive or assent to the reception of any deposit of money or other valuable thing into said bank or banking institution, or trust company or institution, or bank and trust company, or savings bank, or if any such person, association of persons, owner or agent of any such bank or banking institution, or any director or agent of any such institution shall create or assent to the creation of any debt, debts or indebtedness in consideration

or by reason of which indebtedness any money or valuable property shall be received into such bank or banking institution, or trust company, or institution, or any institution operating under a common law declaration of trust, after such person shall have had knowledge of the fact that such bank, banking institution or trust company, or bank and trust company, or savings bank, is insolvent, or in failing circumstances, he shall be confined in the penitentiary not less than two nor more than ten years. The failure of any such bank, banker, or banking institution, trust company, or bank and trust company, or savings bank, shall be prima facie evidence of the knowledge on the part of such person, persons, partnership, officers and trustees of any institution operating under a common law declaration of trust that the same was insolvent or in failing circumstances when the money or property was received and deposited. [Id.]

Art. 566. **Exceptions.**—The provisions of the eight preceding articles shall not apply to any person, association of persons, partnerships or trustees, or trustees acting under any common law declaration of trust, who, at the time this Act becomes effective are and have been for two years next preceding said date, actively engaged in the operation of any bank, trust company, bank and trust company or savings bank within this State, nor to any bank which may have been in successful operation in this State for twenty years and shall have suspended operation prior to the passage of this Act, but which shall resume operation within twelve months after the passage of this Act. The right to continue such business of such bank, trust company, bank and trust company or savings bank so engaged, and that has been so engaged for a period of two years next immediately preceding the time this Act becomes effective, or shall resume business as provided in this Act, and by their heirs, legal representatives, assigns and successors, is hereby expressly recognized, confirmed and fixed. Said provisions shall not apply to any person, association of persons, partnerships or trustee, or trustees acting under any common law declaration of trust, who for a period of one year next preceding the date that this Act becomes effective, and who, as such, in the course of the liquidation of any bank or trust company or bank and trust company within this State, has acquired the assets, or any part thereof, including the real estate used as its banking house or place of business and has assumed the liabilities, or a part thereof, of such liquidated bank or trust company or bank and trust company. [Acts 1923, p. 422.]

Art. 567. **Rural Credit Union.**—Any officer or member of a Rural Credit Union organized under the laws of this State who embezzles or misapplies any money or funds belonging to such Rural Credit Union shall be confined in the penitentiary not less than five nor more than ten years. [Acts 1913, p. 163.]

CHAPTER TWO.

INSURANCE.

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Art. 568. [644] [417] [388a] **Who are insurance agents.**—Whoever 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 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 do any other act 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 loss for or on behalf of any such insurance company, whether any of such acts shall be done at the instance, or by the employment 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 requirements and penalties herein set forth. [Acts C. S. 1879, p. 32.]

Art. 569. **Exception.**—The preceding article shall not apply to citizens of this State who arbitrate in the adjustment of losses between the insurers and the assured, nor to the adjustment of particular or general average losses of vessels or cargoes by marine adjusters, nor to attorneys at law in the State acting in the regular transaction of their business as such, and who are not local agents nor acting as adjusters for any insurance company. [Id.]

Art. 570. [645-689] **Unlawfully acting as agent.**—Whoever shall do or perform any of the acts or things mentioned in the first article of this chapter for any insurance company referred to in said article without such company having first complied with the requirements of the laws of this State, shall be

fined not less than five hundred nor more than one thousand dollars. [Id.]

Art. 571. [643] [416] [388] **Violating insurance laws.**—Whoever violates any provision of the laws of this State regulating the business of life, fire, or marine insurance, shall, where the punishment is not otherwise provided for, be fined not less than five hundred not more than one thousand dollars. [Acts 1875, p. 44.]

Art. 572. **Soliciting without certificate of authority.**—Whoever for direct or indirect compensation solicits insurance in behalf of any insurance company of any kind or character, or transmits for a person other than himself, an application for a policy of insurance to or from such company, or assumes to act in negotiation of insurance without a certificate of authority to act as agent or solicitor for such company, or after such certificate of authority shall have been canceled or revoked, shall be fined not more than one hundred dollars.

Art. 573. [690] **Agent procuring by fraudulent representation.**—Any such agent or solicitor who knowingly procures by fraudulent representations payment of an obligation for the payment of a premium of insurance, shall be fined not less than one hundred nor more than one thousand dollars. [Id.]

Art. 574. [692] **Agent or physician making false statement.**—Any solicitor, agent or examining physician who knowingly or wilfully makes any false or fraudulent statement or representation in or with reference to any application for insurance, shall be fined not less than one hundred nor more than five hundred dollars. [Id.]

Art. 575. [693] **False statement by officer of foreign company.**—Any officer of any insurance company not organized under the laws of this State, who shall file with the Commissioner of Insurance any statement, report or other paper required or provided for by law to be so filed, which shall contain any material statement or fact known to be false by the person filing the same, or any person who shall execute or cause to be executed any such false statement, report or other paper to be so filed, shall be imprisoned in the penitentiary for a term of not less than one year. [Acts 1909, p. 211.]

Art. 576. [691] **Conversion by insurance agent.**—Any insurance agent or solicitor who collects premiums for an insurance company lawfully doing business in this State and who embezzles or fraudulently converts or appropriates to his own use, or with intent to embezzle takes, secretes, or otherwise disposes of or fraudulently withholds, appropriates, lends, invests or otherwise uses or applies any money or substitutes for money received by him as such agent or broker, contrary to the instructions or without the consent of the company for or on account of which the same was received by him, shall be punished as if he had stolen the same. [Acts 1909, p. 208.]

Art. 577. [687] **Director or officer pecuniarily interested.**

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—No director or officer of any insurance company transacting business in this State, or organized under the laws of this State, shall receive any money or valuable thing for negotiating, procuring, recommending or aiding in any purchase or sale by such company of any property or any loan from such company, nor be pecuniarily interested either as principal, co-principal, agent or beneficiary, in any such purchase, sale or loan. Nothing contained in this article shall prevent a life insurance corporation from making a loan upon a policy held therein, by the borrower not in excess of the reserve value thereof. Any person violating any provision of this article shall be fined not less than three hundred nor more than one thousand dollars. [Act March 22, 1909, Sec. 12, Acts 1909, p. 197.]

Art. 578. [688] **Companies not to discriminate.**—No insurance company doing business in this State shall make or permit any distinction or discrimination in favor of individuals between the insured of the same class and of equal expectation of life in the amount of or payment of premiums or rates charged for policies of life or endowment insurance or in the dividends or other benefits payable thereon; nor shall any such company or agent thereof make any contract of insurance or agreement as to such contract other than as expressed in the policy issued thereon, nor shall any such company or any officer, agent, solicitor or representative thereof, pay, allow or give, or offer to pay, allow or give, directly or indirectly, as an inducement to insurance, any rebate of premium payable on the policy, or any special favor or advantage in the dividends or other benefits to accrue thereon or any paid employment or contract for service of any kind, or any valuable consideration or inducement whatever, not specified in the policy contract of insurance; or give, sell or purchase, or offer to give, sell or purchase, as an inducement to insurance or in connection therewith, any stocks, bonds or other securities of any insurance company or other corporation, association or partnership, or any dividends or profits to accrue thereon, or anything of value whatsoever not specified in the policy, or issue any policy containing any special or board contract or similar provision by the terms of which said policy will share or participate in any special fund derived from a tax or a charge against any portion of the premium on any other policy. Any officer or agent of such company violating any provision of this article shall be fined not less than one hundred nor more than five hundred dollars. [Acts 1909, p. 199.]

Art. 579. **Indemnity contracts.**—Any attorney in fact duly appointed as such by the subscribers to execute contracts to exchange reciprocal or inter-insurance contracts according to the law governing such contracts, who shall, except for the purpose of applying for certificate of authority from the Commissioner of Insurance as provided for by such law, exchange any contract of indemnity of the kind and character specified in such law, or shall directly or indirectly solicit or negotiate any

application for same without first complying with the law governing such contracts, shall be fined not less than one hundred nor more than one thousand dollars. [Acts 1915, p. 271.]

Art. 580. Workmen's Compensation Insurance.—Any officer or representative of any insurance company or association authorized to write workmen's compensation insurance in this State, who shall violate any provision of the laws relating to such business contained in chapter 10, Title "Insurance" of the Revised Statutes, relating to the State Insurance Commission and such business, shall be fined not less than one hundred nor more than five hundred dollars. [Acts 1923, p. 411.]

FRATERNAL BENEFIT SOCIETY.

Art. 581. False statement to fraternal benefit society.—Any person, officer, member or examining physician of any society authorized to do business under the laws of this State relating to fraternal benefit societies who wilfully makes any false or fraudulent statement or representation in or with reference to any application for membership, or for the purpose of obtaining money from or benefit in any society transacting business under this law, shall be fined not less than one hundred nor more than five hundred dollars, or be imprisoned in jail for not less than thirty days nor more than one year, or both. [Acts 1913, p. 235.]

Art. 582. Unlawfully soliciting membership.—Whoever solicits membership for, or in any manner assists in procuring membership in any fraternal benefit society not licensed to do business in this State, or who shall solicit membership for, or in any manner assist in procuring membership in such society not authorized by law to do business in this State, shall be fined not less than fifty nor more than two hundred dollars. [Id.]

Art. 583. Soliciting without certificate of authority.—Whoever solicits for or organizes lodges of such association as are defined to be a fraternal benefit society under the laws of this State, without first obtaining from the Commissioner of Insurance a certificate of authority showing that the association has complied with the provisions of such laws and is entitled to do business in this State, shall be fined not less than one hundred nor more than two hundred and fifty dollars, or be imprisoned in jail for not less than three nor more than six months, or both. [Id.]

Art. 584. Exceptions.—No provision of the preceding articles shall prohibit any member of a local or subordinate lodge from soliciting any person to become a member of any local or subordinate lodge already in existence, nor apply to any members of any local or subordinate lodge who participate in, direct or conduct the organization or establishment of any local or subordinate lodge within the limits of the county of their residence or lodge district. [Id.]

Art. 585. General penalty.—Any officer, agent or employe of any fraternal benefit society organized under the laws of this

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State who neglects or refuses to comply with or who violates any provision of the laws of this State governing such societies, shall where the penalty is not provided for in the preceding articles of this chapter, be fined not exceeding two hundred dollars. [Id.]

MUTUAL LIFE COMPANIES.

Art. 586. **Investment of funds.**—Mutual life insurance companies shall invest their funds in accordance with the provisions of the statutes concerning investments of life insurance companies in this State; all moneys of mutual life companies, coming into the hands of any officer or officers thereof, when not invested as prescribed by said laws, shall be deposited in the name of such company or companies in some bank or banks which are subject to either State or national regulation and supervision, and which have been approved by the Commissioner of Insurance as depositories therefor. Any officer or director of any such company who shall knowingly and wilfully violate or assent to the violation of the provisions of this article shall be imprisoned in the penitentiary not less than one nor more than five years. [Acts 1921, p. 150.]

Art. 587. [686] **Insuring without examination.**—No mutual life insurance company shall enter into any contract of insurance amounting to \$500.00 or more, upon the life of any person, without having previously made a medical examination prescribed by its medical director and approved by its board of directors, of the insured, by a duly qualified and licensed practitioner, and without his certificate that the insured was in sound health at the date of examination. Any officer or agent or employe of such company violating any provision of this article or effecting or attempting to effect a contract of insurance contrary to any provision hereof shall be fined not less than one hundred nor more than five hundred dollars or be imprisoned in jail for not less than six months, or both. [Acts 1909, p. 289, Acts 1921, p. 152.]

OTHER MUTUAL INSURANCE.

Art. 588. [680] **Mutual accident insurance law.**—Any officer or any employe of a mutual accident insurance company, incorporated under the laws of this State, who shall use or appropriate, or knowingly permit to be used or appropriated by another, any money belonging to such mutual insurance company, in any manner other than is provided in the law authorizing the organization of such company, shall be confined in the penitentiary not less than two nor more than ten years. [Acts 1903, p. 175.]

Art. 589. **Failure to report condition.**—If at any time the admitted assets of any mutual company operating under the law providing for the incorporation of mutual fire, lightning, hail and storm insurance companies, shall come to be less than the largest single risk for which the company is liable, then the president and the secretary of the company shall at once notify

the Commissioner of Insurance, and he may make an examination into the company's affairs if he deems best, and if such president and secretary shall fail to report the company's condition as so required, they shall each be fined not less than one hundred nor more than five hundred dollars. [Acts 1913, p. 57.]

Art. 590. [683] False statement or misappropriation.—Whoever shall intentionally submit a false statement, or intentionally misappropriate the funds of mutual companies organized under the laws providing for the incorporation of mutual fire, lightning, hail and storm insurance companies, shall be confined in the penitentiary not less than five nor more than ten years. [Id.]

INSURANCE ON THE LLOYDS PLAN.

Art. 591. Underwriters and attorneys.—Individuals, partnerships or associations of individuals, hereby designated "underwriters" are authorized to make any insurance, except life insurance, on the Lloyds plan, by executing articles of agreement expressing their purpose so to do, and complying with the requirements set forth in the law authorizing such insurance. Policies of insurance may be executed by an attorney in fact or other representatives, hereby designated "attorney," authorized by and acting for such underwriters under powers of attorney. [Acts 1921, p. 238.]

Art. 592. To file application for license.—The attorney for a Lloyds shall file with the Commissioner of Insurance a verified application for license setting forth the data and information required by law, and upon complying with the law such Commissioner shall issue to any attorney applying therefor a license specifying the kind or kinds of insurance which he is authorized to make, which shall continue in force until surrendered by the attorney or revoked or suspended by such Commissioner as authorized by law. [Id.]

Art. 593. Examination of books and affairs.—The Commissioner of Insurance may make examinations of the books and affairs of any attorney for underwriters at a Lloyds, and the attorney and his deputies shall facilitate such examination and furnish all information which such Commissioner may reasonably demand. [Id.]

Art. 594. Assuming undue risk.—No attorney for underwriters at a Lloyds shall assume any one insurance risk exceeding one-fifth of the amount of the net assets of the underwriters as defined by law and the additional liability assumed by the individual underwriters in the articles of agreement and in the policies or contracts of insurance, unless such excess shall be promptly reinsured. [Id.]

Art. 595. Violation of Lloyds insurance law.—Any person, who, as principal, attorney, agent, broker, or other representative, shall engage in the business of making insurance on the Lloyds plan, as defined in this chapter and by the Revised Stat-

utes of this State, without complying with the requirements of such law governing such business, or who shall violate any provision of the four preceding articles, shall be fined not exceeding five hundred dollars. [Id.]

FIRE INSURANCE.

Art. 596. Accepting rebates.—Whoever shall knowingly receive or accept from any insurance company or from any of its agents, sub-agents, brokers, solicitors, employes, intermediaries or representatives, or any other person, any rebate of premium payable on policy, or any special favor or advantage in the dividends or other financial profits accrued or to accrue thereon, or any valuable consideration, position or inducement not specified in the policy of insurance, shall be fined not exceeding one hundred dollars or be imprisoned in jail not exceeding ninety days, or both. [Acts 1913, p. 205.]

Art. 597. Violating fire insurance law.—Any officer or director of any fire insurance company affected by the statutes of this State creating the State Insurance Commission, or any agent, or anyone acting or employed by such company who alone or in conjunction with any corporation, company or person, shall wilfully do or cause to be done any act prohibited or declared to be unlawful by such statutes, or who wilfully fails to do any act required to be done by such statutes, or who shall wilfully permit any act directed not to be done, or who shall be guilty of any wilful infraction of such statutes, shall be fined not less than three hundred nor more than one thousand dollars. [Id.]

Art. 598. [663] Witness must testify.—No person shall be excused from giving testimony or producing evidence when legally called upon to do so at the trial of another charged with violating any provision of the laws relating to fire insurance on the ground that it may incriminate him under the laws of this State; but no person shall be prosecuted or subjected to any penalty or forfeiture for, or on account of, any transaction, matter or thing concerning which he may testify or produce evidence under this law. [Acts 1910, p. 125, Acts 1913, p. 206.]

Art. 599. Failure to give bond.—Every fire insurance company not organized under the laws of this State, hereafter issuing or causing or authorizing to be issued any policy of insurance other than life insurance shall first have filed with the Commissioner of Insurance during the calendar year in which such policy may issue, or be authorized or caused to be issued, a bond with good and sufficient sureties, to be approved by such Commissioner, in a sum of not less than ten thousand dollars, conditioned for the payment of all lawful obligations to citizens of this State arising out of any policies or contracts issued by such insurance company. Any person violating any provision of this article shall be fined not less than one hundred nor more than five hundred dollars or be imprisoned in jail for not less than three nor more than twelve months, or both. [Acts 1909, p. 182.]

Art. 600. **Exceptions.**—The preceding article shall not apply to any person, firm or corporation or association doing an in-terinsurance, co-operative or reciprocal business. [Id.]

Art. 601. **Mutual fire insurance companies.**—Any person who shall transact the business of mutual fire insurance in this State without complying with the laws regulating such business shall be fined not less than fifty nor more than five hundred dollars. [Acts 1923, p. 396.]

CHAPTER THREE.

WIFE AND CHILD DESERTION.

Desertion of wife or child.....	Article 602	Wife may testify.....	Article 605
Jurisdiction.....	603	Duty of commissioners court....	606
Allowance for support.....	604		

Art. 602. **Desertion of wife or child.**—Any husband who shall wilfully desert, neglect or refuse to provide for the support and maintenance of his wife who may be in destitute or necessitous circumstances, or any parent who shall wilfully desert, neglect or refuse to provide for the support and maintenance of his or her child or children under sixteen years in destitute or necessitous circumstances, shall be fined not less than twenty-five nor more than five hundred dollars or be imprisoned in jail not more than one year, or both. [Acts 1913, p. 188.]

Art. 603. **Jurisdiction.**—An offense under this chapter shall be held to have been committed in the county in which such wife, child or children may have been at the time such abandonment occurred, or in the county in which such wife, child or children shall have resided for six months next preceding the filing of the indictment or information. [Id.]

Art. 604. **Allowance for support.**—At any time before the trial, upon petition of the complainant and upon notice to the defendant, the court, or judge thereof in vacation, may enter such temporary orders as may seem just, providing for the support of the deserted wife or children, or both, pendente lite, and may punish for the violation of or refusal to obey such order as for contempt. [Id.]

Art. 605. **Wife may testify.**—No other or greater evidence to prove the marriage of such husband and wife, or that the defendant is the father or mother of such child or children, shall be required than is or shall be in a civil action. In no prosecution under this chapter shall any statute prohibiting disclosures of confidential communications between husband and wife apply to strictly relevant facts. Both husband and wife shall be competent and compellable witnesses to testify against each other to any relevant matter including the fact of such marriage, and the parentage of such child or children. Proof of the desertion of such wife, child or children in destitute or necessitous circumstances or of neglect or refusal to provide for the support and maintenance of such wife, child or children shall be prima

facie evidence that such desertion, neglect or refusal is wilful. [Id.]

Art. 606. **Duty of commissioners court.**—The commissioners court of the county in which information or indictment under this chapter is filed shall furnish the funds necessary for arresting and returning to such county any defendant under this chapter who is not at the time in such county. [Id.]

CHAPTER FOUR.

VAGRANCY

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Punishment for vagrancy.....	608	

Art. 607. [634-635-636] **"Vagrancy".**—The following persons are and shall be punished as vagrants, viz.:

(1) Persons known as tramps, wandering or strolling about in idleness, who are able to work and have no property to support them.

(2) Persons leading an idle, immoral or profligate life, who have no property to support them, and who are able to work and do not work.

(3) All persons able to work, have no property to support them, and who have no visible or known means of a fair, honest and reputable livelihood. The term "visible or known means of a fair, honest and reputable livelihood," as used in this article, shall be construed to mean reasonably continuous employment at some lawful occupation for reasonable compensation, or a fixed and regular income from property or other investments, which income is sufficient for the support and maintenance of such person.

(4) All able-bodied persons who habitually loaf, loiter and idle in any city, town or village, or railroad station, or any other public place in this State for the larger portions of their time, without any regular employment and without any visible means of support. An offense under this subdivision shall be made out if it is shown that any person has no visible means of support, and only occasionally has employment at odd jobs, being for the most of the time out of employment.

(5) Persons trading or bartering stolen property.

(6) Every common gambler or person who for the most part maintains himself by gambling.

(7) All companies of gypsies, who, in whole or in part, maintain themselves by telling fortunes.

(8) Every able-bodied person who shall go begging for a livelihood.

(9) Every common prostitute.

(10) Every able-bodied person who lives without employment or labor, and who has no visible means of support.

(11) All persons who are able to work and do not work, but hire out their minor children, or allow them to be hired out, and live upon their wages, being without other means of support.

(12) All persons over sixteen years of age and under twenty-one, able to work and who do not work, and have no property to support them, and have not some known, visible means of a fair, honest and reputable livelihood, and whose parents, or those in loco parentis, are unable to support them, and who are not in attendance upon some educational institution.

(13) All persons who advertise and maintain themselves in whole or in part as clairvoyants or foretellers of future events, or as having supernatural knowledge with respect to present or future conditions, transactions, happenings or events.

(14) All male persons who habitually associate with prostitutes, or habitually loiter in or around houses of prostitution, or who, without having visible means of support, receive financial aid or assistance from prostitutes. [Acts 1909, p. 111.]

Art. 608. [639] **Punishment for vagrancy.**—Each vagrant shall be fined not to exceed two hundred dollars. [Id.]

Art. 609. [637-638-640] **Duty of peace officers.**—It shall be the duty of every sheriff, deputy sheriff and constable in every county, and of the police, town marshal, deputy marshal, and like officials, in every county, city, town, or village in this State, to make complaint under oath to any officer empowered to issue criminal warrants, of all vagrants within their knowledge, or upon information, in their respective counties, cities, towns, and villages. If any such officer shall fail, refuse, or neglect to perform the duties herein required, he shall be fined not less than twenty-five nor more than one hundred dollars. [Id.]

CHAPTER FIVE.

PRIZE FIGHTING, ROPING CONTESTS, ETC.

	Article		Article
Pugilistic encounters prohibited..	610	Matching cock fight, etc.....	613
"Pugilistic encounter".....	611	Engaging in roping contest.....	614
Moving picture of prize fights....	612		

Art. 610. [1507] [1005] **Pugilistic encounters prohibited.**—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 imprisoned in the penitentiary for not less than two nor more than five years. [Acts 1st C. S. 1895, p. 5.]

Art. 611. [1508] **"Pugilistic encounter".**—By the term "pugilistic encounter," as used herein, 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 anything of value is bet or wagered, or to see which any admission fee is charged. [Id.]

Art. 612. [1509] Moving pictures of prize fights.—No person, association, corporation, or any agent or employe of any person, association, corporation or receiver, partnership or firm, shall give or present to the public an exhibition of prize fights or glove contests, or of any obscene, indecent or immoral picture of any character whatsoever, by means of moving picture films, bioscopes, vitascopes, magic lanterns or other device or devices in moving picture shows, theaters, or any other place whatsoever.

Any person, or any agent or employe of any person, association, corporation or receiver violating any provision of this article shall be fined not less than one hundred nor more than one thousand dollars, or be imprisoned in jail for not less than ten nor more than sixty days, or both. Each day's violation of any provision of this article shall be a separate offense. [Acts 1st C. S. 1910, p. 21.]

Art. 613. [1510] Matching cock fight, etc.—Any person who shall match or be concerned in matching any cock fight or who shall match or be concerned in matching or causing a fight between any animals or fowls, or who shall keep or be concerned in keeping any cock pit or other place for the purpose of matching fights between cocks or any animals or fowls, shall be fined not less than ten nor more than one hundred dollars. Each day such cock pit or other place as aforesaid shall be kept shall be a separate offense. [Acts 1907, p. 156.]

Art. 614. [1511] Engaging in roping contest.—Any person who shall engage in a roping contest with other persons or alone, in which cattle or other animals are roped as a test or trial of the skill of the person or persons engaged in such roping contest, for money or prize of any character, or for any championship, for anything of value, or upon the result of which any money or anything of value is bet or wagered, shall be fined not less than one hundred nor more than five hundred dollars. Each animal roped, or attempted to be roped, shall be a separate offense. [Acts 1905, p. 69.]

CHAPTER SIX.

GAMING.

Article	Article
Playing cards..... 615	Permitting intermittent playing.. 628
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Art. 615. [548-557] Playing cards.—Whoever shall play,

or bet or wager any money or other thing of value, at any game of cards at any place not a private residence occupied by a family, shall be fined not exceeding fifty dollars. [Acts 1901, p. 26; Acts 1907, p. 108.]

Art. 616. [557] [388] **Dominoes.**—Whoever shall bet or wager any money or other thing of value at any game played with dominoes at any place not a private residence occupied by a family, shall be fined not exceeding fifty dollars. [Acts 1907, p. 108.]

Art. 617. [548-557] **Exception.**—The provisions of the two preceding articles which permit gaming at a private residence occupied by a family shall not apply in case such residence is one commonly resorted to for the purpose of gaming, nor where the game played is a banking game. [Id.]

Art. 618. [557] [388] **Dice.**—Whoever shall bet or wager any money or other thing of value at any game played with dice, whether the same be known as craps, high or low dice or die, poker dice, or by any other name, shall be fined not exceeding fifty dollars. [Id.]

Art. 619. [551] **Keeping or exhibiting gaming table or bank, etc.**—If any person shall directly, or as agent or employe for another, or through any agent or agents, keep or exhibit for the purpose of gaming, any policy game, any gaming table, bank, wheel or device of any name or description whatever, or any table, bank, wheel or device for the purpose of gaming which has no name, or any slot machine, any pigeon hole table, any jenny-lind table, or table of any kind whatsoever, regardless of the name or whether named or not, he shall be confined in the penitentiary not less than two nor more than four years regardless of whether any of the above mentioned games, tables, banks, wheels, devices or slot machines are licensed by law or not. Any such table, bank, wheel, machine or device shall be considered as used for gaming, if money or anything of value is bet thereon. [Acts 1907, p. 108; Acts 1913, p. 277.]

Art. 620. [552] [383] **Table or bank includes, what.**—It being intended by the foregoing articles 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.

Art. 621. [553] [384] **Games specifically enumerated.**—The following games are within the meaning and intention of the two preceding articles, viz: Faro, monte, vingt et un, rouge et noir, roulette, A. B. C, chuckaluck, keno, and rondo; but the enumeration of these games shall not exclude any other properly within the meaning of the two preceding articles.

Art. 622. [554-555-571] **Indictment and proof.**—In any indictment for any offense named in the three preceding articles, it is sufficient to state that the accused kept a table or bank for gaming, or exhibited a table or bank for gaming, without giv-

ing the name or description thereof, and without stating that it was without any name or that the name was unknown. It shall be sufficient to prove that any game therein mentioned was played, dealt or exhibited, without proving that money or other article of value was won or lost thereon. [Acts 1907, p. 110.]

Art. 623. [556] [387] **“Exhibited”**.—The word “exhibited” is intended to signify the act of displaying the bank or game for the purpose of obtaining bettors.

Art. 624. [557-560] **Miscellaneous betting**.—If any person shall bet or wager at any gaming table or bank or shall bet or wager any money or other thing of value at any of the following games, viz: muggins, crack-loo, crack-or-loo, or the game of matching money or coins of any denomination for such coins or for any other thing of value, or at any table or bank, by whatsoever name the same may be known, or whether named or not, and without reference as to how the same may be played, constructed or operated, or shall bet or wager upon anything in any place where people resort for the purpose of betting or wagering, he shall be fined not exceeding fifty dollars. When it is alleged and proven that the betting was on any gaming table or bank, the court or jury may, in addition to said fine, impose a jail penalty of not less than ten nor more than thirty days. [Acts 1907, p. 108.]

Art. 625. [559] [388] **Keeping**.—If any person shall keep, or be in any manner interested in keeping any premises, building, room or place for the purpose of being used as a place to bet or wager, or to gamble with cards, dice or dominoes, or to keep or to exhibit for the purpose of gaming, any bank, table, alley, machine, wheel or device whatsoever, or as a place where people resort to gamble, bet or wager upon anything whatever, he shall be confined in the penitentiary not less than two nor more than four years, regardless of whether any of the above mentioned games, tables, banks, alleys, machines, wheels or devices, or things are licensed by law or not. Any place or device shall be considered as used for gaming or to gamble with or for betting or wagering, if any money or anything of value is bet thereon, or if the same is resorted to for the purpose of gaming or betting. [Id.]

Art. 626. [559-573] **Renting**.—Whoever shall rent to another any premises, building, room or place for any purpose mentioned in the preceding article, shall be confined in the penitentiary not less than two nor more than four years. [Id.]

Art. 627. [559] **Permitting premises to be used for gaming**.—Whoever knowingly permits property or premises of which he is owner, or which is under his control, to be used for any purpose mentioned in the two preceding articles, shall be confined in the penitentiary not less than two nor more than four years. [Id.]

Art. 628. [572] [389] **Permitting intermittent playing**.—Whoever permits any game prohibited by the preceding articles 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, shall be fined not less than twenty-five nor more than one hundred dollars. [Acts 1881, p. 17.]

Art. 629. [561] **Equipping gaming house.**—If any person shall, in any manner aid in equipping or furnishing any gaming house, or place where people resort for the purpose of gaming, wagering or betting, he shall be imprisoned in jail not less than thirty nor more than ninety days. [Acts 1907, p. 109.]

Art. 630. [562] **Permitting device on premises.**—If any person shall knowingly permit any gaming paraphernalia, table, or device or equipment of a gaming house, of any character whatever to remain in his possession or on premises under his control or of which he is owner and to be used for gaming purposes, he shall be imprisoned in jail not less than thirty days nor more than one year. [Id.]

Art. 631. [563] **Going in gaming house.**—If any person shall go into or remain in any gambling house, knowing the same to be such, or shall remain in any place where any game prohibited by the preceding articles of this chapter is within his knowledge being played, dealt or exhibited, he shall be fined not exceeding fifty dollars. Gambling house and gaming house, as used in this article is meant any place where people resort for the purpose of gaming, betting or wagering. [Id.]

Art. 632. [564] **Officers to suppress.**—Whenever it comes to the knowledge of any sheriff or other peace officer, by affidavit of a reputable citizen, or otherwise, that any provision of the preceding articles of this chapter is being violated, such officer shall immediately avail himself of all lawful means to suppress such violation; and he shall be authorized, by any search warrant that is issued by virtue of this law, to enter any house, room or place to be searched, using such force as may be necessary to accomplish such purpose. [Id.]

Art. 633. [565] **Justice to issue search warrant.**—Upon the filing with any justice of the peace, or any other magistrate, of an affidavit made by a reputable citizen that gaming, betting or wagering, as prohibited by the preceding articles of this chapter is being conducted in any building, room, premises or place, describing the same sufficiently for identification, such officer with whom said affidavit is filed shall immediately issue a warrant commanding the peace officer to whom same is directed to immediately enter and search such building, room, premises or place, and in the event the same is a gaming house, as defined in this chapter, to arrest all parties found therein or making their escape therefrom, and to take possession of any gambling paraphernalia, device or equipment found therein and such officer shall immediately take the persons arrested before the nearest magistrate, and lodge the proper complaint against each person so arrested. [Id.]

Art. 634. [566] **Gambling house public nuisance.**—The ex-

istence of any gambling house or gaming table or bank or gaming paraphernalia or device of whatever kind or character, and all equipments of such gambling house, is hereby declared to be against public policy and a public nuisance. No suit shall be brought or maintained in any court of this State for the recovery of same or for any insurance thereon, or for damages by reason of any injury to, or for the destruction of same. [Id.]

Art. 635. [567] **Use terminates lease.**—The use of any house, property or premises, by any tenant or lessee for any purpose made unlawful by the preceding articles of this chapter shall terminate all rights and interests of such tenant or lessee in same, and shall entitle the owner thereof to the immediate possession of said house, property or premises. [Id.]

Art. 636. [568] **Officers to seize gaming tables.**—It shall be the duty of every sheriff, or other peace officer by virtue of the warrant authorized by this chapter to seize and take into his possession all gaming tables, devices and other equipments or paraphernalia of gambling houses, the existence of which has come to his knowledge and to immediately file with the justice of the peace, county judge, or district judge, a written list of the property seized designating the place where same was seized, and the owner of same, or the person from whom possession was taken. Thereupon said justice of the peace, county or district judge shall note the same upon his docket and issue, or cause the clerk of the court to issue a written notice to the owner or person in whose possession the articles seized were found, commanding him to appear at a designated time, not earlier than five days from the service of such notice, and show cause why such articles should not be destroyed. If personal service cannot be had upon the person to whom same is directed, a copy of said notice shall be posted for not less than five days, either upon the court house door of the county where the proceedings are begun or upon the building or premises from which the property seized was taken. [Id.]

Art. 637. [569] **Destroyed by order of court.**—If upon a hearing of the matter referred to in the preceding article, the justice of the peace, county judge or district judge, before whom the cause is pending shall determine that the property seized is a gaming table or bank or is used as equipment or paraphernalia for a gambling house, and was being used for gaming purposes, he shall order same to be destroyed, but any part of same may, by order of the court be held as evidence to be used in any case until the case is finally disposed of. Property not of that character or not so used shall be ordered returned to the person entitled to possession of the same. The officer, within not less than fifteen nor more than thirty days from the entry of said order shall destroy all property the destruction of which has been ordered by the court, unless the owner, lessee or person entitled to possession under this law, shall, before the destruction of said property, file suit to recover same. [Id.]

Art. 638. [570] **Persons interested in, rights of.**—Any

person having interest in or entitled to possession of any property so seized shall have the right at any time before the destruction of such property, as in ordinary civil cases, to try the issue of whether or not such property is a gaming table, or bank or device or was used as equipment or paraphernalia of any gambling house and to recover the possession of the same, and to maintain any other character of suit not inconsistent with this law; and it shall be the duty of the officer having said property in his possession after notice of the pendency of said suit to safely keep said property, pending the same. [Id.]

Art. 639. [574] [391] **Procedure in gaming cases.**—Any court, officer or tribunal having jurisdiction of any offense enumerated in this chapter, or any district or county attorney, may subpoena persons and compel their attendance as witnesses to testify as to the violation of any provision of the foregoing articles of this chapter. Any person so summoned and examined shall not be liable to prosecution for any violation of said articles about which he may testify. For any offense enumerated in said foregoing articles a conviction may be had upon the unsupported evidence of an accomplice or participant.

Art. 640. [583] [392] [368] **Failing to prosecute.**—If any justice of the peace, 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 fined not less than twenty-five nor more than one hundred dollars.

Art. 641. [584] [393] [369] **Peace Officer failing to inform.**—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, 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.

Art. 642. [585] [394] [370] **“Offense against gaming laws.”**—By the term “offense against the gaming laws”, as used in the two preceding articles, is meant any offense included within the provisions of the preceding articles of this chapter.

BETTING ON ELECTIONS, SPORTS AND RACING.

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Art. 643. [586] [395] [371] **Betting on election.**—If any person shall, whether before or after the happening of any public election held under authority of law within this State, or within any town, city, county, district, precinct or any other political subdivision within the State for any purpose whatever, 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 or be confined in jail for not less than twenty nor more than sixty days, or both such fine and imprisonment. [Acts 1858, p. 167; Acts 1915, p. 37; Acts 1921, p. 103.]

Art. 644. [587] [396] [372] **“Public election”**.—A public election, within the meaning of the preceding article, is any election held under authority of law within this State, or within any town, city, district, county, precinct or any other sub-division within this State for any purpose whatever. [Id.]

Art. 645. [588] [397] **What “bet or wager” includes**.—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.

Art. 646. [575] **Betting at baseball or football**.—No person in this State shall enter into an agreement with another, either orally, written or implied, whereby either one or both shall bet or wager money or anything of value, or otherwise become a party to any gambling scheme based upon the final result or outcome of any play or portion thereof of a game of baseball or football. Nothing herein shall prohibit contesting baseball or football teams, or their duly authorized agents or managers from entering into an agreement as to the manner of disposition of gate receipts derived from such games. Any person violating this law shall be fined not less than five nor more than one hundred dollars. [Acts 1907, p. 222.]

Art. 647. [577] **Pool selling or bookmaking**.—No person, or any agent of any association of persons or any corporation, shall at any place in this State, engage or assist in pool selling or bookmaking on any horse race or by means of any pool selling or bookmaking, take or accept any bet or aid any other person in betting or taking or accepting any bet upon any horse race to be run, trotted or paced in this State. [Acts 1909, p. 91.]

Art. 648. [578] **Betting on horse racing**.—No person or any agent of any association of persons or corporation, at any place in this State, by pool selling or bookmaking or by means of telegraph, telephone or otherwise, shall aid or assist any other person in wagering, betting or placing a bet or in offering to wager, bet or place a bet of anything of value on any horse race to be run, trotted, or paced at any place in this State or elsewhere. [Id.]

Art. 649. [579] **Using place for pool selling**.—No owner, agent or lessee of any property in this State shall permit the same to be used as a place for selling pools or bookmaking or wagering or receiving or assisting any person in placing any bet or in receiving or transmitting any offer to bet anything of value on any horse race to be run, trotted or paced at any place in this State or elsewhere. [Id.]

Art. 650. [580] **Penalty for three preceding articles**.—Whoever violates any provision of the three preceding articles shall be fined not less than two hundred nor more than five hun-

dred dollars, and be imprisoned in jail not less than thirty nor more than ninety days. [Id.]

Art. 651. [581] **Buying pools.**—Whoever shall buy pools or otherwise wager anything of value on any horse race to be run, trotted or paced, at any place in this State or elsewhere, or offers to wager, or offers to place any money or other thing of value with any other person to be transmitted to any other place to be wagered on any such horse race, shall be fined not less than twenty-five nor more than one hundred dollars. [Id.]

Art. 652. [582] **Evidence sufficient to convict.**—A conviction for the violation of any provision of the five preceding articles may be had upon the unsupported evidence of an accomplice or participant. Such accomplice or participant shall be exempt from prosecution for any offense under this law about which he may be required to testify. [Id.]

Art. 653. **Operating pool hall.**—Whoever shall operate or maintain a pool hall, as that term is defined by the laws of this State, shall be fined not less than twenty-five nor more than one hundred dollars or be confined in jail not less than one month nor more than one year. Each day of such violation shall be a separate offense. [Acts 1919, p. 10.]

Art. 654. [533-4] **Lottery.**—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; or 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.

Art. 655. [535] [375] [353] **Raffle.**—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; or if any person shall establish a raffle for or shall dispose by raffle of any estate, real or personal, of the value of five hundred dollars or less, he shall be fined not less than five nor more than two hundred dollars. Whoever shall offer for sale or keep for sale any chance, ticket or part ticket, in any raffle of any estate, real or personal of any value whatever shall be fined not less than ten nor more than fifty dollars. [Acts 1909, p. 98.]

BUCKET SHOPS.

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Art. 656. **Defining bucket shops and cotton exchanges and regulating contracts for future deliveries of cotton and grain.**—That for the purpose of this Act, the term "Contract of Sale" shall be held to include sales, purchases, agreements of sale,

agreements to sell, and agreements to purchase; that the word "person" wherever used in this Act shall be construed to import the plural or singular as the case demands, and shall include individuals, associations, partnerships, and corporations.

Art. 657. Future Contracts Valid.—All contracts of sale for future delivery of cotton, grain, stocks, or other commodities, (1) made in accordance with the rules of any board of trade, exchange, or similar institution, and (2) actually executed on the floor of such board of trade, exchange, or similar institution, and performed or discharged according to the rules thereof, and (3) when such contracts of sale are placed with or through a regular member in good standing of a cotton exchange, grain exchange, board of trade, or similar institution, organized under the laws of the State of Texas or any other State, shall be and they hereby are declared to be valid and enforceable in the courts of this State, according to their terms; provided, that contracts of sale for future delivery of cotton in order to be valid and enforceable as provided herein, must not only conform to the requirements of clauses 1 and 2 of this section, but must also be made subject to the provisions of the United States Cotton Futures Act, approved August 11, 1916, and any amendments thereto; provided, further, that if this clause should for any reason be held inoperative, then contracts for the future delivery of cotton shall be valid and enforceable if they conform to the requirements of clauses 1 and 2 of this section; provided further, that all contracts as defined in Section 1 hereof where it is not contemplated by the parties thereto that there shall be an actual delivery of the commodities sold or bought shall be unlawful.

Art. 658. Future Contracts Invalid.—Any contract of sale for future delivery of cotton, grain, stocks, or other commodities where it is not the bona-fide intention of parties that the things mentioned therein are to be delivered but which is to be settled according to or upon the basis of the public market quotations or prices made on any board of trade, exchange, or other similar institution, without any actual bona fide execution and the carrying out of such contract upon the floor of such exchange, board of trade or similar institution, in accordance with the rules thereof, shall be null and void and unenforceable in any court of this State, and no action shall be maintainable thereon at the suit of any party.

Art. 659. Bucket shop defined.—A bucket shop is hereby defined to be and mean any place of business wherein are made contracts of the sort or character denounced by the preceding Section 3 of this Act, and the maintenance or operation of a bucket shop at any point in this State is prohibited.

Art. 660. Shall furnish copy of contract.—Every person shall furnish upon demand to any principal for whom such person has executed any contract for the future delivery of any cotton, grain, stocks, or other commodities, a written in-

strument setting forth the name and location of the the exchange, board of trade, or similar institution, upon which such contract has been executed, the date of the execution, of the contract, and the name and address of the person with whom such contract was executed, and if such person shall refuse or neglect to furnish such statement upon reasonable demand, such refusal or neglect shall be prima facie evidence that such contract was an illegal contract within the provisions of Art. 658, and that the person who executed it was engaged in the maintenance and operation of a bucket shop, within the provisions of Article 661 hereof.

Art. 661. Penalty.—Any person, either as agent or principal, who enters into or assists in making any contracts of sale of the sort or character denounced in the preceding Art. 658 for the future delivery of cotton, grain, stocks, or other commodities, or who maintain a bucket shop, as that term is defined in Art. 659, shall be guilty of a felony, and upon conviction, shall be imprisoned in the penitentiary not exceeding two years.

Art. 662. Permitting exchanges.—There may be organized in any city, town, or municipality in the State of Texas, voluntary associations to be known as cotton exchanges, grain exchanges, boards of trade, or similar institutions, to receive and post quotations on cotton, grain, stocks, or other commodities, for the benefit of its members and other persons engaged in the production of cotton, grain, or other commodities. Such associations shall be composed of members and shall adopt a uniform set of rules and regulations not incompatible with the laws of Texas and of the United States. They shall open their books to inspection of all proper courts and officers when required so to do.

Art. 663. Repealing clause.—Articles 536 and 537 of Chapter 2, Title 11, and Articles 538 to 547 inclusive of Chapter 3, Title 11, of the Revised Penal Code of the State of Texas, of 1911, and all laws and parts of laws regulating or prohibiting dealings in future contracts, or in conflict or inconsistent herewith, be and the same are hereby repealed.

Art. 664. Constitutionality.—If any clause, sentence, paragraph, or part of this Act shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not effect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, or paragraph or part thereof directly involved in the controversy in which such judgment shall have been rendered; and any contract valid under and satisfying the remaining clauses, sentences, paragraphs, or parts of this Act shall be valid and enforceable in the courts of this State. [Acts 1925, p. 38.]

Art. 665. Omitted from the amended Act.

CHAPTER SEVEN.

INTOXICATING LIQUORS.

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Art. 666. Sale of intoxicating liquor, etc.—It shall be unlawful for any person, directly or indirectly, to possess or receive for the purpose of sale, or to manufacture, sell, barter, exchange, transport, export, deliver, take orders for or furnish spirituous, vinous or malt liquors or medicated bitters capable of producing intoxication, or any other intoxicant whatever, or to possess, receive, manufacture or knowingly sell, barter, exchange, transport, export, deliver, take orders for or furnish any equipment, still, mash, material, supplies, device or other thing for manufacturing, selling, bartering, exchanging, transporting, exporting, delivering, taking orders for, or furnishing any such liquors, intoxicants or beverages. [Acts 2nd C. S. 1919, p. 229; Acts 1st C. S. 1921, p. 233; Acts 2nd C. S. 1923, p. 53.]

Art. 667. Liquor more than one per cent.—It shall be unlawful for any person, directly or indirectly, to possess or receive for the purpose of sale, or to manufacture, sell, barter, exchange, transport, export, deliver, take orders for, or furnish spirituous, vinous or malt liquors or medicated bitters, or any potable liquor, mixture or preparation containing in excess of one per cent of alcohol by volume, or to possess, receive, manufacture, or knowingly sell, barter, exchange, transport, export, deliver, take orders for, or furnish any equipment, still, mash, material, supplies, device, or other thing for manufacturing, selling, bartering, exchanging, transporting, exporting, delivering, taking orders for, or furnishing any such liquors, intoxicants or beverages. [Acts 2nd C. S. 1919, p. 229; Acts 1st C. S. 1921, p. 233; Acts 2nd C. S. 1923, p. 54.]

Art. 668. Exceptions as to intoxicating liquor.—It shall not be unlawful for any person to manufacture, sell, barter, exchange, transport, export, deliver, take orders for, furnish, possess or receive for the purpose of sale, barter, exchange, transport, export, or deliver spirituous, vinous, or malt liquors or medicated bitters for medicinal, mechanical, scientific, or sacramental purposes. [Acts 1st. C. S. 1921, p. 234.]

Art. 669. Exceptions as to other liquor.—The manufacture, sale, barter, exchange, transportation, exporting, taking orders for, furnishing, and possessing of any of the liquors mentioned

in this chapter, if done for medicinal, mechanical, scientific, or sacramental purposes, shall not be punishable under the terms of this chapter. [Id.]

Art. 670. **Not an accomplice witness.**—Upon a trial for a violation of any provision of this chapter, the purchaser, transporter, or possessor of any of the liquors prohibited herein shall not be held in law or in fact to be an accomplice, when a witness in any such trial. [Id.]

Art. 671. **Possession prima facie evidence.**—Wherever possession or receipt, or possession or receipt for the purpose of sale, is made unlawful by law, proof of possession of mash, or a still or any device for manufacturing intoxicating liquors, or proof of the possession of more than one quart of intoxicating liquors, shall be prima facie evidence of guilt; but the defendant shall have the right to introduce evidence showing the legality of such possession. [Acts 2nd C. S. 1923, p. 54.]

Art. 672. **“Intoxicating liquors”**—The words “intoxicating liquors,” or “liquors” hereafter used in this chapter shall be held to include and comprehend all liquors referred to in the first and second articles of this chapter, and the said liquors prohibited by said articles will hereafter be referred to herein for convenience as “intoxicating liquors.” [Acts 2nd C. S. 1919, p. 229.]

Art. 673. **Liquors included.**—The various liquors described in the first two articles of this chapter shall be construed to include all distilled, malt, spirituous, vinous, fermented or alcoholic liquors and all alcoholic liquids and compounds, whether medicated, proprietary, patented or not, and by whatever name called, which require a federal tax as a beverage, or which contain more alcohol than is necessary to extract the medicinal properties of the drug contained in such preparation and to hold the medicinal agents in solution and preserve the same. [Acts 2nd C. S. 1919, p. 229.]

Art. 674. **Lawful use.**—The provisions of this chapter shall not prohibit the possession of intoxicating liquor for beverage purposes for use by the owner and members of his family, or bona fide guests, in a bona fide residence, if such liquors were purchased and deposited in such residence before this law goes into effect. Nothing in this chapter shall prohibit the manufacture, transportation, storage, and sale of denatured or pure ethyl alcohol, or denatured rum for use only in the industrial or mechanical arts or for scientific purposes or in chemical laboratories or hospitals, or prevent the manufacture, transportation, sale and keeping and storing for sale any medicinal preparations manufactured in accordance with formulas prescribed by the United States Pharmacopeia or National Formulary or American Institute of Homeopathy, or of alcoholic, patent or proprietary medicines which do not require the payment of the Federal Tax as a beverage and which contain no more alcohol than is necessary to extract the medicinal properties of the drug contained in such preparation, and to hold the medicinal agents in solution, and to preserve the same and which are manufactured and sold for legitimate and lawful purposes and not as

beverages, or to prevent the manufacture and sale of bona fide alcohol toilet, or antiseptic preparations and solutions or flavoring extracts which do not require the payment of Federal Tax as a beverage and which contain no more alcohol than is necessary for the extraction, solution and preservation of the agents contained therein, and which are manufactured and sold for legitimate and lawful purposes and not as beverages, and upon the outside of the bottle or package of each is printed in English conspicuously and legibly and clearly the quantity by volume of alcohol in such preparation. The manufacturer of flavoring extracts or toilet, medicinal, antiseptic preparations or solutions, patent or proprietary medicines, or preparations permitted to be manufactured by this law shall be permitted to purchase, possess, transport and store alcohol necessary for the manufacture of said article, but not to be sold or given away, provided that such manufacturer shall secure a permit from the Comptroller, and shall make a monthly report to be filed with the Comptroller on or before the 10th day of each month, showing the name and quantity of every such preparation, solution or medicine so manufactured, and the percentage of alcohol contained in each such preparation, solution or medicine. Said manufacturer shall, upon request of the Attorney General of the State, the Comptroller, or the District or County Attorney of the county in which such manufacturer has his place of business, furnish to the officer making such request any information called for by such officer with reference to the manufacture, storage or sale of any such alcoholic preparation, solution or medicine, and any information with reference to the quantities and dates of sale and transportation of any such preparation, solution or medicine to any person or persons designated in such request. Any of the officers herein above named shall have the right at any reasonable time within business hours to examine the books and records and all data in the possession of such manufacturer with reference to the manufacture, storage or sale of such alcoholic preparations. Nothing herein shall prevent the storage in United States bonded warehouses in the custody of a United States collector of internal revenue of all liquors manufactured prior to the taking effect of this law or to prevent the transportation of such liquors for purposes not inhibited by law. [Acts 2nd C. S. 1919, p. 230.]

Art. 675. Attach label to container.—All persons manufacturing alcohol or wine, or either, shall securely and permanently attach to any container or such liquor as the same is manufactured, and thereafter, persons possessing such liquor in wholesale quantities shall securely keep and maintain thereon, a manufacturer's label, stating name of manufacturer, kind and quantity of liquor contained therein, with a copy of the permit authorizing the manufacture thereof. Every person having in his possession any intoxicating liquor, purchased after this law becomes effective, for permitted purposes, shall have pasted on or permanently attached to the container a copy of the pre-

scription or affidavit as the same may be, upon which authority it was purchased as is provided for in this chapter. [Acts 2nd C. S. 1919, p. 232.]

Art. 676. Record of manufacturer.—All persons authorized to manufacture alcohol shall keep a separate record of such liquors manufactured or sold, giving date and quantity of such liquor manufactured and sold, the quantity of such liquor on hand, name and address of persons to whom such liquor was sold, the name and address of all agents in any way connected with such manufacture, sale, or purchase, or the keeping, storing, delivering, consigning, and distribution of such liquor, the name and address of all common, or other carriers, receiving, transporting, and delivering said liquor, and a copy of the application on which the purchase or sale of such liquor was made, and a detailed account of the disposition of such liquor. A copy of such record shall be sent to the Comptroller by the 10th of the month for the quarter preceding. [Acts 2nd C. S. 1919, p. 232.]

Art. 677. Sales by wholesale druggists.—It shall be unlawful for a wholesale druggist to sell alcohol or wine, except in wholesale quantities, to persons having permits to purchase in such quantities. Such wholesale druggist shall keep an accurate record of all sales and label the containers of such liquor, setting forth the kind of liquor contained therein, by whom manufactured, and the person to whom sold. A copy of such record shall be sent to the Comptroller every third month by the 10th of the month for the quarter preceding. It shall be unlawful for a retail druggist or pharmacist to sell any liquor except alcohol for nonbeverage purposes or wine for sacramental purposes. Such druggist or pharmacist shall keep a record giving the name of the doctor issuing the prescriptions containing alcohol, the amount, date of sales, the name and signature of the purchaser, the person making the sale, and a copy of the prescription. [Acts 2nd C. S. 1919, p. 232.]

Art. 678. Duty of physician prescribing.—Every physician who issues a prescription for ethyl alcohol, or any alcoholic liquor, shall first secure a permit from the Comptroller, except as herein provided, and shall keep a record alphabetically arranged in a separate book provided by the Comptroller, which shall show: Date, amount, to whom issued, directions for use (stating the amount and frequency of dose), and the druggist to whom addressed. Such physician shall send a copy of such record to the Comptroller, not later than the fifth day of the month for the quarter preceding. [Acts 2nd C. S. 1919, p. 233.]

Art. 679. Physician to obey law.—Any physician who issues prescriptions must be in active practice, in good standing with his profession, not addicted to the use of any narcotic drug, and have a permit as provided herein for issuing prescriptions. Such physician before issuing any prescriptions must make a careful personal, physical examination of the person to whom the alcohol is prescribed, and in no case issue such prescription to any per-

son whom he has reason to believe will use alcohol for beverage purposes, nor prescribe more than a pint of alcohol to any person at a time. Nor shall such prescriptions be filled at any pharmacy or drug store in which the physician has any financial interest. [Acts 2nd C. S. 1919, p. 233.]

Art. 680. Advertising liquor.—It shall be unlawful to advertise anywhere, on land or water, by any means or method, intoxicating liquors, or to advertise the manufacture, method of manufacture, sale, keeping for sale or furnishing of the same, or where, how, from whom and at what price the same may be obtained. The manufacturer of alcohol or wine and wholesale druggists having a permit under this law shall be allowed to send price lists to those to whom they are lawfully permitted to sell alcohol or wine. It shall also be unlawful to permit any sign or billboard containing such prohibited advertisement to remain upon one's premises or to circulate any prohibited price list, order blank or other matter designed to induce or secure orders for such intoxicating liquors. Any advertisement or notice containing the picture of a brewery, distillery, bottle, keg, barrel, or box or other receptacle represented as containing intoxicating liquors, or designed to serve as an advertisement thereof, shall be within the inhibition of this article. It shall be unlawful for any newspaper or periodical to print in its columns statement concerning the manufacture or distribution of alcoholic liquors directly or indirectly, for which the said newspaper or periodical receives compensation of any kind, without printing at the beginning and at the close of said statement in type of the same size used in the body of the said article the following statement: "Printed as paid advertising." [Acts 2nd C. S. 1919, p. 235.]

Art. 681. Liquor places to clean up.—Every person except licensed pharmacists, wholesale druggists, manufacturing chemists, or hospitals or other places provided for herein to legally possess liquor, shall remove, or cause to be removed, all intoxicating liquors in his possession for prohibited purposes, and failure to do so shall be evidence that such liquor is kept therein for the purpose of being sold, bartered, exchanged, given away, furnished or otherwise disposed of in violation of the provisions of this law. All screens, stained glass, or other obstructions which prevent a clear view of the interior of any room or place where intoxicating liquors were sold as a beverage, within one year before this act became operative shall be removed or changed so as to give a permanent unobstructed view of the interior of said room or place, if beverages of any kind are sold therein. [Acts 2nd C. S. 1919, p. 236.]

Art. 682. Recipe or formula.—It shall be unlawful to advertise, sell, deliver, or possess any preparation, compound, or table from which intoxicating liquor as a beverage is made, or any formula, directions, or recipes for making intoxicating liquors for beverage purposes. [Acts 2nd C. S. 1919, p. 236.]

Art. 683. Concealing nature of shipment.—No person shall use or induce any railroad company, express company, or any

other carrier, or any servant or employe thereof, or any person or persons, to carry, transport, or ship any package or receptacle containing liquors without notifying the carrier, its servant or agent, or any person who carries the same, of the true nature and character of the shipment. Failure to notify such carrier shall be no defense for illegal transportation. [Id.]

Art. 684. **Soliciting or giving information.**—No person shall solicit, or receive from any person for the purpose of forwarding for the person from whom received, any orders for intoxicating liquors from any person, or give any information how such prohibited liquors may be received, or where such liquors are, or send for such liquors, except for the purposes permitted by this chapter. [Acts 2nd C. S. 1919, p. 237.]

Art. 685. **Order to carrier to deliver.**—It shall be unlawful to give to any carrier, or any officer, agent or person acting or assuming to act for such carrier, an order requiring the delivery to any person of any liquor or package containing liquors consigned to or purporting to or claimed to be consigned to a person when the purpose of the order is to enable any person not an actual bonafide consignee to obtain such liquors. [Id.]

Art. 686. **Information on shipped container.**—No person shall transport liquor or receive or possess any liquors from a common or other carrier unless there appears on the outside of the package containing such liquors the following information: Name and address of the consignor or seller, name and address of the consignee or persons receiving the liquor; kind and quantity of liquor contained therein and number of permit. Any consignee accepting or receiving any package containing any such liquors upon which appears a false statement, or any person consigning, shipping, transporting, or delivering any such package, knowing that such statement appearing on the outside is false, shall be guilty of violating the provisions of this chapter. [Id.]

Art. 687. **To rent or keep for unlawful purpose.**—No person shall rent to another or keep or be in any way interested in keeping any premises, building, room, boat or place to be used for the purpose of storing, manufacturing, selling, transporting, receiving or delivering, or bartering or giving away intoxicating liquors in violation of this chapter. Whoever knowingly does so shall be punished as provided in the penal article of this chapter. [Id.]

Art. 688. **Nuisance.**—Any room, house, building, boat, structure or place of any kind similar or dissimilar to those named, where intoxicating liquor is kept, possessed, sold, manufactured, bartered or given away, or to be transported to or transported from in violation of law, and all intoxicating liquors and all property kept in and used in maintaining such place are hereby declared to be a common nuisance. Whoever maintains or assists in maintaining such common nuisance shall be guilty of violating this law and shall be punished accordingly. [Id.]

Art. 689. **Penal article.**—Any person who violates any provision of the preceding articles of this chapter shall be confined

in the penitentiary for not less than one nor more than five years. No person over twenty-five years of age convicted under any provision of the preceding articles of this chapter shall have the benefit of the Suspended Sentence Law. [Id; Acts 1st. C. S. 1921, p. 234.]

Art. 690. Seizure.—Any animal, automobile, flying machine, airplane, boat, ship, or other vehicle or instrumentality used for the unlawful transportation or storage of intoxicating liquor is hereby declared to be a public nuisance; and any animal, automobile, flying machine, airplane, boat, ship, or other vehicle or instrumentality used in the presence and view of any peace officer of this State for the unlawful transportation or storage of intoxicating liquors, or for the commission of any act made unlawful by this chapter, shall be seized without warrant by such peace officer, which officer shall within twenty-four hours after such seizure file with the county clerk a detailed statement of the time when, the place where and the circumstances under which he seized such property. If the officer making such seizure shall fail to make such report and appraisal of the value of the said property and file the same with the county clerk within twenty-four hours after such seizure thereof, he shall be fined not exceeding five hundred dollars. [Acts 2nd C. S. 1923, p. 54.]

Art. 691. Search warrant.—A search warrant may be issued under Title 6 of the Code of Criminal Procedure for the purpose of searching for and seizing and destroying any intoxicating liquor possessed, sold or to be sold or transported, or to be transported, or manufactured in violation of this law, and for the purpose of searching for and seizing and destroying any containers, instrumentalities for manufacture or of transportation used or to be used in the unlawful possession, sale, manufacture or transportation of intoxicating liquors. No warrant shall be issued to search a private dwelling occupied as such, unless some part of it is used as a store, shop, hotel or boarding house, or for some purpose other than a private residence, or unless the affidavits of two credible persons show that such residence is a place where intoxicating liquor is sold or manufactured in violation of the terms of this act. The application for the issuance of and the execution of any such search warrant, and all proceedings relative thereto, shall conform as near as may be to the provisions of Title 6 of the Code of Criminal Procedure, except where otherwise provided in this title. In the event any such liquor or utensils, containers or instrumentalities herein referred to are found, the officer executing the warrant shall seize same. The liquor and articles so seized shall not be taken from the custody of an officer by writ of replevin or other process, but shall be held by the officer to await the final judgment in the proceedings. [Acts 2nd C. S. 1919, p. 238.]

Art. 692. Report and record of seizures.—In all cases where intoxicating liquors or any personal property used for the purpose of violating any of the intoxicating liquor laws of this

State, shall be seized by any officer with or without a search warrant, such officer shall immediately make a written report thereof, which report shall in detail state the name of the officer making the seizure, the place where seized and an inventory of the property, articles or intoxicating liquors so taken into possession. The report shall be in triplicate and signed by the officer seizing, and one witness, if there be a witness present. One copy shall be given to the person from whom the goods are taken, one copy shall be sworn to by the officer who makes the seizure and immediately filed with the county clerk of the county in which the goods are seized, and one copy shall be retained by the officer who makes the seizure. Said officer, if not the sheriff, shall immediately deliver to the sheriff of the county, the goods seized, and take the sheriff's receipt therefor in duplicate. And such sheriff shall retain the intoxicating liquor or personal property so seized and hold the same until the same shall be disposed of by proper orders of the district court of the county in which said property was seized. The duplicate copy of said receipt shall be immediately filed with said county clerk. All liquors and property so seized shall be preserved for use as evidence in the trial of any action growing out of such seizure and all officers seizing such liquors or property are hereby required to mark the date of the seizure and the name of the person from whom seized. Any officer who shall give away or dispose of any intoxicating liquor in violation of the provisions of this article, or who shall wilfully make a false report of intoxicating liquors or personal property used for the purpose of violating the intoxicating liquor laws, seized by him, shall be confined in the penitentiary for not less than one nor more than five years. Any officer who shall fail to comply with any other provision of this article shall be fined not less than twenty-five nor more than one hundred dollars, or be imprisoned in jail not more than sixty days, or both. [Acts 1923, p. 236.]

Art. 693. [593] Gift or delivery to minor.—Any person who shall give or deliver, or cause to be given or delivered, or be in any way concerned in the gift or delivery of any spirituous, vinous, malt or intoxicating liquors to any person under the age of twenty-one years; without the written consent of the parent or guardian of such minor, or any person, who, as agent for or employed by an express company or other common carrier, or who, as agent for or employe of any other person, firm or corporation, delivers, or causes to be delivered, any spirituous, vinous, malt or intoxicating liquors to any person under the age of twenty-one years, whether consigned to such person or to some other person, without the written consent of the parent or guardian of such minor shall be fined not less than twenty-five nor more than one hundred dollars. [Acts 1909, p. 119.]

Art. 694. Witness shall testify.—No person shall be excused from testifying against persons who have violated any provision of this chapter for the reason that such testimony will tend to incriminate him, but no person required to so testify shall be punishable for acts disclosed by such testimony.

TITLE 12
PUBLIC HEALTH.

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CHAPTER ONE.

ACTS INJURIOUS TO HEALTH.

	Article		Article
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Art. 695. [694] [423] Nuisances.—Whoever shall carry on any trade, business or occupation injurious to the health of those who reside in the vicinity, or suffer any substance which has that effect to remain on premises in his possession, shall be fined not less than ten nor more than one hundred dollars. Each day is a separate offense.

Art. 696. [696] [425] Leaving dead animal.—Whoever shall leave the carcass of any animal, which died in the actual possession of such person, within five hundred yards of any private residence, or in any public road or highway, or in any street or alley of any town or city, or within fifty yards of such public road, highway, street or alley, shall be fined not less than five nor more than one hundred dollars. [Acts 1913, p. 155.]

Art. 697. [695] [424] Polluting or obstructing water.—Whoever shall in anywise pollute or obstruct any watercourse, lake, pond, marsh, or common sewer, or continue such pollution or obstruction so as to render the same unwholesome or offensive to the inhabitants of the county, city, town or neighborhood thereabout, shall be fined not exceeding five hundred dollars. [Acts 1860, p. 97.]

Art. 698. Unlawful to pollute water courses and other bodies of water.—It shall be unlawful for any person, firm or corporation, private or municipal to pollute any water course or other public body of water, by throwing, casting or depositing, or causing to be thrown, cast or deposited any crude petroleum, oil or other like substance therein, or to pollute any water course, or other public body of water, from which water is taken for the use of farm live stock, drinking and domestic purposes, in the State of Texas, by the discharge, directly or indirectly, of any sewage or unclean water or unclean or polluting matter or thing therein, or in such proximity thereto as that it will probably reach and pollute the water of such water course or other public body of water from which water is taken, for the uses of farm live

stock, drinking and domestic purposes; provided, however, that the provisions of this bill shall not affect any municipal corporation situated on tide waters; that is to say, where the tide ebbs and flows in such water course; provided, however, that no city located on tide water shall discharge or permit to be discharged sewerage, oil or any other effluents into public tide waters of this State when such discharge will become a menace to or endangers the oyster beds or fish life in such waters, or when such discharge becomes a menace to the bathing places in such waters; and provided further that drain ditches, where waste oil finds its way into water courses or public bodies of water, shall be equipped with traps of sufficient capacity to arrest the flow of oil. In so far as concerns the protection of fish and oysters, the Game, Fish and Oyster Commissioner, or his deputies, may have jurisdiction in the enforcement of this chapter. A violation of any of the provisions of this chapter shall be punished by a fine of not less than one hundred dollars and not more than one thousand dollars. When the offense shall have been committed by a firm, partnership or association, each member thereof who has knowledge of the commission of such offense, shall be held guilty. When committed by a private corporation, the officers and members of the board of directors, having knowledge of the commission of such offense, shall each be deemed guilty; and when by a municipal corporation the mayor and each member of the board of aldermen or commission, having knowledge of the commission of such offense, as the case may be, shall be held guilty as representatives of the municipality; and each person so indicated as above shall be subject to the punishment provided hereinbefore; provided, however, that the payment of the fine by one of the persons so named shall be a satisfaction of the penalty as against his associates for the offense for which he may have been convicted. Each day such pollution is knowingly caused or permitted shall constitute a separate offense; provided, the provisions of this article shall not apply to any place or premises of manufacturing plants whose affluents contain no organic matter that will putrify, or any poisonous compounds, or any bacteria dangerous to public health or destructive of the fish life of streams or other public bodies of water. [Acts 1925, p. 200.]

Art. 699. Pure drinking water.—The authorities of all cities and towns and villages having a population of five thousand inhabitants or less and all other companies, persons, corporations or receivers, who are supplying drinking water through a water works system to the public, shall, before supplying the same to the public use for drinking water, first cause the supply of water to be chemically tested for any contaminated infusion of sand, dirt or filth, or dangerous bacteria or disease-bearing germs. This test shall be made according to the direction of the county or city health officers, or both such health officers. Said water as above supplied shall be subject to such test at any time, and the county and city health officer where such water supply is

furnished shall make such tests at least once a year and oftener where there is an outbreak of any disease that might be induced through use of impure or unclean water. All authorities of any such city or town or persons, firms, or the officers and agents of all incorporated companies or receivers supplying water for such public use, in such cities or towns, shall provide proper strainers for all wells and all other sources of supply so that sand and dirt shall not be carried into the water for such public use, and cause all of the conduits and drain pipes conveying said water to be thoroughly washed out and flushed so as to clean the same at least one time every ninety days. Any such authorities, persons, firms or receivers or their agents, when any such drinking water as furnished is pronounced unfit or infectious or impregnated with sand, or dirt, or filth, or unclean and dangerous to the public use by the health officers of any such city or county as the case may be, shall immediately take steps to purify, clean or sanitize the same. In any case where the authorities of any city, or town or village, or any person or officer, agent or receiver of any firm, or corporation or company furnishing drinking water to such cities or towns or villages shall fail or refuse to carry out the provisions of this article and shall furnish for public use, drinking water that is contaminated, impure and unclean, he shall be fined not to exceed \$500.00 for any such offense. [Acts 1919, p. 247.]

Art. 700. Sterilizing dishes.—No person, firm, or corporation operating, managing, or conducting a hotel, cafe, restaurant, dining car, or any other public eating place, or any drug store, soda water fountain, drink stand, or any bakery or meat market, shall furnish to any patron or customer any dish, or any other receptacle or utensil used in eating, drinking, or conveying food, until such dish, receptacle, or other utensil has been thoroughly cleaned and sterilized by heat or in boiling water subsequent to being used by any other person, or any dish, or receptacle or utensil used in eating, drinking or conveying food if the same is broken or cracked in such a manner as to render its sterilization impossible or doubtful, or so furnish for use any napkin after being used once and not laundered. Whoever violates any provision of this article shall be fined not less than five nor more than one hundred dollars. [Act Feb. 12, 1915, Acts 1921, p. 135.]

Art. 701. Maternity home.—Any person, manager, keeper, or officer of any corporation, firm or association who shall keep or conduct any "Baby Farm," lying-in hospital, hospital ward, maternity home or place for the reception, care or treatment of pregnant women without first having obtained a license from the State Board of Health as provided by law shall be fined not less than fifty nor more than five hundred dollars and in addition thereto may be confined in jail not to exceed twelve months. [Acts 1921, p. 147.]

Art. 702. Private disease posters.—Any person who shall

publish, deliver or distribute, or cause to be published, delivered or distributed in any manner, or who shall permit, placards or posters to be or remain on buildings, outhouses or premises controlled by him, containing an advertisement concerning a venereal disease, lost manhood, lost vitality, impotency, sexual weakness or emissions, varicocele, self-abuse or excessive sexual indulgence and calling attention to a medicine, article or preparation that may be used therefor or to a person from whom or place at which information, treatment or condition may be obtained shall be fined not more than two hundred dollars. [Acts 4th C. S. 1918, p. 195.]

Art. 703. Exceptions.—The preceding article shall not apply to didactic or scientific treatises which do not advertise or call attention to any person from whom or any place at which information, treatment or advice may be obtained, nor to advertisements or notices issued by a municipal or county department of health or by the State Board of Health. [Id.]

Art. 704. Venereal diseases.—Whoever violates any provision of this article shall be fined not less than five nor more than fifty dollars:

1. No person infected with a venereal disease shall knowingly expose another to infection with any venereal disease, or perform an act which exposes another person to infection with such disease.

2. No local health officer, employe, inspector, physician, nurse, or superintendent of a clinic or hospital shall fail to perform any duty required of him by the laws of this State relating to venereal diseases and requiring reports in such cases.

3. Whoever sells any drug or preparation of any kind used for or believed by the seller to be intended to be used for the treatment of syphilis, gonorrhoea, or chancroid shall keep a record of the name and address of such purchaser and mail a copy of such record each week to the local health officer. [Acts 4th C. S 1918, p. 179.]

Art. 705. Sanitary employes.—No person, firm, corporation or common carrier, operating or conducting any hotel, cafe, restaurant, dining car or other public eating place, or operating any bakery or meat market, public dairy or candy factory in this State, shall work, employ or keep in their employ in or about any said place any person infected with or affected by any infectious or contagious disease, or work or employ any person to work in or about any said place who, at the time of his employment had not in his possession a certificate from some reputable physician of the county where said person is to be employed, attesting the fact that the bearer has been examined by such physician within one week prior to the time of employment, and that such examination discloses the fact that such person to be employed was free from any infectious or contagious disease; or fail to institute and have made a medical examination of all their employes at intervals of time not to exceed six months and after

such examination promptly discharge from their employment in or about any said place any person found to be infected with or affected by any infectious or contagious disease. Whoever violates any provision of this article shall be fined not less than five nor more than one hundred dollars. [Acts 1921, p. 134.]

Art. 705a. **Cemeteries.**—It shall be unlawful for any person, company, corporation or association to establish or use for burial purposes any graveyard or cemetery located less than one mile from the incorporated line of any city of not less than five thousand (5,000) inhabitants within the State of Texas; provided, that where cemeteries have heretofore been used and maintained within less than one mile from any incorporated city or town, and additional lands are required for cemetery purposes, any person owning lands adjacent to such cemetery may lay out and use or sell the same to be used as an addition to such cemetery, and the use of the said additional lands for such purposes shall be exempt from the provisions of this Section.

CHAPTER TWO.

UNWHOLESOME FOOD, DRINK OR MEDICINE

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Art. 706. **Adulterated or misbranded food or drug.**—No person, firm or corporation, shall within this State manufacture for sale, have in his possession with the intent to sell, offer or expose for sale or sell or exchange any article of food or drug which is adulterated or misbranded within the meaning of this chapter. The term "food" shall include all articles used by man for food, drink, flavoring, confectionery or condiment, whether simple, mixed or compounded. The term "drug" shall include all medicines and preparations for internal or external use recognized in the United States Pharmacopeia or National Formulary, and any substance or mixture of substances intended to be used for the cure, mitigation or prevention of disease of either man or animal. [Acts 1911, p. 76.]

Art. 707. **"Adulterated"**—For the purposes of this chapter an article shall be deemed to be adulterated:

(a) In the case of drugs:

(1) if, when sold under or by a name, recognized in the eighth decennial revision of the United States Pharmacopeia or in such United States Pharmacopeia as was official at the time of labeling it, or in the National Formulary, it differs from the standard strength, quality or purity laid down therein;

(2) if, when sold under or by a name not recognized in the eighth decennial revision of the United States Pharmacopoeia, but which is found in some other pharmacopoeia or other stand-

ard work on materia medica, it differs materially from the standard of strength, quality or purity laid down in such work;

(3) if its strength, quality or purity falls below the professed standard under which it was sold.

(b) In the case of confectionery; if it contains terra alba, barytes, talc, chrome yellow, or other mineral substances or poisonous color or flavor, or other ingredients deleterious or detrimental to health, or any vinous, malt or spirituous liquor or compound, or narcotic drug.

(c) In the case of food;

(1) if any substance has been mixed and packed with it so as to reduce or lower or injuriously affect its quality or strength;

(2) if any substance has been substituted wholly or in part for the article;

(3) if any valuable constituent of the article has been wholly or in part abstracted, or if the product be below that standard of quality, quantity, strength or purity represented to the purchaser or consumer.

(4) if it be mixed, colored or powdered, coated or stained in a manner whereby damage or inferiority is concealed;

(5) if it contains any added poisonous or other added deleterious ingredient which may render such article injurious to health, provided, that when in the preparation of food products for shipment they are preserved by any external application applied in such manner that the preservative is necessarily removed mechanically, or by maceration in water or otherwise, and directions for the removal of said preservative shall be printed on the covering of the package, the provisions of this Act shall be construed as applying only when said products are ready for consumption;

(6) if it consists in whole or in part of a filthy, decomposed or putrid animal or vegetable substance, or any portion of an animal or vegetable unfit for food, whether manufactured or not, or if it is the product of a diseased animal, or one that has died otherwise than by slaughter.

"Filthy" defined.—The term "filthy" shall be deemed to apply to food not securely protected from flies, dust, dirt, and as far as may be necessary by all reasonable means, from all foreign or injurious contaminations. [Id.]

Art. 708. **"Misbranded"**.—The term "misbranded," as used herein, shall apply to all drugs or articles of food or articles which enter into the composition of food, the package or label of which shall bear any statement, design or device regarding such article or the ingredients or substances contained therein which shall be false or misleading in any particular.

An article shall also be deemed to be misbranded:

(a) in the case of drugs;

(1) if it be an imitation of or offered for sale under the name of another article;

(2) if the contents of the package as originally put up shall

have been removed in whole or in part and other contents shall have been placed in such package, or if the package fail to bear a statement on the label of the quantity or proportion of any morphine, phenocetice, opium, cocaine, heroin, alpha or beta eucaine, chloroform, cannabis indicia, chloral hydrate, or acetanelid, or any derivative or preparation of any such substances contained therein;

(b) in the case of food:

(1) if it be an imitation of or offered for sale under the distinctive name of another article;

(2) if it be labeled or branded so as to deceive or mislead the purchaser or purport to be a foreign product when not so, or if the contents of the package as originally put up shall have been removed in whole or in part and other contents shall have been placed in such package, or if it fails to bear a statement on the label of the quantity or proportion of any morphine, opium, cocaine, heroin alpha or beta eucaine, phenacetin chloroform, cannabis indicia, chloral hydrate or acetanelid, or any derivative or preparation of any of such substances contained therein;

(3) if in package form and the contents are stated in terms of weight or measure, they are not plainly and correctly stated on the outside of the package;

(4) if the package containing it or its labels bear any statement, design or device regarding the ingredients or the substances contained therein, which statement, design or device shall be false or misleading in any particular, provided that an article of food which does not contain any added poisonous or deleterious ingredient shall not be deemed to be adulterated or misbranded in the following cases: First, in case of mixtures or compounds which may be now or from time to time hereafter known as articles of food, under their own distinctive names, and not an imitation of or offered for sale under the distinctive name of another article, if the name be accompanied on the same label or brand with a statement of the place where said article has been manufactured or produced; second, in the case of articles labeled, branded, or tagged so as to plainly indicate that they are compounds, imitations or blends. The term "blend", as used herein, shall be held to mean a mixture of like substances, not excluding harmless coloring or flavoring ingredients used for the purpose of coloring and flavoring only. Nothing in this law shall be construed as requiring proprietors or manufacturers of proprietary foods which contain no unwholesome added ingredients to disclose their trade formulas except in so far as the provisions of this law require to secure freedom from adulteration or misbranding. [Acts 1911, p. 76.]

Art. 709. Preservatives added.—No person shall manufacture, sell, offer or expose for sale or exchange any article of food to which has been added formaldehyde, boric acid or borates, benzoic acid or benzoate, sulphurous acids or sulphites, salicylic acid or salicylates, abralstal, beta naphthal, flourine com-

pounds, dulcin, glucin, cocaine, sulphuric acid or other mineral acid except phosphoric acid, any preparation of lead or copper or other ingredient injurious to health. Nothing herein shall be construed as prohibiting the sale of catsups, sauces, concentrated fruits, fruit juices, and like substances preserved with one-tenth of one per cent of benzoate of soda, or the equivalent benzoic acid, when a statement of such fact is plainly indicated upon the label. The oxides of sulphur may be used for bleaching, clarifying and refining food products. [Id.]

Art. 710. Baking powder compound to be labeled.—Whoever manufactures for sale within this State, or offers or exposes for sale or exchange or sells any baking powder or compound intended for use as a baking powder under any name or title whatsoever shall securely affix or cause to be securely affixed to the outside of every box, can or package containing such baking powder or like mixture or compound a label distinctly printed in plain capital letters in the English language, containing the name and residence of the manufacturer or dealer, and the ingredients of the baking powder. Baking powder containing less than 10 per cent of available carbon dioxide shall be deemed to be adulterated. [Id.]

Art. 711. Self-rising flour.—Whoever manufactures for sale within this State, or offers or exposes for sale or exchange, or sells any Self-rising Flour, or compound intended for use as a Self-rising Flour, under any name or title whatsoever shall securely affix or cause to be securely affixed to the outside of every box, can, sack or package containing such Self-rising Flour or like mixture or compound, a label distinctly printed in plain capital letters in the English language containing the name and domicile of the manufacturers or dealer, and the percentage by weight of each of the chemical leavening ingredients of the contents thereof. Such Self-rising Flour or any compound so termed or styled, when sold for use shall produce not less than one-half of one per cent by weight of available carbon dioxide gas, and there shall not be contained in such Self-rising Flour more than three and one-half per cent of chemical leavening ingredients, otherwise such flour or compound shall be deemed adulterated.

Self-rising Flour is defined to be a combination of flour, salt and chemical leavening ingredients. The flour shall be of the grade of "straight" or better, and the chemical leavening ingredients shall be, Bicarbonate of Soda, and either Calcium Acid Phosphate, Sodium Aluminum Sulphate, Cream of Tartar, Tartaric Acid or combinations of the same. [Acts 1923, p. 96.]

Art. 712. [706] Milk.—No person either by himself or agent shall sell or expose for sale or exchange any unwholesome, watered, adulterated, or impure milk, or swill milk, or colostrum, or milk from cows kept upon garbage, swill, or any other substance in a state of putrefaction or other deleterious substances, or from sick or diseased cows, or from cows kept in connection

with any family in which there are infectious disease. [Acts 1911, p. 76.]

Art. 713. [706] **Skim milk.**—Skim milk may be sold if on the container from which such milk is sold, the words “skim milk” are distinctly painted in letters not less than one inch in length. [Id.]

Art. 714. [708] **Dealer not to be prosecuted, when.**—No dealer shall be prosecuted under this chapter when he can establish a guaranty signed by the wholesaler, manufacturer, or other party residing in the United States from whom he purchased such article, to the effect that the same is not adulterated or misbranded within the meaning of this Act, designating it. Said guaranty, to afford protection, shall contain the name and address of the party making the sale of such article to such dealer, and in such case said party shall be amenable to the fines and other penalties which would attach in due course to the dealer under the provisions of this chapter. [Id.]

Art. 715. [709] **Certificates of purity.**—The State Health Department or any employe thereof shall not furnish to any individual, firm or corporation any certificate as to the purity or excellence of any article manufactured or sold to or by them to be used as food or drug or in the preparation of food or drugs.

Art. 716. [710] **Obstruction of officers.**—No person shall wilfully hinder or obstruct the director of the food and drug division of the State Board of Health, or his inspector or other person duly authorized by him, in the exercise of the powers conferred upon him by the laws of this State.

Art. 717. [711] **Penalty for violating pure food laws.**—Whoever shall do any act or thing prohibited, or neglect or refuse to do any act or thing enjoined by the preceding articles of this chapter, or in any way violate any provision thereof, shall be fined not less than twenty-five nor more than two hundred dollars. It shall not be necessary for the indictment to allege or for the State to prove that the act or omission was knowingly done or omitted. [Acts 1911, p. 76.]

Art. 718. [714] **Mixed or adulterated cereals.**—Whoever shall knowingly sell or exchange or offer for sale or exchange, whether in single packages or lots, any product composed of mixed cereals of any kind, or any cereal adulterated in any manner, unless the word “adulterated” is plainly marked, printed or stenciled diagonally across the other marks or brands, if any, on the hogshead, box, bale, cask, sack or package containing the same, or in case there are no marks thereon, then across such container in a conspicuous place in large legible letters and figures not less than two inches in size, shall be fined not less than twenty-five nor more than one thousand dollars. [Acts 1905, p. 227.]

Art. 719. **Bakeries and bakers.**—Whoever violates any provision of this article shall be fined not less than twenty-five nor more than two hundred dollars:

Rule 1. Bakery Building.—Any building occupied or used as a bakery wherein is carried on the business of the production, preparation, storage or display of bread, cakes, pies, and other bakery products intended for sale for human consumption, shall be clean, properly lighted, drained and ventilated. Every such bakery shall be provided with adequate plumbing and drainage facilities including suitable wash sinks, toilets and water closets. All toilets and water closets shall be separated and apart from the rooms in which the bakery products are produced or handled. All wash sinks, toilets and water closets shall be kept in a clean and sanitary condition, and shall be in well lighted and ventilated rooms. The floors, walls and ceilings of the rooms in which the dough is mixed and handled, or the pastry prepared for baking, or in which the bakery products or ingredients of such products are otherwise handled or stored, shall be kept and maintained in a clean, wholesome and sanitary condition. All openings into such rooms, including windows and doors, shall be kept properly screened or otherwise protected to exclude flies. No working rooms shall be used for purposes other than those directly connected with the preparing, baking, storage and handling of food, and shall not be used as washing, sleeping, or living rooms, and shall, at all times, be separated and closed from the living and sleeping rooms. Rooms shall be provided for the changing and hanging of wearing apparel apart and separate from such work rooms and such rooms as to be provided for the changing and hanging of wearing apparel shall be kept clean at all times.

Rule 2. Sanitation.—No employe or other person shall sit or lie upon any table, bench, trough or shelf which is intended for the dough or bakery products. No animals or fowls shall be kept or allowed in any bakery or other place where bread or other bakery products are produced or stored. Before beginning the work of preparing, mixing and handling the ingredients used in baking, every person engaged in the preparation or handling of bakery products shall wash his hands and arms thoroughly, and for this purpose sufficient wash basins and soap and clean towels shall be provided. No employe or other person shall use tobacco in any form in any room where bakery products are manufactured, wrapped or prepared for sale. No master baker, person or any employe who is affected with any contagious or infectious disease shall be permitted to work in any bakery or be permitted to handle any product therein, or delivered therefrom.

Rule 3. Clean condition.—The wagons, boxes, baskets and other receptacles in which bread, cake, pies or other bakery products are transported, shall be kept in a clean condition at all times and free from dust, flies and other contamination. All show cases, shelves or other places where bakery products are sold, shall be kept well covered, properly ventilated, well protected from dust and flies, and shall be kept in a clean and

wholesome condition at all times. Boxes or other receptacles for the storing or receiving of bread and other bakery products, before and after the retail stores and selling places are open, shall be constructed and placed so as to be free from the contamination of streets, alleys and sidewalks, and shall be raised at least ten inches from the sidewalk or street, and shall be kept clean and sanitary, and no bread shall be placed in any box along with any other articles of food than bakery products. All such boxes shall be provided with private locks and shall be locked at all times except when open to receive or remove bread or other bakery products and when being cleaned.

Rule 4. Ingredients must be good.—All material used in the production or preparation of bakery products shall be stored, handled and kept in a way to protect them from spoiling and contamination, and no material shall be used which is spoiled or contaminated, or which may render the bread or other bakery products unwholesome or unfit for food. The ingredients used in the production of bread and other bakery products and the sale or offering for sale of bread and other bakery products shall comply with the provisions of the laws against adulteration and misbranding. No ingredients shall be used which may render the bread or other bakery products injurious to health.

Rule 5. Weight of bread.—Bread to be sold by the loaf made by bakers engaged in the business of wholesaling and retailing bread, shall be sold based upon any of the following standards of weight and no other, namely: a loaf weighing one pound or 16 ounces, a loaf weighing 24 ounces or a pound and a half, and loaves weighing two pounds or 32 ounces, and loaves weighing three pounds, or some other multiple of one pound or 16 ounces. These shall be the standard of weight for bread to be sold by the loaf. Variations, or tolerance, shall not exceed one ounce per pound over or under the said standard within a period of 24 hours after baking. [Acts 1921, p. 129.]

CHAPTER THREE.

DRUGS, NARCOTICS AND POISONS.

	Article		Article
Sale without prescription.....	720	False labels.....	724
Prescriptions	721	Penalty	725
Exceptions	722	Sale of poisons.....	726
Furnishing to habitual user.....	723	Furnishing tobacco to minor.....	727

Art. 720. [747] Sale without prescription.—No person, firm or corporation shall sell, furnish, or give away cocaine, derivations of cocaine, preparations containing cocaine or derivatives of cocaine, morphine, derivations of morphine, preparations containing morphine or derivatives of morphine, opium, preparations containing opium, chloral hydrate or preparations containing cloral hydrate, canabis indica, canabis sativa or preparations thereof or any drug or preparation from any canabis variety, or any preparation known as marijuana. [Acts 1905, p. 45, Acts 1919, p. 277, Acts 2nd C. S. 1919, p. 156.]

Art. 721 **Prescriptions.**—The preceding article shall not apply when such sale, furnishing or gift is upon the original written order or prescription of a lawfully authorized practitioner of medicine, dentistry, or veterinary medicine, which order or prescription shall be dated and shall contain the name of the person for whom prescribed, or if ordered by a veterinarian shall state the kind of animal for which ordered, and shall be signed by the person giving the prescription or order. Such written order or prescription shall be permanently retained on file by the person, firm or corporation who shall compound or dispense the article ordered or prescribed, and it shall not be compounded or dispensed a second time except upon the written order of the original prescriber for each and every subsequent compounding or dispensing. No copy or duplicate of such written order or prescription shall be made or delivered to any person, but the original shall at all times be open to inspection by properly authorized officers of the law. [Id.]

Art. 722. **Exceptions.**—The provisions of the first article of this chapter shall not apply to preparations containing not more than two grains of opium or not more than one-eighth grain of morphine, or not more than two grains of chloral hydrate, or not more than one sixteenth grain of cocaine in one fluid ounce, or if a solid preparation in one avoirdupois ounce, nor to preparations containing not more than one grain per ounce of solid extract of *canabis indica*, *canabis sativa* or preparations thereof or any drug or preparation from any *canabis* variety, nor to sales by wholesale jobbers, wholesalers and manufacturers to retail druggists, nor to sales at retail by retail druggists to regular practitioners of medicine, dentistry, or veterinary medicine, nor to sales made to manufacturers of proprietary or pharmaceutical preparations for use in the manufacture of such preparations, nor to sales to hospitals, colleges, scientific or public institutions. [Id.]

Art. 723. [748] **Furnishing habitual user.**—No practitioner of medicine, dentistry, or veterinary medicine shall furnish to or prescribe for the use of an habitual user of the same, any cocaine or morphine or any derivative or compound of cocaine or morphine or any preparation containing cocaine or morphine or their derivatives, or any opium or chloral hydrate or any preparation containing opium or chloral hydrate, or *canabis* or any preparation thereof, for the use of any person not under his treatment in the regular practice of his profession. No practitioner of veterinary medicine shall prescribe any of the foregoing substances for the use of any human being. [Acts 1919, p. 278.]

Art. 724. **False labels.**—It shall be unlawful to manufacture for sale, sell or exchange any drugs, medicine, or device advocated for the cure of diseases, if the package or label or any representation pertaining to same shall bear or contain any statement, design or device regarding the curative or therapeutic

effect of such article or any of the ingredients or substances contained therein, which is misleading, false or fraudulent. [Id.]

Art. 725. [749] **Penalty.**—Whoever violates any provision of the preceding articles of this chapter shall be fined not less than twenty-five nor more than two hundred dollars or be imprisoned in jail for not less than one month nor more than one year, or both. [Id.]

Art. 726. **Sale of poisons.**—The following poisons are included with the provisions of this article: arsenic, cyanide of potassium, hydrocyanic acid, cocaine, morphine, strychnia and all other poisonous vegetable alkaloids and their salts, oil of bitter almonds, containing hydrocyanic acid, opium and its preparations, except paregoric and such others as contain less than two grains of opium to the ounce, aconite, belladonna, cantharides, colchicum, conium, cotton root, digitalis, ergot, hellebore, henbane, phytolacca, strophanthus, oil of tansy, veratrum viride and their pharmaceutical preparations, arsenical solutions, carbolic acid, chloral hydrate, chloroform, corrosive sublimate, creosote, croton oil, mineral acids, oxalic acid, paris green, salts of lead, salts of zinc, white hellebore or any drug, chemical or preparation which, according to standard works on medicine or materia medica, is liable to be destructive to adult human life in quantities of sixty grains or less.

Every person, firm or corporation who sells any poison shall place on each package and container of poison sold a label containing the word "poison" printed in red ink in a conspicuous place thereon; and keep a well-bound book which shall at all times be open to the inspection of any officer charged with the enforcement of law, in which shall be recorded at the time of the sale the name and quantity of the poison purchased and the purpose for which the same is to be used, and the name and address of the purchaser, if known to the seller, and if unknown the sale shall not be made until the purchaser is identified by one known to the seller. The seller shall also record the name and address of the identifier.

Any person who shall for himself or as the agent or employee of another person, firm or corporation, sell, give away or deliver any of said poisons to another without having complied with any provision of this article shall be fined not less than twenty-five nor more than one hundred dollars and be confined in jail for not less than twenty days nor more than six months. [Acts 3rd. C. S. 1917, p. 86.]

Art. 727. [1049] **Sale of tobacco to minor.**—Whoever shall sell, give or barter, or cause to be sold, given or bartered, to any minor under the age of sixteen years, or knowingly sell to another for delivery to such minor, without the written consent of the parent or guardian of such minor, any cigarette or tobacco in any of its forms, shall be fined not less than ten nor more than one hundred dollars. [Acts 1899, p. 237.]

CHAPTER FOUR.

BARBER SHOPS AND BEAUTY PARLORS.

	Article		Article
Definitions	728	Cleanliness	732
Registering name and location	729	No place to sleep	733
Equipment	730	Penalty	734
Employe with disease	731		

Art. 728. Definitions.—A “barber” is one who shaves, or trims the beard, or cuts or shampoos or dresses the hair or massages the face of any person for pay, and includes “barbers’ apprentices” and shop boys. A “manager” means any person having control of a barber shop or beauty parlor or person working or employed therein. A barber shop is any place where the work or business of a barber is done for pay, and may or may not incude a beauty parlor or any work of a beauty parlor. A beauty parlor is a place where hair-dressing or manicuring of finger nails or massaging the skin, or shampooing or washing the scalp, is done for pay, and may or may not include work or business of a barber. [Acts 1921, p. 155.]

Art. 729. Registering name and location.—Every person owning, operating or managing a barber shop or beauty parlor shall register his full name and the location of said shop or parlor in a book to be kept in the office of the State Board of Health for that purpose, and every owner, operator or manager of a barber shop or beauty parlor that is first opened for business hereafter shall within five days after the opening of such shop or parlor register in like manner. In event of a change in the manager or location of any such shop or parlor, the manager of same shall call at or communicate by mail with said board within five days after such change takes place and inform said board thereof. [Id.]

Art. 730. Equipment.—The owner, operator or manager of any barber shop or beauty parlor shall equip and keep equipped the same with facilities and supplies and with all such appliances, furnishings and materials as may be necessary to enable persons employed in and about the same to comply with the law. [Id.]

Art. 731. Employe with disease.—No owner, operator or manager of a barber shop or a beauty parlor shall knowingly permit any person suffering from a communicable skin disease or from a venereal disease to act as a barber or employe or work or be employed in said shop or parlor. No person who to his own knowledge is suffering from a communicable disease or from venereal disease shall act as a barber or work or be employed in said shop or parlor. [Id.]

Art. 732. Cleanliness.—Every person in charge of a barber shop or beauty parlor shall keep said shop or parlor and all furniture, tools, appliances and other equipment used therein at all times in a cleanly condition, and shall cause all combs, hair brushes, hair dusters and similar articles used therein to be washed thoroughly at least once a day and to be kept clean at

all times, and shall cause all mugs, shaving brushes, razors, shears, scissors, clippers and tweezers used therein to be sterilized at least once after each time used as hereinafter provided. The term "persons affected by this chapter" shall include any person working or employed in a barber shop or beauty parlor or acting as a barber, beauty specialist or manicurist. Every barber or other person affected by this chapter, immediately after using a mug, shaving brush, razor, scissors, shears, clippers, or tweezers, for the service of any person, shall sterilize the same by immersing it in boiling water for not less than a minute, or in the case of a razor, scissors, shears or tweezers, by immersing it for not less than ten minutes in a five per cent aqueous solution of carbolic acid. No barber or other person affected by this chapter shall:

1. Use for the service of any customer a comb, hair brush, hair duster or any similar article that is not thoroughly clean, nor any mug, shaving brush, razor, shears, scissors, clippers, or tweezers, that are not thoroughly clean or that have not been sterilized since last used.

2. Serve any customer unless he shall immediately before such service cleanse his hands thoroughly.

3. Use for the service of a customer any towel or wash cloth that has not been boiled and laundered since last used.

4. To stop the flow of blood use the same piece of alum or other material for more than one person.

5. Shave any person when the surface to be shaved is inflamed or broken out or contains pus, unless such person be provided with a cup, razor and lather brush for his individual use.

6. Permit any person to use the head rest of any barber's chair under his control until after the head rest has been covered with a towel that has been washed and boiled since having been used before, or by clean new paper or similar clean substance.

7. Use a powder puff or a sponge in the service of a customer unless it has been sterilized since last used.

8. Use a finger bowl unless it has been sterilized since last used and fresh water or other liquid placed therein. [Id.]

Art. 733. **No place to sleep.**—No owner or manager of any barber shop or beauty parlor shall permit any person to sleep in any room used wholly or in part as such shop or parlor, and no person shall pursue the barber business or be employed in a barber shop or beauty parlor in any room used as a sleeping apartment. [Id.]

Art. 734. **Penalty.**—Whoever violates any provision of this chapter or fails or refuses to comply with any provision thereof shall be fined not to exceed one hundred dollars. [Id.]

CHAPTER FIVE.

OPTOMETRY.

	Article		Article
"Optometry"	735	Penalty	737
Display license and itemize bill.	736	Treating diseased eye.	738

Art. 735. **"Optometry"**.—The practice of optometry is defined to be the employment of objective or subjective means, without the use of drugs, for the purpose of ascertaining and measuring the powers of vision of the human eye, and fitting lenses or prisms to correct or remedy any defect or abnormal condition of vision. Nothing herein shall be construed to permit optometrists to treat the eyes for any defect whatsoever in any manner nor to administer or prescribe any drug or physical treatment whatsoever, unless such optometrist is a regular licensed physician or surgeon under the laws of this State. No person shall begin to practice optometry within this State who has not registered in the county clerk's office of the county in which he resides, and in each county in which he practices, his license for so practicing, together with his age, post-office address, place of birth, subscribed and verified by his oath. The fact of such oath and record shall be indorsed by the county clerk upon the license. The absence of record of such license in the county clerk's office shall be prima facie evidence of the lack of possession of such license. [Acts 1st C. S. 1921, p. 159.]

Art. 736. **Display license and itemize bill.**—Every person practicing optometry in this State shall display his license or certificate in a conspicuous place in the principal office where he practices optometry, and whenever required, exhibit the same to the Texas State Board of Examiners in Optometry or its authorized representative, and whenever practicing said profession of optometry outside of, or away from said office or place of business, he shall deliver to each person fitted with glasses a bill, which shall contain his signature, post-office address, and number of his license or certificate, together with a specification of the lenses and material furnished and the prices charged for such lenses and material respectively. [Id.]

Art. 737. **Penalty.**—Whoever violates any provision of the two preceding articles shall be fined not less than fifty nor more than five hundred dollars, or be imprisoned in jail not less than two nor more than six months, or both. Each day of such violation shall be a separate offense. [Id.]

Art. 738. **Treating diseased eye.**—Anyone practicing optometry who shall prescribe for or fit lenses for any diseased condition of the eye, or for the disease of any other organ of the body that manifests itself in the eye, shall be deemed to be practicing medicine within the meaning of that term as defined in the succeeding chapter. Any such person possessing no license to practice medicine who shall so prescribe or fit lenses shall be punished in the same manner as is prescribed for the practice of medicine without a license. [Id.]

CHAPTER SIX.

MEDICINE.

	Article		Article
Authority to practice to be regis- tered	739	Practice after license cancelled..	743
Exceptions	740	False statement by applicant.....	744
"Practicing medicine".....	741	Medical register.....	745
Unlawfully practicing medicine... 742		Protecting eyes of new born.....	746

Art. 739. [750] Authority to practice to be registered.—No person shall practice medicine in any of its branches upon human beings within the limits of this State who has not registered in the district clerk's office of the county in which he resides lawful authority to so practice medicine as herein prescribed, together with an affidavit subscribed and sworn to by him before said district clerk stating his age, post-office address, place of birth, school of practice to which he professes to belong, that he is the identical person to whom the license offered for registration was issued, and that since the issuance of said license the same has not been cancelled. The fact that said oath was so made and said license so recorded shall be indorsed by the district clerk upon the license. The holder of the license must in similar manner have the same recorded upon each change of residence to another county, and shall in each instance be required to make the affidavit provided above. The absence of such record in the office of the district clerk shall be prima facie evidence that no such license exists, and of failure to comply with the law in reference to the registration of license to practice medicine. [Acts 1923, p. 292.]

Art. 740. [754] Exceptions.—Nothing in this chapter shall be so construed as to discriminate against any particular school or system of medical practice, nor to effect or limit in any way the application or use of the principles, tenets or teachings of any church in the ministrations to the sick or suffering by prayer without the use of any drug or material remedy, provided sanitary and quarantine laws and regulations are complied with, and that no charge is made therefor, directly or indirectly. The provisions of this chapter do not apply to dentists legally qualified and registered under the laws of this State who confine their practice strictly to dentistry; nor to optometrists who confine their practice strictly to optometry, as defined in this title; nor to nurses who practice only nursing; nor to masseurs in their particular sphere of labor who publicly represent themselves as such; nor to commissioned or contract surgeons of the United States Army, Navy or Public Health and Marine Hospital Service in performance of their duties, but such shall not engage in private practice without license from the Board of Medical Examiners; nor to legally qualified physicians of other States called in consultation, but who do not open offices or appoint places in this State where patients may be met or called to see. This law shall be so construed as to apply to persons other than licensed druggists of this State not pretending to be physicians who offer for sale on the streets or other public places remedies which they recommend for the cure of disease. [Id.]

Art. 741. [755] **“Practicing medicine”**.—Any person shall be regarded as practicing medicine within the meaning of this chapter:

1. Who shall publicly profess to be a physician or surgeon and shall treat or offer to treat any disease or disorder, mental or physical, or any physical deformity or injury, by any system or method, or to effect cures thereof.

2. Who shall treat or offer to treat any disease or disorder, mental or physical, or any physical deformity or injury, by any system or method, or to effect cures thereof and charge therefor, directly or indirectly, money or other compensation. [Acts 1907, p. 224.]

Art. 742. [756] **Unlawfully practicing medicine**.—Any person practicing medicine in this State in violation of the preceding articles of this chapter shall be fined not less than fifty nor more than five hundred dollars, and be imprisoned in jail not exceeding six months. Each day of such violation shall be a separate offense. [Id.]

Art. 743. **Practice after license cancelled**.—Whoever shall practice medicine in any of its branches upon human beings within the limits of this State after his license has been cancelled by any court of competent jurisdiction shall be confined in the penitentiary not less than one nor more than four years, or be confined in jail not to exceed six months. [Acts 1923, p. 292.]

Art. 744. **False statement by applicant**.—Whoever shall make any false statement in his application for examination by the Board of Medical Examiners, or who shall make any false statement under oath to obtain a license or to secure the registration of his license to practice medicine, shall be guilty of false swearing and punished accordingly. [Id.]

Art. 745. [751] **Medical register**.—Every district clerk shall keep as a permanent record of his office a book to be known as the “Medical Register”, and shall record therein all licenses to practice medicine issued by the State Board of Medical Examiners which shall be presented to him for registration. When the license of any one to practice medicine has been cancelled, said clerk shall, if such license is registered in his county, note such cancellation upon said book, and shall also note therein the death or removal of any licensee. Any such clerk knowingly violating any provision hereof shall be fined not exceeding fifty dollars. [Acts 1907, p. 224, Acts 1923, p. 285.]

Art. 746. **Protecting eyes of new born**.—All physicians, midwives, nurses, or those in attendance at child birth shall use prophylactic drops in the child’s eyes of a one per cent solution of silver nitrate or other prophylactic solution approved by the State Board of Health to prevent ophthalmia neonatorum in the new born. Any of the persons referred to in attendance at child birth who shall violate this article shall be fined not less than ten nor more than one hundred dollars for each offense. [Acts 1921, p. 172.]

PUBLIC HEALTH.
CHAPTER SEVEN.
DENTISTRY.

Article	Article
Dentist to obtain license..... 747	Shall exhibit licence..... 751
Must comply with law..... 748	Must use proper name..... 752
License to be recorded..... 749	Exceptions 753
Practice after license has been re- voked 750	Penalty 754

Art. 747. **Dentist to obtain license.**—No person shall practice or attempt to practice dentistry or dental surgery in this State without first having obtained a license from the State Board of Dental Examiners. [Acts 1919, p. 50.]

Art. 748. **Must comply with law.**—No person shall extract teeth or perform any other operation pertaining to dentistry or dental surgery for pay or for the purpose of advertising, exhibiting or selling any medicine or instrument, unless such person shall first have complied with the provisions of the law regulating the practice of dentistry in this State. [Id.]

Art. 749. **License to be recorded.**—Each person to whom such license is issued by the Board of Examiners, shall before beginning the practice of dentistry in this State, present the same to the county clerk of the county in which he resides or expects to practice, and such clerk shall record said license in a book provided for that purpose. [Id.]

Art. 750. **Practice after license has been revoked.**—No person whose license to practice dentistry in this State shall be revoked by any district court of this State shall practice or attempt to practice dentistry or dental surgery in this State after such license has been so revoked. [Id.]

Art. 751. **Shall exhibit license.**—Any person authorized to practice dentistry or dental surgery in this State either under this or any former law of Texas, shall place his license on exhibition in his office where said license shall be in plain view of patients. No such person shall do any operation in the mouth of a patient, or treat any lesions of the mouth or teeth, without having said license so exhibited. [Id.]

Art. 752. **Must use proper name.**—No person who has been granted a license to practice dentistry or dental surgery in this State shall advertise or solicit business under a nom de plume or corporation name, or any other than his proper and legal name. Each day so engaged is a separate offense. [Id.]

Art. 753. **Exceptions.**—Nothing in this chapter applies to students of a reputable dental college who perform their operations without pay, except for actual cost of materials, in the presence of and under the direct personal supervision of a demonstrator or teacher who has been legally authorized to practice dentistry in Texas, nor to persons doing laboratory work on inert matter only. Physicians and surgeons may in the regular practice of their profession, extract teeth or make application for the relief of pain. Nothing in this chapter applies to one legally engaged in the practice of dentistry in this State at the time of the passage of this law, except as hereinbefore provided. [Id.]

Art. 754. **Punishment.**—Whoever violates any provision of this chapter shall be fined not less than five nor more than one hundred dollars, or be confined in jail not to exceed six months, or both. Such fine shall go into the common school fund of the county in which it is collected, and shall not be collected or used by the Board of Examiners. [Id.]

CHAPTER EIGHT.

PHARMACY.

Unlicensed pharmacy.....	Article 755	License and removal posted.....	Article 757
Exceptions.....	756	Offenses and penalty.....	758

Art. 755. **Unlicensed pharmacy.**—No person not licensed as a pharmacist, within the meaning of this law, shall conduct or manage any pharmacy, drug or chemical store, apothecary shop or other place of business for the retailing, compounding or dispensing of any drug, chemical or poison, or for the compounding of physician's prescriptions, or keep exposed for sale at retail any drug, chemicals or poisons, except as hereinafter provided. No person not licensed as a pharmacist or assistant pharmacist, shall compound, dispense or sell at retail any drug, chemical, poison, or pharmaceutical preparation upon the prescription of a physician, or otherwise, or compound physicians' prescriptions except as an aid to, or under the supervision of a person licensed as a pharmacist under this law. No owner, or manager of a pharmacy, or drug store, or other place of business, shall cause or permit any other than a person licensed as a pharmacist or assistant pharmacist to compound, dispense or sell at retail any medicine or poison, except as an aid to or under the supervision of a person licensed as a pharmacist. [Acts 1907, p. 349.]

Art. 756. **Exceptions.**—The preceding article shall not be construed to prevent any person from engaging in such business as proprietor or owner thereof, provided such proprietor or owner shall have employed to conduct same some one qualified under this law, nor to interfere with any legally registered practitioner of medicine or dentistry in the compounding of his prescriptions, or to prevent him from supplying his patients such medicine as he may deem proper; nor with exclusively wholesale business of any dealer who shall be licensed as a pharmacist, or who shall keep in his employ at least one person who is licensed as a pharmacist; nor with the selling at retail of non-poisonous domestic remedies, nor with the sale of patent or proprietary preparations, when sold in unbroken packages, nor with the sale of poisonous substances which are sold exclusively for use in the arts or for use as insecticides, when such substances are sold in unbroken packages bearing a label having plainly printed upon it the name of the contents, the word "poison" and the names of at least two readily obtainable antidotes. [Id.]

Art. 757. **License and renewal posted.**—Every certificate of license to practice as pharmacist or assistant pharmacist, and

every license to any proprietor or employe to conduct a drug store in towns of not more than one thousand inhabitants, and every renewal of such license shall be conspicuously exposed in the place of business of which the pharmacist or assistant pharmacist or other person to whom it is issued is the owner or manager, or in which he is employed. Every licensed pharmacist or assistant pharmacist who desires to continue in the practice of his profession shall, within thirty days next preceding the expiration of his license or permit, file with the board an application for the renewal thereof. If any pharmacist or assistant pharmacist shall fail for a period of sixty days after the expiration of his license, to make application to the board for its renewal, his name shall be erased from the register of licensed pharmacist or assistant pharmacist. The name of the responsible manager of every pharmacy, drug store or apothecary shop, shall be conspicuously displayed outside of such place of business. [Id.]

Art. 758. Offenses and penalty. — Whoever, not being licensed as a pharmacist, shall conduct or manage any drug store or other place of business for the compounding, dispensing or sale at retail of any drugs, medicine or poisons, or for the compounding of physicians' prescriptions contrary to any provision of the three preceding articles shall be fined not less than twenty-five nor more than one hundred dollars. Each week such drug store or pharmacy or other place of business is so unlawfully conducted shall be a separate offense. Whoever not being licensed as a pharmacist or assistant pharmacist shall compound, dispense or sell at retail any drugs, medicine, poison or pharmaceutical preparation even upon a physician's prescription or otherwise, and whoever being the owner or manager of the drug store, pharmacy or other place of business, shall cause or permit any one not licensed as a pharmacist or assistant pharmacist to dispense, sell at retail or compound any drug, medicine, poison or physician's prescription, contrary to any provision of the three preceding articles, shall be fined not less than ten nor more than one hundred dollars. Any license or permit or renewal thereof, obtained through fraud, or by any false or fraudulent representations, shall be void and of no effect in law. Any person who shall make any false or fraudulent representations for the purpose of procuring a license or renewal thereof, either for himself or for another, shall be fined not less than twenty-five nor more than one hundred dollars. Whoever being the holder of any license or permit granted under this law, shall fail to expose such license or permit, or any renewal thereof, in a conspicuous position in the place of business to which such license or permit relates, or in which the holder thereof is employed, contrary to the provisions of article 757 shall be fined not less than five nor more than twenty-five dollars, and each week that such license, permit or renewal shall not be exposed, shall be a separate offense, and whoever being the holder of any license or permit granted under this law shall, after the expira-

tion of such license or permit, and without renewing the same, continue to carry on the business for which such license or permit was granted, contrary to the provisions of article 757 shall be fined not less than five nor more than twenty-five dollars. [Id.]

CHAPTER NINE.

EMBALMING.

	Article		Article
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Art. 759. [784-5] **Embalmer's license.**—Every person engaged in or desiring to engage in the practice of embalming in connection with the care and disposition of dead bodies within this State shall make a written application to the State Board of Embalming for a license, accompanying the same with the fee fixed by law, and if said board shall find upon examination that the applicant is of good moral character and possesses the knowledge required by law, they shall issue to him a license authorizing him to practice the science of embalming. All persons receiving such license shall have it registered in the county clerk's office in the county in which it is proposed to carry on said practice, and shall display said license in a conspicuous place in the place of business of said person so licensed. Every registered embalmer who desires to continue the practice of his profession shall annually thereafter during the time he may continue in such practice, on such date as said board may determine, pay to the secretary of said board a fee of five dollars for the renewal of said license. [Acts 1903, p. 124; Acts 1921, p. 180.]

Art. 760. [786] **Unlawful embalming.**—No person shall embalm or pretend to practice the science of embalming, in connection with the care and disposition of the dead, unless such person is a registered embalmer within the meaning of this chapter. [Acts 1903, p. 125.]

Art. 761. [787] **Exceptions.**—This chapter does not apply to one simply engaged in the furnishing of burial receptacles, nor is it intended to apply to or interfere with the duties of any municipal, county or State officer or State institution. [Id.]

Art. 762. [788] **Penalty.**—Whoever shall embalm, or attempt to practice the science of embalming, in connection with the care and disposition of the dead, without having complied with the provisions of this chapter, shall be fined not less than fifty nor more than one hundred dollars for each offense. [Id.]

CHAPTER TEN.

QUARANTINE REGULATIONS.

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Art. 763. [789] [472] **Vessel landing from infected port.**—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 bill of health from the proper officer of said port, or with a false bill of health, the master or commanding officer of such vessel shall be fined not less than five hundred nor more than five thousand dollars. [Acts Aug. 13, 1870; Acts 1901, p. 305.]

Art. 764. [790] [473] Passing station without permission.—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 imprisoned in the penitentiary not less than two nor more than five years, or be fined not less than five hundred nor more than ten thousand dollars. [Act. Aug. 13, 1870.]

Art. 765. [791] [474] Going ashore without permission.—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. [Id.]

Art. 766. [792] [475] Landing goods without permission.—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 officer of the quarantine station, shall be fined not less than fifty nor more than one thousand dollars for each article so landed. [Id.]

Art. 767. [793] [476] Leaving quarantine station.—Any person detained at any quarantine station who shall wilfully absent himself without leave of the officer having charge thereof, shall be fined not less than ten nor more than one thousand dollars. [Acts 1883, p. 81.]

Art. 768. [794] [477] Violating quarantine law.—Any health officer, guard or other employe who shall wilfully 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 not exceeding one thousand dollars. In the meaning of this article the Governor and State Health Officer shall alone be deemed superior authority. [Id.]

Art. 769. [795] [478] Evading quarantine guards, etc.—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 fined not exceeding one thousand dollars. [Id.]

Art. 770. [796] [479] Violating quarantine regulations.—Whoever wilfully violates any regulation of the quarantine

established by the Governor, the State Health Officer, or the health officer of any county or city of this State, shall be fined not less than ten nor more than one thousand dollars. [Acts 1901, p. 305.]

Art. 771. [797] [478b] **Person in charge of train or boat.**—If any conductor, or person in charge of any train, ship, steamboat or any other kind of common carriers, shall wilfully bring into this State any person or thing contrary to quarantine regulations as proclaimed by the Governor or State Health Officer, such conductor or person so wilfully offending shall be fined not to exceed five hundred dollars. [Id.]

Art. 772. [798] [478c] **Violating Governor's proclamation.**—Any merchant or other person who shall wilfully order the shipment, or wilfully receive any merchandise whose shipment into the State is prohibited by the Governor's proclamation, or any person who wilfully sells and proceeds to deliver such merchandise or other article as above, shall be fined not exceeding five hundred dollars. [Id.]

CHAPTER ELEVEN.

MISCELLANEOUS.

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Art. 773. **Soliciting patients.**—No physician, surgeon, osteopath, masseur, or any other person who practices medicine or the art of healing the sick or afflicted, with or without the use of medicine, shall employ or agree to employ, pay or promise to pay, or reward or promise to reward any person, firm, association of persons, partnership or corporation for securing, soliciting or drumming patients or patronage. No person shall accept or agree to accept any payment, fee or reward, or anything of value, for securing, soliciting or drumming for patients or patronage for any physician, surgeon, osteopath, masseur or any other person who practices medicine or the art of healing with or without medicine. Whoever violates any provision of this article shall be fined not less than one hundred nor more than two hundred dollars for each offense. Each payment or reward or fee or agreement to pay or accept a reward or fee shall be a separate offense. [Acts 1911, p. 97.]

Art. 774. **Advertising.**—The preceding article shall not be construed to prohibit the inserting in a newspaper of an advertisement of a person's business, profession and place of business, or from advertising by handbills and paying for services in distributing same. [Id.]

Art. 775. **Witness shall testify.**—No person shall be exempt from giving testimony in any proceedings for the enforcement of the second preceding article, but the testimony so given shall not be used against him in any criminal action or proceeding,

nor shall any criminal action or proceeding be brought against such witness on account of any testimony so given by him. [Id.]

Art. 776. Nurse.—No person shall practice nursing as or claiming to be a graduate certified registered nurse without a license or permit from the State Board of Nurse Examiners, which license or permit shall have been registered with the county clerk of the county in which he or she resides within a period of thirty days. A nurse who has received his or her license or permit according to law shall be styled a “registered nurse,” and no other person shall assume such title or use the abbreviation “R. N.” or any other to indicate that he or she is a graduate certified registered nurse; and any person violating any provision of this article or who shall make any false representations to said board in applying for a license shall be fined not less than twenty-five nor more than two hundred and fifty dollars. [Acts 1923, p. 413.]

Art. 777. Exceptions.—The preceding article does not apply to gratuitous nursing by friends or members of the family or to any person nursing for hire who does not in any way assume or profess to practice as a graduate certified registered nurse.

Art. 778. Chiropody.—“Chiropody” means the diagnosis, medical and surgical treatment of ailments of the human foot. A chiropodist is one practicing chiropody. Whoever professes to be a chiropodist, or practices or assumes the duties incident to chiropody, without first obtaining from the State Board of Chiropody Examiners a license authorizing the practice of chiropody, shall be fined not exceeding one hundred dollars, or be confined in jail not to exceed thirty days. [Acts 1923, p. 357.]

Art. 779. Improper practice.—If any registered chiropodist shall amputate the human foot or toe, or use any anaesthetic other than local, he shall be punished as directed in the preceding article. [Id.]

Art. 780. Exceptions.—The two preceding articles shall not apply to physicians licensed by the State Board of Medical Examiners of this State, nor to surgeons of the United States Army, Navy, and Public Health Service, when in actual performance of their official duties. [Id.]

Art. 781. Vital statistics.—Any person who shall violate any rule of the Sanitary Code of this State relating to vital statistics, or who shall fail to perform any duty imposed on him by said rules herein referred to, shall be fined not less than ten nor more than one hundred dollars. Whoever shall falsely or fraudulently furnish any information for the purpose of making an incorrect record of a birth or death shall be confined in the penitentiary not less than one nor more than two years. [Acts 1911, p. 173; Acts 1917, p. 332.]

Art. 782. Sanitary Code.—Whoever shall violate any provision of the Sanitary Code of this State, other than those relating to vital statistics, shall be fined not less than ten nor more than one thousand dollars. [Acts 1911, p. 173.]

TITLE 13

OFFENSES AGAINST PUBLIC PROPERTY.

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CHAPTER ONE.

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Art. 783. [811] [479] [404] **Obstruction of navigable stream.**—Whoever obstructs the navigation of any stream which can be navigated by steam, keel, or flatboats, by cutting and felling trees or by building on or across the same any dyke, mill dam, bridge, or other obstruction, shall be fined not less than fifty nor more than five hundred dollars. [O. C. 428.]

Art. 784. [812] [480] [405] **Obstructing public road, street, etc.**—Whoever shall wilfully 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 town or city, or any public bridge or causeway, within this State, shall be fined not exceeding two hundred dollars. [Acts 1860, p. 97; Acts 1913, p. 258.]

Art. 785. [823] [483] [406] **Permission to obstruct.**—No person shall be punished under the preceding article 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 governing body thereof. [Acts 1860, p. 97.]

Art. 786. [824] [484] [407] **May regulate removal.**—Nothing in this chapter is to be construed to prevent the commissioners court or the municipal authorities from adopting regulations relative to the removal of obstructions from public roads, streets or bridges, and to enforce the same by due process of law. [O. C. 430.]

Art. 787. Obstructing railway crossing.—Any officer, agent, servant, or receiver of any railway corporation who wilfully obstructs for more than five minutes at any one time any street, railway crossing or public highway by permitting their train to stand on or across such crossing, shall be fined not less than five nor more than one hundred dollars. [Acts 1st C. S. 1921, p. 34.]

Art. 788. Exceptions as to railways.—The city council of any incorporated city may by ordinance grant a franchise to a railway company to obstruct a street crossing, not a part of a "Designated State Highway," by railway passenger trains for the purpose of receiving and discharging passengers, mail, express or freight, for a longer time than specified herein, and may enact and enforce reasonable ordinances in the premises. When any such franchise has been granted under the provisions of this law, the street crossing named therein shall be excepted from the preceding article. The provisions hereof shall not apply to a city having a special charter unless it shall first be amended so as to adopt the provisions hereof. [Id.]

Art. 789. [915] Rate of speed of vehicle.—Whoever shall operate or drive any motor or other vehicle upon the public highways of Texas at a rate of speed in excess of thirty-five miles per hour, or who shall drive or operate a motor or other vehicle within the corporate limits of an incorporated city or town or within or through any town or village not incorporated, at a greater rate of speed than twenty miles per hour, shall be fined not less than five nor more than two hundred dollars. [Acts 1923, p. 333.]

Art. 790. Shall drive carefully.—No person operating or driving a motor or other vehicle upon the public highways shall pass any motor or other vehicle, person or thing on any public highway of this State at such rate of speed as to endanger the life or limb of any person or the safety of any property. Any person violating any provision of this article shall be fined not less than five nor more than two hundred dollars. [Id.]

Art. 791. Exceptions to speed law.—The two preceding articles shall not apply to fire patrols or motor vehicles operated by the fire department of any city, town or village responding to calls, nor to police patrols, ambulances or physicians responding to emergency calls. [Id.]

Art. 792. Violation of promise to appear.—In case of any person arrested for violation of the preceding articles relating to speed of vehicles, unless such person so arrested shall demand that he be taken forthwith before a court of competent jurisdiction for an immediate hearing, the arresting officer shall take the license number, name and make of the car, the name and address of the operator or driver thereof, and notify such operator or driver in writing to appear before a designated court of competent jurisdiction at a time and place to be specified in such written notice at least five days subsequent to the date thereof, and upon the promise in writing of such person to appear at such

time and place, such officer shall forthwith release such person from custody. Any person wilfully violating such promise, regardless of the disposition of the charge upon which he was originally arrested, shall be fined not less than five nor more than two hundred dollars. [Id.]

Art. 793. Speed limit on commercial vehicles.—Commercial motor vehicles of the kinds and weights specified in this article shall not be operated on the public highways of this State at a greater rate of speed than herein prescribed, as follows:

(a) Commercial motor vehicles equipped with pneumatic tires or cushion wheels:

Weights in pounds, including gross weight of vehicle and load.	Speed limit miles per hour
2,000-4,000	18
4,001-8,000	15
8,001-12,000	12
12,001-16,000	12
16,001-20,000	10

(b) Commercial motor vehicles equipped with solid rubber tires:

Weights in pounds, including gross weight of vehicles and load.	Speed limit miles per hour.
2,001-4,000	16
4,001-8,000	14
8,001-16,000	16
16,001-22,000	10

Whoever shall operate a commercial motor vehicle at a greater rate of speed than that herein allowed shall be fined not less than ten nor more than two hundred dollars or be imprisoned in jail not more than thirty days. [Acts 1923, p. 333.]

Art. 794. To slow down in passing.—All operators of motor vehicles in passing each other on the public highways shall slow down their speed to fifteen miles per hour. Any person who violates this article shall be fined not to exceed one hundred dollars. [Acts 1917, p. 481, Acts 3rd C. S. 1917, p. 70.]

Art. 795. No racing or contest for speed.—No race or contest for speed between motor vehicles of any kind shall be held upon any public highway. Any person violating this article shall be fined not exceeding one hundred dollars. [Acts 1917, p. 480, Acts 3rd C. S. 1917, p. 70.]

Art. 796. Horn or noise device.—Every motor vehicle shall be equipped with a bell, gong, horn, whistle or other device in good working order, capable of emitting an abrupt sound adequate in quality and volume to give warning of the approach of such motor vehicle to pedestrians and to the rider or driver of animals, or of other vehicles and to persons entering or leaving street, interurban or railroad cars. Every person operating a motor vehicle shall sound said bell, gong, horn, whistle or other device whenever necessary as a warning of danger but not at other times or for other purposes. Any person while operating

a motor vehicle who shall violate this article shall be fined not more than one hundred dollars. [Acts 1917, p. 496, Acts 3rd C. S. 1917, p. 70.]

Art. 797. Device to prevent unusual noise, etc.—Every motor vehicle must have devices in good working order which shall at all times be in constant operation to prevent excessive or unusual noises, annoying smoke, and the escape of gas or steam. Pipes carrying exhaust gas from the engine shall be directly parallel to the ground or slightly upward. Devices known as "Muffler cut-outs" shall not be used within the limits of any incorporated city or town or on any public highway where the territory contiguous thereto is closely built up. Any person violating any provision of this article shall be fined not to exceed one hundred dollars. [Acts 1917, p. 477, Acts 3rd C. S. 1917, p. 70.]

Art. 797a. Preventing unnecessary noises by motor vehicles.—Any person operating on any public highway or street in this State a motor vehicle or motorcycle which is not equipped with a muffler, or which is equipped with a muffler cutout, shall be 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, or by confinement in the county jail not more than ten days, or by both such fine and imprisonment.

Art. 797b. Muffler defined. A muffler cut-out within the meaning of this Act is any device or aperture which permits the escaping gasses produced by the operation of the motor of a motor vehicle or motorcycle to escape without going through the muffler on such motor vehicle or motorcycle, or which is capable of being manipulated so as to permit such gasses to so escape. A muffler within the meaning of this Act is a device through which the escaping gasses of the motor of a motor vehicle or motorcycle pass, designed to muffle or minimize the noise produced by the operation of such motor. [Acts 1925, p. 350.]

Art. 798. Front and rear lights.—Every motor vehicle other than a motorcycle while on the public highways, when in operation, during one-half hour after sunset to one-half hour before sunrise, and at all times when fog or other atmospheric conditions render the operation of such vehicles unusually dangerous to traffic and the use of the highways, shall carry at the front at least two lighted lamps showing the white lights visible under normal atmospheric conditions at least five hundred feet in the direction toward which such motor vehicle is facing, and shall also carry at the rear a lighted lamp exhibiting one red light plainly visible for a distance of five hundred feet to the rear. At the times and under the conditions hereinbefore specified every motorcycle or bicycle while on the public highway shall carry on its front one lighted lamp showing a white light visible under normal atmospheric conditions at least two hundred feet in the direction such vehicle is facing, and shall have at the rear one red light plainly visible from the rear. Any

person who while operating such vehicle on a public highway shall violate any provision of this article shall be fined not to exceed one hundred dollars. [Acts 1917, p. 476; Acts 3rd C. S. 1917, p. 70.]

Art. 799. **Brakes.**—Any person who operates upon a public highway a motor vehicle not provided with adequate brakes kept in good working order, or any person having control or charge of a motor vehicle who shall allow such vehicle to stand in any public street or highway unattended without first effectively setting the brakes and stopping the motor thereon, shall be fined not exceeding one hundred dollars. [Acts 1917, p. 477, Acts 3rd C. S. 1917, p. 70.]

Art. 800. **Approaching railroad crossing.**—Any person driving a motor vehicle or motorcycle, when approaching the intersection of a public street or highway with the tracks of a steam railroad or interurban railroad, where such street or highway crosses such track or tracks at grade, and where the view of the said crossing is obscured, either wholly or partially, shall before attempting to make the said crossing, and at some point not nearer than thirty feet of the said track, reduce the speed of his motor vehicle or motorcycle to a speed not exceeding six miles per hour before making the said crossing, unless there are flagmen or gates at such crossing and such flagmen or gates show that the way is clear and safe to cross such track or tracks. This article shall not apply to persons crossing interurban or street railway tracks within the limits of incorporated cities or towns. Whoever violates any provision of this article shall be fined not exceeding one hundred dollars. [Acts 1917, p. 479, Acts 3rd C. S. 1917, p. 70.]

Art. 801. **Law of the road.**—(A) The driver or operator of any vehicle in or upon any public highway wherever practicable shall travel upon the right hand side of such highway. Two vehicles which are passing each other in opposite directions shall have the right of way, and no other vehicle to the rear of either of such two vehicles shall pass or attempt to pass such two vehicles. On all occasions the driver or operator of any vehicle upon any public highway shall travel upon the right hand side of such highway unless the road on the left hand side of such highway is clear and unobstructed for a distance of at least fifty yards ahead.

(B) Vehicles proceeding in opposite directions shall pass each other to the right, each giving to the other one-half of the road as nearly as possible.

(C) Vehicles overtaking other vehicles proceeding in the same direction shall pass to the left thereof and shall not again drive to the right until the road is reasonably clear of such overtaken vehicle.

(D) It is the duty of the driver, rider, or operator of a vehicle about to be overtaken and passed to give way to the right in favor of the overtaking vehicle on suitable and audible signal,

given by or on behalf of the operator, driver or other person in charge and control of such overtaking vehicle, if such overtaking vehicle be a motor vehicle.

(E) Except where controlled by such ordinances or regulations enacted by local authorities, as are permitted under the law, the operator of a vehicle approaching an intersection on the public highway shall yield the right-of-way to a vehicle approaching such intersection from the right of such first named vehicle.

(F) It is the duty of the person operating or in charge of an overtaking vehicle to sound audible and suitable signal before passing a vehicle proceeding in the same direction.

(G) All vehicles approaching an intersection of the public highway with the intention of turning thereat shall, in turning to the right, keep to the right of the center of such intersection and in turning to the left, shall run beyond the center of such intersection, passing to the right before turning such vehicle to the left.

(H) In passing and overtaking, such assistance shall be given by the occupants of each vehicle respectively to the other as the circumstances shall reasonably demand in order to obtain clearance and avoid accident.

(I) Every person having control or charge of any motor vehicle or other vehicle upon any public highway and approaching any vehicle drawn by horse or horses, or any horse upon which any person is riding, shall operate and control such vehicle in such manner as to exercise every reasonable precaution to prevent the frightening of any such horse and to insure the safety of any person riding or driving the same; and if such horse or horses appear frightened, the person in control of such vehicle shall reduce its speed, and if requested by signal of the hand, by the driver or rider of such horse or horses, shall not proceed further toward such animal or animals unless such movement be necessary to avoid injury or accident, until such animal or animals shall be under the control of the rider or driver thereof.

(J) The person in control of any vehicle moving slowly along upon any public highway shall keep such vehicle as closely as possible to the right hand boundary of the highway, allowing more swiftly moving vehicles reasonably free passage to the left.

(K) The person in charge of any vehicle upon any public highway before turning, stopping or changing the course of such vehicle shall see first that there is sufficient space for such movement to be made in safety, and if the movement or operation of other vehicles may reasonably be affected by such turning, stopping or changing of course, shall give plainly visible or audible signal to the person operating, driving or in charge of such vehicle of his intentions so to turn, stop or change said course.

(L) Before attempting to pass any railroad train, interur-

ban car or street car stopped for the purpose of receiving or discharging passengers, every operator in charge of a motor vehicle or motorcycle approaching the same from the rear and proceeding in the same direction shall bring such motor vehicle or motorcycle to a full stop and shall not start up or attempt to pass until the said railroad train, interurban car or street car has finished receiving and discharging its passengers; provided that cities of ten thousand inhabitants and over may provide by ordinance for the establishment of safety zones for the use and safety of such passengers contiguous to such railroad, interurban or street car tracks, and may maintain and establish such safety zones at such places and may provide by ordinance for the regulation of traffic in passing such safety zones, and when such safety zones are so established and ordinances are passed to regulate the traffic in passing same, the provisions of this subdivision shall not apply to the places where safety zones are so established.

(M) Every motor vehicle when moving along such portions of the road where the curvature of the road prevents a clear view for a distance ahead of one hundred yards shall be held under control, and the operator thereof in approaching curves or sharp turns in the road shall give a warning by his signaling device.

(N) Police patrols, police ambulances, fire patrols, fire engines and fire apparatus in all cases while being operated as such shall have the right-of-way with due regard to the safety of the public; provided that this provision shall not protect the driver or operator of any such vehicle or his employer or principal from the consequence of the arbitrary exercise of this right to the injury of another.

Any person while operating or driving any motor vehicle upon a public highway who shall violate any provision of this article shall be fined not exceeding one hundred dollars. [Acts 1917, p. 478; Acts 3rd C. S. 1917, p. 70; Acts 1919, p. 310; Acts 3rd C. S. 1920, p. 96.]

Art. 802. **Intoxicated driver.**—Any person who drives or operates an automobile or any motor vehicle upon any street or alley or any other place within the limits of any incorporated city, town or village or upon any public road or highway in this State while such person is intoxicated or in any degree under the influence of intoxicating liquor, shall be confined in the penitentiary for not more than two years, or be confined in jail for not more than ninety days, or fined not more than five hundred dollars, or be punished by both such fine and imprisonment in jail. [Acts 2nd C. S. 1923, p. 56.]

Art. 803. **May arrest without warrant.**—Any peace officer is authorized to arrest without warrant any person found committing a violation of any provision of the preceding articles of this chapter. [Acts 1st C. S. 1917, p. 48.]

Art. 804. **Operating unregistered vehicle.**—Whoever operates upon any public highway a motor vehicle which has not

been registered as required by law shall be fined not to exceed two hundred dollars. [Acts 1923, p. 158.]

Art. 805. Operating under improper license.—Whoever operates upon a public highway a motor vehicle under a license, however obtained, for a class other than that to which such vehicle properly belongs, shall be fined not exceeding two hundred dollars. [Id.]

Art. 806. Motorcycle without seal.—Any person operating, or as owner permitting to be operated, on any public highway any motorcycle during any calendar year to which there is not attached a registration seal assigned to said motorcycle, shall be fined not exceeding two hundred dollars. [Acts 1917, p. 425; Acts 1st C. S. 1921, p. 147.]

Art. 807. Vehicle without seal.—Any person operating, or as owner permitting to be operated, on any public highway any motor vehicle during any calendar year, except the first calendar year after a renumbering is ordered according to law, to which vehicle for the current year there is not attached a registration seal assigned for said vehicle, shall be fined not to exceed two hundred dollars. [Acts 1st C. S. 1921, p. 147.]

Art. 808. Unauthorized distinguishing seal.—Whoever obtains a distinguishing seal for a motor vehicle or motorcycle from any source other than the State Highway Department or its authorized agents, unless authorized by law, shall be fined not less than twenty-five dollars. [Acts 1917, p. 425.]

Art. 809. Sale of imitation seal or number.—Whoever sells or offers to sell any seal or number in imitation of those furnished by the State Highway Department shall be fined not less than twenty-five dollars. [Id.]

Art. 810. Must have number plate.—Whoever shall operate, or as owner permit to be operated upon a public highway any motor vehicle to which there is not attached a license number plate or pair of license number plates issued for said vehicle shall be fined not to exceed two hundred dollars. [Acts 1917, pp. 425 and 475, Acts 1st C. S. 1921, p. 147.]

Art. 811. Must have own number and seal.—Whoever shall operate, or as owner permit to be operated upon a public highway a motor vehicle with a number plate or seal issued for a different motor vehicle attached thereto shall be fined not exceeding two hundred dollars. [Acts 1917, p. 475, Acts 1st C. S. 1921, p. 147.]

Art. 812. Wrong or unclean number plate.—No person shall attach to or display on any motor vehicle any number plate or seal assigned to a different motor vehicle or assigned to it under any other motor vehicle law other than by the State Highway Department, or any registration seal other than that assigned for the current year, or a homemade or fictitious number plate or seal. All letters, numbers and other identification marks shall be kept clear and distinct and free from grease or other blurring matter so that they may be plainly seen at all times during daylight. Whoever violates any provision of this article shall be fined not exceeding two hundred dollars. [Id.]

Art. 813. Chauffeur.—A “chauffeur” is one whose business or occupation is operating a motor vehicle for compensation, wages or hire.

1. No person shall operate a motor vehicle as a chauffeur upon any public highway unless he shall have complied in all respects with the requirements of the law regulating the licensing of chauffeurs and shall have at all times in his possession his certificate or license and wear the badge issued to him by the State Highway Department prominently displayed on his clothing while on duty.

2. No person shall use a fictitious name in applying for a license as a chauffeur.

3. No licensed chauffeur shall use or possess any fictitious badge, nor permit any other person to use or possess his license or badge, nor while operating a motor vehicle shall use or possess any license or badge belonging to another.

4. No owner of a motor vehicle shall permit said vehicle to be driven by a chauffeur upon a public highway unless the requirements of the law applicable to chauffeurs have in all respects been complied with.

Whoever violates any provision of this article shall be fined not to exceed one hundred dollars. [Acts 1917, p. 482-3, Acts 3rd C. S. 1917, p. 70.]

Art. 814. Suspension of license.—In addition to the punishment provided in this chapter, the court may for a period not to exceed thirty days suspend an operator or chauffeur’s license upon conviction of the licensee for violation of any provision of this chapter. [Acts 1917, p. 482.]

Art. 815. Penalty for subsequent offense.—Where the penalty for violating any article of this chapter is a fine not exceeding one hundred dollars, then for a second or subsequent violation of a provision of the same article the fine shall be not less than ten nor more than two hundred dollars. [Acts 3rd C. S. 1917, p. 70.]

Art. 816. Width of tires.—No person shall sell or offer for sale any wagon or other road vehicle with an intended carrying capacity of more than two thousand pounds and not exceeding four thousand five hundred pounds which shall have a rim or tire on the wheels of same less than three inches in width; or any such wagon or other road vehicle with an intended carrying capacity of more than four thousand five hundred pounds which shall have a rim or tire on the wheels of same less than four inches in width. This article shall apply to all persons engaged in the sale of road vehicles, either at wholesale or retail, but not to individuals, selling or offering for sale road vehicles purchased for their individual use. Whoever violates the terms of this article shall be fined not less than one hundred nor more than one thousand dollars. Each sale or offer of sale is a separate offense. [Acts 1917, p. 139, Acts 1919, p. 284, Acts 3rd C. S. 1920, p. 61.]

Art. 817. Protuberance on tires.—No person shall operate or run on any public highway any vehicle which has on its

periphery any block, log, stud, cleat, ridge, bead or any other protuberance of metal that shall project more than one-fourth of an inch beyond the tread or traction surface of the tire, unless the said wheels are protected by bands, wooden blocks, skids or some sufficient device to protect the highway against injury by reason thereof. Nothing herein shall prevent the use of traction engines with cleats on the driving wheels thereof on dirt or unimproved roads, or the use of vehicles actually engaged at the time in construction or repair work on roads. Whoever violates any provision of this article shall be fined not to exceed one hundred dollars. [Acts 1917, p. 477; Acts 3rd C. S. 1920, p. 70.]

Art. 818. Certain vehicles defined.—As used in this Code the terms:

1. "Interurban commercial motor vehicle" is a vehicle of net carrying capacity of more than one ton that is used regularly in carrying passengers or freight for hire between cities, towns and villages in this State.

2. "Commercial motor vehicle" is any motor vehicle intended, designated or used for the transportation of property.

3. "Tractor" means any self-propelled vehicle designed or used as a traveling power plant or for drawing other vehicles, but having no provision for carrying loads on its own structure.

Art. 819. Unregistered interurban vehicle.—Any person, or the agent of any person, firm or corporation, who operates any interurban commercial motor vehicle in carrying passengers for hire between any cities, towns or villages of this State when such vehicle has not been registered and licensed as required by law shall be fined not less than twenty-five nor more than two hundred dollars. [Acts 1919, p. 177.]

Art. 820. Motor busses.—Owners of passenger motor vehicles operating for hire shall pay in addition to the fee of 17½ cents per horsepower and the weight fee provided therefor, an additional registration fee of four dollars for each passenger such vehicle will seat. Any owner of a motor bus vehicle who shall fail or refuse to comply with this article shall be fined not more than two hundred dollars. [Acts 1923, p. 158.]

Art. 821. Inscription on State vehicle.—There shall be printed upon each side of every automobile, truck or other motor vehicle owned by the State of Texas, the word "Texas" followed in letters of not less than two inches high by the title of the department, bureau, board, commission or official having the custody of such car, and the official having control thereof shall have such wording placed thereon as prescribed herein, and whoever drives any automobile, truck or other motor vehicle belonging to the State upon the streets of any town or city or upon a public highway without such inscription printed thereon shall be fined not less than twenty-five nor more than one hundred dollars. [Acts 1921, p. 122.]

Art. 822. Mirror.—Whoever shall operate or permit to be operated upon a public highway, a commercial motor vehicle which is not equipped with a mirror placed and maintained so

that the operator shall at all times be able to see other vehicles approaching from the rear, shall be fined not to exceed two hundred dollars. [Acts 1st C. S. 1921, p. 169; Acts 1923, p. 159.]

Art. 823. Operating overloaded vehicle.—Any owner of a commercial motor vehicle who operates or permits the same to be operated upon a public highway while loaded with a load weighing over ten per cent in excess of its registered carrying capacity, shall be fined not exceeding two hundred dollars. [Id.]

Art. 824. Operating overweight vehicle.—Whoever operates or permit to be operated upon a public highway a commercial motor vehicle, trailer, semi-trailer or tractor whose gross weight, including load, is greater than 650 pounds per inch width of tire, or more than 6000 pounds on any one wheel, or whose body is wider than 90 inches, shall be fined not to exceed two hundred dollars. [Acts 1923, p. 158.]

Art. 825. License plate for trailer or tractor.—Whoever operates upon a public highway a motor vehicle, trailer, semi-trailer or tractor which has not attached thereto so as to be plainly visible from the rear, a license plate for the calendar year then current, shall be fined not exceeding two hundred dollars. [Acts 1923, p. 155.]

Art. 826. Tire equipment of trailer or tractor.—Whoever shall operate or permit to be operated upon a public highway a motor vehicle, trailer, semi-trailer or tractor equipped with solid rubber tires less than one inch in thickness at any point from the surface to the rim, or if equipped with pneumatic tires when one or more of such tires has been removed, shall be fined not exceeding two hundred dollars. [Id.]

Art. 827. [1570-1-2-3-4-5] Street railways.—All persons or corporations owning or operating street railways in or upon the public streets of any town or city of not less than forty thousand inhabitants are required:

1. To carry children of the age of twelve years or less for one-half the fare regularly collected for the transportation of adults. This law shall not apply to street cars carrying children or students to and from schools, colleges or other institutions of learning situated at a distance of one mile or more beyond the limits of the incorporated city or town from which said cars run.

2. To sell or provide for the sale of tickets in lots of twenty, each good for one trip over the line or lines owned or operated by such person or corporation, for one-half the regular fare collected for the transportation of adults, to students not more than seventeen years of age in actual attendance upon any academic, public or private school of grades not higher than the grades of the public high schools situated within, or adjacent to the town or city in which such railway is located. Such tickets are required to be sold only upon the presentation by the student desiring to purchase them of the written certificate of the principal of the school which he attends showing that he is not more than seventeen years old, is in regular attendance upon such school and is within the grades herein provided. Such tickets are

not required to be sold to such students and shall not be used except during the months when such schools are in actual session and such students shall be transported at half fare only when they present such tickets.

3. To transport free of charge children of the age of five years or less when attended by a passenger of above said age.

4. To accord to all passengers referred to in this article the same rights as to the use of transfers issued by their own or other lines as are or may be accorded to passengers paying full fare.

Any such person or any officer or employe of any such corporation or other person who knowingly violates any provision of this article, or any person who misrepresents the age or the grade of any person for the purpose of securing the reduced fare herein provided for, shall be fined not less than twenty-five nor more than one hundred dollars. [Acts 1903, p. 132.]

CHAPTER TWO.

PUBLIC ROADS AND IRRIGATION.

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Art. 828. [827] [486] [408] **Refusal to serve as overseer.**
—If any person subject to public road duty under the laws of this State shall wilfully 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, he shall be fined not less than ten nor more than fifty dollars. [Acts 1876, p. 67.]

Art. 829. [828] [487] [409] **Failure of duty as overseer.**
—If any overseer of a public road shall wilfully fail, neglect or refuse to perform any duty imposed upon him by law, or shall so fail, neglect or refuse to keep the roads, bridges and causeways in his precinct or district clear of obstructions and in good order, or shall wilfully suffer such roads, 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. [Id.]

Art. 830. [829] [488] [410] **Overseer to mark roads, etc.**
—If any overseer of a public road 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 or stone 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, or conspicuously and permanently at the intersections of all first and second class public roads, in his precinct or district, index or sign boards with directions plainly marked thereon stating the most noted place to which each of said roads lead, he shall be fined five dollars. [Acts 1876, p. 67, Acts 2nd C. S. 1919, p. 57, Acts 1923, p. 59.]

Art. 831. [830] [489] Failure of duty as road commissioner.—Any road commissioner who shall wilfully fail to comply with any duty required of him shall be fined not less than twenty-five nor more than two hundred dollars. [Acts 1889, p. 135.]

Art. 832. [831] [290] Failure of duty as road superintendent.—Any road superintendent who shall wilfully fail or refuse to comply with any provisions of law or order of the commissioners court shall be fined not less than twenty-five nor more than two hundred dollars for each offense. [Sec. 21, p. 163, Acts 1891.]

Art. 833. Forbidding use of highway.—The county commissioners of any precinct, or county road superintendent of any county, or road supervisor whose road is affected, may have the authority by posting notices on the highways when from wet weather or recent construction or repairs such cannot be safely used without probable serious damage to same, or when the bridge or culverts on same are unsafe, to forbid the use of such highway or section thereof by any vehicle or loads of such weight or tires of such character as will unduly damage such highway. The notices provided for herein shall state the maximum load permitted and the time such use is prohibited and shall be posted upon the highway in such place as will enable the drivers to make detours to avoid the restricted highways or portions thereof.

If the owner or operator of any such vehicle feels himself aggrieved by such action, he may complain in writing to the county judge of such county, setting forth the nature of his grievance. Upon the filing of such complaint the county judge shall forthwith set down for hearing the issue thus raised for a day certain, not more than three days later, and shall give notice in writing to such official of the day and purpose of each hearing, and at such hearing the county judge shall hear testimony offered by the parties respectively, and upon conclusion thereof, shall render judgment sustaining, revoking or modifying such order heretofore made by the county road superintendent or road supervisor, and the judgment of the county judge shall be final as to the issues raised. If upon such hearing the judgment sustains the order of the county road superintendent or road supervisor and it appears that any violation of same has been committed by the complainant since posting such notices, he shall be subject to the same penalty hereinafter provided for such offense as if the same had been committed subsequent to the rendition of such judgment made upon such hearing.

Any party guilty of violating the provisions and directions of such order of the county road superintendent or road supervis-

or, before or after it has been so approved by such judgment of the county judge shall be fined not exceeding two hundred dollars. [Acts 1 C. S. 1921, p. 170, Acts 1923, p. 160.]

Art. 834. Closing roads and bridges.—The commissioners court of any county subject to this law acting upon their own motion, or through the superintendent where one is employed, shall have the power and authority to regulate the tonnage of trucks and heavy vehicles which by reason of the construction of the vehicle or its weight and tonnage of the load shall tend to rapidly deteriorate or destroy the roads, bridges and culverts along the particular road or highway sought to be protected, and notices shall be posted and shall state the maximum load permitted and the time such use is prohibited, and shall be posted upon the highway in such places as will enable the drivers to make detours to avoid the restricted highways or portions thereof.

If the owner or operator of any such vehicle feels himself aggrieved by such action, he may complain in writing to the county judge of such county, setting forth the nature of his grievance. Upon the filing of such complaint, the county judge shall forthwith set down for hearing the issue thus raised for a certain day, not more than three days later, and shall give notice in writing to such road official of the day and purpose of such hearing, and at such hearing the county judge shall hear testimony offered by the parties respectively, and upon conclusion thereof shall render judgment sustaining, revoking or modifying such order theretofore made by the county road superintendent, and the judgment of the county judge shall be final as to the issues so raised.

If upon such hearing the judgment sustains the order of the county superintendent, and it appears that any violation of same had been committed by the complainant since posting such notices, he shall be subject to the same penalty hereinafter provided for such offense as if same had been committed subsequent to the rendition of such judgment made upon such hearing.

Any party guilty of violating the provisions and directions of such order of the county road superintendent after it has been so approved by such judgment of the county judge shall be fined not exceeding two hundred dollars. [Acts 1st C. S. 1921, p. 133, Acts 1923, p. 355.]

Art. 835. [832] [491] [411]. Failure to work road.—If any person liable to work upon the public roads after being legally summoned shall fail or refuse to attend either in person or by able and competent substitute, or fail or refuse to furnish his team or tools at the time and place designated by the person summoning him, or having attended shall fail or refuse to perform good service or any other duty required of him by law or the person under whom he may work, or if any one fails to comply with any duty requested of him as provided by the statutes providing for a systematic method of road maintenance, he shall be fined not exceeding twenty-five dollars. [Acts 1876, p. 60, Acts 1901, p. 280, Acts 1st C. S. 1921, p. 138.]

Art. 836. [833] [493] [412]. Neighborhood roads.—When-

ever the commissioners court shall duly declare the boundary lines between the lands of different persons, or any section line, or any direct line through an inclosure containing 1280 acres or more of land, a public highway in accordance with law, if a 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 fifteen 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. [Acts 1876, p. 69; Acts 1884, S. S., p. 22.]

Art. 837. [834] [494] [413] **Leaving gates open on third class roads.**—Any person placing a gate on or across any third-class road, or on or across any road such as is designated in article 836 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 until the passengers go through. Such person shall place a permanent hitching post and stile block on each side of and within sixty feet of such gate. Any person who may place a gate on or across a third-class road, or on or across any road such as is designated in article 836 who shall wilfully or negligently fail to comply with any requirement of this article shall be fined not less than five nor more than twenty dollars for each offense, and each week of such failure is a separate offense. Whoever wilfully or negligently leaves open any gate on or across any third-class road, or on or across any road such as is designated in article 836, shall be fined as above provided for. [Id.]

Art. 838. **Unlawfully taking water.**—Whoever shall wilfully take, divert, or appropriate any of the water of this State, or the use of such water, for any purpose, without first complying with all the provisions of the statutes regulating such use shall be fined not exceeding one hundred dollars, or be imprisoned in jail not exceeding six months or both. Each day that such taking, diversion or appropriation of water shall continue shall constitute a separate offense; and the possession of such water, except when the right to its use is acquired in accordance with the provisions of law, shall be prima facie proof of guilt. [Acts 1917, p. 219.]

Art. 839. **Diverting stored water.**—Any person, association of persons, corporation, water improvement or irrigation district having in possession and control storm, flood or rain waters conserved or stored, under the provisions of this law, may enter into contract to supply same to any person, association of persons, corporation, water improvement or irrigation district having the right to acquire such use; provided that the price and terms of such contract shall be just and reasonable and without discrimination and subject to the same revision and control as provided by law for other water rates and charges. To convey and deliver storm, flood or rain water from the place or storage to the place of use, as provided herein, it shall be lawful for any person, association of persons; corporation, water improvement

or irrigation district to use the banks and beds of any flowing natural stream within this State, under and in accordance with such rules and regulations as may be prescribed by the Board of Water Engineers, and such board shall prescribe rules and regulations for such purpose. No person, association of persons, corporation, water improvement or irrigation district who has not acquired the right to the use of such conserved or stored waters as provided in this article shall take, use or divert same. Any person, or the agent, officer, employe or representative of any association of persons, corporation, water improvement or irrigation district who shall wilfully interfere with the passage of, or take, divert or appropriate such conserved or stored water during the passage and delivery thereof, as provided in this article, shall be fined not exceeding one hundred dollars, or be imprisoned in jail not exceeding six months, or both. Each day that such taking, diversion or appropriation may be made shall be a separate offense. [Acts 1917, p. 224.]

Art. 840. Sale of permanent water rights.—Whoever sells or offers for sale any permanent water right, without having complied with the provisions of the statute relating to certified filings, or for the uses and purposes purporting to be conveyed by such permanent water right, shall be fined not less than one hundred nor more than one thousand dollars, or be confined in jail not to exceed one year, or both. [Acts 1917, p. 225.]

Art. 841. Interfering with headgates, etc.—Whoever shall willfully open, close, change or interfere with any headgate or water box without lawful authority, or who shall wilfully use water or conduct water in and through his ditch or upon his land, to which water he was not entitled, shall be fined not less than ten and not more than one thousand dollars, or be imprisoned in jail not exceeding six months. The possession or use of water to which the person using or possessing same shall not be lawfully entitled shall be prima facie proof of the guilt of the person so using or in possession of same. [Acts 1917, p. 227.]

Art. 842. Unlawfully diverting water.—No person, association of persons, corporation, water improvement or irrigation district shall take or divert any of the water of the ordinary flow, underflow, or storm flow of any stream, water course or watershed in this State into any other natural stream, water course or watershed, to the prejudice of any person or property situated within the watershed from which such water is proposed to be taken or diverted.

Before any person, association of persons, corporation, water improvement or irrigation district shall take any water from any natural stream, water course, or watershed in this State into any other watershed, such person, association of persons, corporation, water improvement or irrigation district shall make application to the Board of Water Engineers for a permit so to take or divert such waters, and no such permit shall be issued by the board until after full hearing before said board as to the rights to be affected thereby.

Whoever shall take or divert any waters from one natural stream, water course or watershed into any other watershed,

contrary to the provisions of this article, shall be fined not less than one hundred nor more than five hundred dollars or be imprisoned in jail for any term not exceeding six months. Each day that such taking or diversion shall continue shall be a separate offense. [Acts 1917, p. 231.]

Art. 843. **Water from nuisance.**—Any person, directly, or as agent, who operates or attempts to operate any works, or who uses any water under contract with any canal or irrigation system that has been previously declared to be a public nuisance shall be fined not exceeding one thousand dollars or be confined in jail not to exceed one year, or both. [Acts 1917, p. 234.]

Art. 844. **Wasting water.**—Any person owning or acquiring any possessory rights to lands contiguous to any canal or irrigation system and who acquires the right to the use of water from such canal or irrigation system by contract, who wilfully permits the excessive or wasteful use of water by his agent, servant or employe, or who wilfully permits water to be wasted and not applied to a beneficial purpose, shall be fined not exceeding five hundred dollars or be imprisoned in jail not more than ninety days, or both. [Acts 1917, p. 233.]

Art. 845. **“Artesian well”.**—An artesian well is an artificial water well in which, if properly cased, the waters will rise by natural pressure above the first impervious stratum below the surface of the ground. [Acts 1917, p. 232.]

Art. 846. **“Waste”.**—Waste in relation to artesian wells is defined to be the causing, suffering or permitting the waters of an artesian well to run into any river, creek, or other natural water course or drain, superficial or underground channel, bayou, or into any sewer, street, road, highway, or upon the land of any other person than that of the owner of such well, or upon the public lands, or to run or percolate through the strata above that in which the water is found unless it be used for the purposes and in the manner in which it may be lawfully used on the premises of the owner of such well. Nothing herein shall prevent the use of such water, if suitable, for proper irrigation of trees standing along or upon any street, road, or highway, or for ornamental ponds or fountains, or the propagation of fish, or for any purpose authorized by law. [Acts 1917, p. 233.]

Art. 847. **Waste from artesian well.**—Whoever wilfully causes or knowingly permits waste as defined in relation to artesian wells shall be fined not exceeding five hundred dollars or be imprisoned in jail not more than ninety days, or both. [Acts 1917, p. 234.]

Art. 848. **Log of artesian well.**—Any person boring or causing to be bored any artesian well shall keep a complete and accurate record of the depth and thickness and character of the different strata penetrated, and when such well is completed, shall transmit, by registered mail, to the Board of Water Engineers, a copy of such record. Whoever violates any provision of this article shall be fined not less than ten nor more than one hundred dollars. [Acts 1917, p. 233.]

Art. 849. **Hindering water improvement district work.**—

The directors of any Water Improvement District and the engineer and employes thereof are hereby authorized to go upon any lands within said district, for the purpose of examining same, locating reservoirs, canals, dams, pumping plants, and all other improvements, to make maps and profiles thereof and are hereby authorized to go upon the lands beyond the boundaries of such districts in any county for the purposes stated, and for any other purposes necessarily connected therewith, whether herein enumerated or not. Whoever shall wilfully prevent or prohibit any such officer or employe from entering any lands for any such purpose shall be fined not exceeding one hundred dollars for each day he shall so prevent or hinder such officer or employe. [Acts 1917, p. 199.]

Art. 850. Resisting improvement commissioners or engineers.—The district supervisors of any levee improvement district, and the district engineer and his assistants, from the time of their appointment, and the State reclamation engineer and his deputies, are hereby authorized to go upon any lands or waters for the purpose of examining the same and locating all levees and other improvements, making plans, surveys, maps, and profiles, together with all necessary teams, help and instruments, without subjecting themselves to an act of trespass. Any person who shall wilfully prevent or prohibit any of such officers from entering any lands or waters for such purposes shall be fined not exceeding twenty-five dollars for each day he shall so prevent or hinder such officer. [Acts 1909, p. 152; Acts 1915, p. 244.]

Art. 851. Resisting navigation and canal officer.—The navigation and canal commissioners of any district and the engineers from the time of their appointment are hereby authorized to go upon any lands lying within said district for the purpose of examining the same, making plans, surveys, maps and profiles, together with all necessary teams, help, tools and instruments, without subjecting themselves to action for trespass. Any person who shall wilfully prevent or prohibit any such officer from entering any land for such purpose shall be fined not exceeding twenty-five dollars for each day he shall so prevent or hinder such officer. [Acts 1909, p. 45.]

Art. 852. Resisting drainage district officer.—The drainage commissioners of any drainage district and the civil engineer from the time of their appointment are authorized to go upon any lands lying within any such district for the purpose of establishing the same, locating the canals, drains, ditches, levees, making plans, surveys, maps and profiles, and are authorized to go upon any lands beyond the boundaries of such district and in any county for the purpose of examining the same and locating the necessary outlets of any canal, drain or ditch of such district, together with all necessary teams, help, tools and implements. Any person who shall wilfully prevent or prohibit any of such officers from entering any land for such purposes shall be fined not exceeding twenty-five dollars for each day he shall so prevent or hinder such officer. [Acts 1911, p. 258.]

Art. 853. Resisting water control officer.—The directors of

any Water Control and Preservation District and the engineers and employes thereof are hereby authorized to go upon any land lying within said district for the purpose of examining same for locating dams, bulkheads, jetties, locks, gates or any other character of improvement or construction necessary to the accomplishment of the purposes of the district, to make maps and profiles thereof, and are hereby authorized to go upon lands beyond the boundaries of such districts for the purposes stated and for any other purposes necessarily connected therewith whether herein enumerated or not. Any person who shall wilfully prevent or prohibit any such officer or employe from entering upon such land for such purpose shall be fined one hundred dollars for each day he shall so prevent or prohibit such officer or employe. [Acts 4th C. S. 1918, p. 95.]

CHAPTER THREE.

FERRIES, TOLL ROADS AND BRIDGES.

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Art. 854. [838] [497] [415] **Keeping ferry without license.**—Whoever 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 required by law, shall be fined not less than fifty nor more than two hundred dollars. [Acts 1860, p. 98.]

Art. 855. [839] [498] [416] **Failure to keep good boats, etc.**—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. [Acts 1875, p. 58.]

Art. 856. **Trespassing on toll road.**—Whoever trespasses or enters upon the property or right of way of a toll road corporation without its consent except as to crossings provided by law shall be fined not less than twenty-five nor more than one hundred dollars. [Acts 1913, p. 146.]

Art. 857. **Obstructing toll road.**—Whoever in any manner obstructs any toll road, or places thereon any thing or substance which would be reasonably calculated to result in injury to any patron of such road or damage to any vehicle which might be run over the same, shall be fined not less than fifty nor more than two hundred dollars. [Id.]

Art. 858. **Trespassing on toll bridge.**—Whoever wilfully enters upon any toll bridge maintained wholly or partly within

this State, without the consent of those in charge of such bridge, with the intent to avoid the payment of the toll lawfully chargeable for crossing the same shall be fined not less than five nor more than one hundred dollars. [Acts 1915, p. 154.]

CHAPTER FOUR.

PUBLIC BUILDINGS AND GROUNDS.

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Art. 859. [840] [499] [417] **Injuring or defacing public building.**—Whoever shall wilfully injure or deface any public building or the furniture therein 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. [Acts 1862, p. 51; Acts 1888, p. 5.]

Art. 860. [841] [500] [418] **"Public building."**—The term "public building," as used in this chapter, means the capitol and all other buildings in the capital grounds at Austin, including 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. 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. 861. [843] [502] [420] **Driving in capitol grounds.**—Whoever shall drive, ride or lead, or cause to be driven, ridden or led, any horse or other animal into the capitol grounds at Austin or into the inclosure of the State cemetery, without the consent of the keeper or superintendent of said grounds or cemetery, shall be fined not exceeding twenty-five dollars. [Acts 1874, p. 165.]

Art. 862. [844-5-6] **Injuring roadway, grounds or property.**—No person shall drive, or cause to be driven, over or along any roadway in any of the public grounds of this State, any heavy vehicle for carrying merchandise, or vehicle heavily loaded or otherwise reasonably calculated to injure or deface such roadways or to make their maintenance more expensive; or drive or cause to be driven any vehicle or conveyance of any kind, or drive, or cause to be ridden any animal of any kind over, across, or along any of the footpaths or walks in such grounds, or on the turf of such grounds or at any place therein, except on and along the roadways; or cause or permit any horse not being driven to some vehicle or ridden, or any cow, sheep, goat, hog or other animal reasonably calculated to injure said grounds or anything pertaining thereto to go into or remain in any portion of said grounds; or cut, pull, break, bruise, remove, or in

anywise injure any tree, or shrub or vegetation of any kind growing thereon; or disturbing any birds' nests or eggs; or in anywise injure, deface or in any way interfere with any chair, bench, seat or hydrant, frame, fence, gate, or structure of any kind therein or thereon or connected therewith; or wash or bathe in or in any way pollute the waters of any lake or pond, or stream therein; or obscenely or indecently expose any part of his person, or do any indecent act thereon. Any person violating any provision of this article shall be fined not less than five nor more than one hundred dollars. This article shall not apply to anything done by the lawful custodian of the public grounds on which said act is performed, or under his authority or direction, and which is done in the reasonable discharge of his duties as such custodian, or in the use of such grounds for the purpose to which they are dedicated by the State. The term "public grounds," as used in this law, includes all grounds owned by the State, and used and maintained by it in connection with any public building or institution, whether for governmental, educational, eleemosynary or other purpose, and all State cemeteries and all parks maintained at the expense of the public. [Acts 1903, p. 187.]

Art. 863. [848] [503a] Pass keys to capitol.—Any person who shall make or have made or keep in his possession a pass or master key to the rooms and apartments in the State Capitol, unless authorized to do so, shall be fined not exceeding one hundred dollars. [Acts 1895, p. 79.]

Art. 864. [849] [504] [422] Taking property from public grounds.—Whoever shall take, remove, injure or destroy any public property pertaining to any public building or to the grounds belonging to such building shall be fined not less than twenty-five nor more than one hundred dollars.

Art. 865. [852] Turning loose too many stock.—No purchaser or other person than the lessee of public school, asylum and public lands shall be permitted to turn loose within such lessee's inclosure more than one head of horses, mules or cattle, or in lieu thereof four head of sheep or goats for every ten acres so purchased, owned or controlled by him and uninclosed, and whoever violates this article shall be fined one dollar for each head of stock he may turn loose and each thirty days violation hereof shall be a separate offense. [Act April 1, 1887, Acts 1895, p. 71; Acts 1897, p. 187, Acts 1901, p. 296.]

Art. 866. [508] [422d] Fences without gates.—Any person who has used any of the pasture lands by joining fences or otherwise, who shall build or maintain more than three miles lineal measure of fences running in the same general direction without a gate way in same, which must be at least ten feet wide and shall not be locked or kept closed so as to obstruct free ingress and egress, shall be fined not less than two hundred nor more than one thousand dollars. [Acts 1884, p. 37, Acts 1887, p. 90.]

Art. 867. [855-6] Procedure.—In all prosecutions under the preceding article, the provisions of article 1380 shall apply. The preceding article shall not apply to persons who have here-

tofore 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. [Acts 1884, p. 69.]

Art. 868. [860] **Illegal fencing or use of public lands.**—No person shall 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 the public free schools or asylums, without having first obtained a lease of such lands from the proper authority. 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 fined not less than one hundred nor more than one thousand dollars, and imprisoned in jail for not less than three months nor more than two years. Each day of such fencing, occupying, using or appropriating shall be a separate offense, and any person so offending may be prosecuted in 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. "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, 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 or of any public land 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 unlawful appropriation, punishable as provided in this article for appropriating such lands. Each day said land is appropriated shall be a separate offense. [Acts 1887, p. 89, Acts 1895, p. 74.]

CHAPTER FIVE.

FIRE ESCAPES.

Art. 869. **Violation of fire escape law.**—Any owner of any building required by law to be equipped with adequate fire escapes, who shall fail or refuse to comply with any provision of the statutes regulating fire escapes, or any person who shall obstruct any fire escape or hallway or entrance leading thereto, so as to prevent free access to or use of either, shall be fined not less than twenty nor more than fifty dollars. If such owner be a corporation, each officer or member of the board of directors, thereof, shall be subject to such fine. Each day's failure or refusal to comply with any provision of said law is a separate offense. [Acts 1923, p. 365.]

Art. 870. **Violation by agent.**—If the owner of any building within the provisions of said law be a non-resident of this State, and such owner fails, neglects or refuses to comply with any provision of said law, it shall be unlawful for any person within this State to represent such non-resident owner as an agent in the care, management, supervision, control, or renting of such

building, and whoever violates this article shall be punished as provided in the preceding article. Each day that such agent so represents such non-resident owner is a separate offense. [Id.]

CHAPTER SIX.

GAME, FISH AND OYSTERS.

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Art. 871. "Commissioner".—The word "Commissioner"

wherever used in this chapter, shall be held to mean the Game, Fish and Oyster Commissioner of the State of Texas.

Art. 871a. **Wild birds and animals.**—All wild animals, wild birds, and wild fowl within the borders of this State are hereby declared to be the property of the people of this State.

Art. 872. **Game birds defined.**—Wild turkey, wild ducks of all varieties, wild geese of all varieties, wild brant, wild grouse, wild prairie chickens or pinnated grouse, wild pheasants of all varieties, wild partridge and wild quail of all varieties, wild pigeons of all varieties, wild mourning doves and wild white-winged doves, wild snipe of all varieties, wild shore-birds of all varieties, wild Mexican pheasants or chachlacas, and wild plover of all varieties, are hereby declared to be game birds within the meaning of this Act.

Art. 873. **Bag limit, penalty.**—Any person killing or taking more than the daily, weekly or seasonal bag-limits as set forth in this chapter; or any person killing, taking, hunting, wounding, or shooting at any game bird or game animal at any other time of the year, except during the open season as provided for in this chapter; or any person killing, taking, capturing, wounding or shooting at any game bird or game animal for which no open season is provided by this chapter, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in a sum of not less than ten (\$10.00) dollars nor more than two hundred (\$200.00) dollars; and each game bird or game animal unlawfully taken shall constitute a separate offense.

Art. 874. **Killing birds other than game birds.**—It shall be unlawful for any person in this State to kill, catch, wound, take, shoot at, or have in possession, living or dead, any wild bird other than a game bird. Any person violating any of the provisions of this article shall be deemed guilty of a misdemeanor and upon conviction shall be fined in a sum of not less than ten (\$10.00) dollars, nor more than two hundred (\$200.00) dollars.

Art. 875. **Exemptions.**—English sparrows, crows, ravens, vultures or buzzards, "rice-birds" identified as harmful, black-birds, pelicans, roadrunners, and the goshawk, the Cooper hawk or blue darter, the sharp-shinned hawk, the duck hawk, jay birds, sap suckers, woodpeckers, butcher birds or shrike, and the great horned owl are not included among the birds protected by this section; and provided, further, that nothing in this section shall prevent the purchase and sale of canaries and parrots, or the keeping of same in cages as domestic pets.

Art. 876. **Possession of wild game.**—It shall be unlawful for any person to have in possession at any one time more than forty-five wild doves, or thirty-six wild quail, or thirty-six wild Mexican pheasant or chachalaca; or to have in possession at any one time more than fifty waterfowl, shorebirds, and other game birds, all kinds and varieties being considered in making up the one total of fifty; provided, that the provisions of this section shall not apply to transportation companies which have in their possession, for the purpose of transportation, such wild birds, where the provisions of this chapter with reference to shipment of game have

been complied with; nor shall the provisions of this chapter apply to owners, agents, managers, or receivers of cold storage plants which receive wild game for storage; provided, however, that it shall be unlawful for the owner, agent, manager, or receiver of such cold storage plant to receive or have in possession at any one time for himself or any one person more than the limits of the wild game birds as provided in this article.

Any person violating any of the provisions of this article shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum of not less than ten (\$10.00) dollars, nor more than two hundred (\$200.00) dollars. The possession of each bird or fowl over the number designated herein, shall be deemed a separate offense.

Art. 877. Turkey hens.—It shall be unlawful for any person to take, kill, wound, shoot at, hunt or possess, dead or alive, any wild turkey hen at any season of the year except as hereinafter provided.

Any person violating any of the provisions of this article shall be deemed guilty of a misdemeanor, and upon conviction, shall be fined in any sum not less than twenty-five (\$25.00) dollars nor more than one hundred (\$100.00) dollars.

Art. 878. Division into zones.—In order to divide the State for the purpose of better regulating the open and closed seasons for the hunting of the wild game birds and wild game animals of this State, a line following the center of the main track of the International and Great Northern Railroad beginning at Laredo and running thence to San Antonio, thence to Austin, thence to Longview, and thence following the center of the main track of the Texas and Pacific Railroad to Texarkana, shall constitute a division of the North and South Hunting Zones of this State. All that portion of the State lying northwesterly of said line shall be known as the North Zone, and all that portion of the State lying southeasterly of said line shall be known as the South Zone.

Art. 879. Open season.—There shall be an open season, or period of time when it shall be lawful to hunt, take, or kill such of the game animals and game birds as are named in this section, as follows:

Wild mourning doves, in the South Zone, during the months of November and December of each year; in the North Zone, during the months of September and October of each year.

Wild white-winged doves, in both the North and South Zones, during the months of August and September.

Wild quail of all kinds, and wild Mexican pheasant or chachalaca in the North Zone, November 16th to the following January 1st, both days inclusive; in the South Zone, December 1st to the following January 16th, both days inclusive.

Wild turkey gobblers, in both the North and South Zones, November 16th to the following December 31st, both days inclusive.

Wild rail (other than coot and gallinules), wild black-bellied plover and wild golden plover, and yellow-legs, the months of

September and October of each year, in both the North and South Zones.

Wild ducks of all kinds (except wild wood ducks), wild geese, wild brant, wild snipe of all kinds, wild gallinules and wild coot or mud hen, in the North Zone, October 16th to the following January 31st, both days inclusive; in the South Zone, November 1st to the following January 31st, both days inclusive.

Wild prairie chicken or pinnated grouse, in both the North and South Zones, September 1st to September 10th, of each year, both days inclusive.

Wild buck deer, wild bear, in both the North and South Zones, November 16th to December 31st, each year, both days inclusive.

Wild red or fox squirrels and wild gray squirrels, in both the North and South Zones, the months of May, June and July, and in the months of October, November, and December of each year; provided, however, that nothing in this chapter shall prevent the keeping of squirrels in cages as domestic pets; and provided further, that it shall not be unlawful to kill squirrels in the following named counties at any time, to-wit; DeWitt, Caldwell, Guadalupe, San Saba, Mason, Gillespie, Llano, Kimble, Menard, Comal, McCulloch, Brown, Kerr, Burnet, Mills, Schleicher and Edwards.

Art. 880. Hunting with dogs.—It is hereby declared unlawful for any person or persons to make use of a dog or dogs in the hunting or pursuing or taking of any deer. Any person or persons owning or controlling any dog or dogs, and who permits or allows such dog or dogs to run, trail, or pursue any deer at any time, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum of not less than twenty-five (\$25.00) dollars and not more than two hundred (\$200.00) dollars; provided, that nothing in this article shall prohibit the use of only one dog in pursuit of a wounded buck deer, during the open season on buck deer as provided by this chapter; and provided further that this article shall not apply to the counties of Grimes, Madison, Montgomery, Walker, San Jacinto, Leon, Houston, Polk, Trinity, Harris, Brazoria, Fort Bend, Burleson, Lee, Brazos, Robertson, Matagorda, Washington, Wharton, Liberty and Hardin.

Art. 881. Possessing more than bag limit.—It shall be unlawful to take, kill, or possess any birds or animals in greater number than the daily, weekly or seasonal bag limit or number of such game birds and game animals permitted to be killed or taken, such bag-limits to be as follows:

Wild mourning doves and wild white-winged doves, fifteen in any one day, and not more than forty-five in any one week of seven days.

Wild quail of all kinds, and wild Mexican pheasant or chachalaca, twelve in any one day, and not more than thirty-six in any one week of seven days, and all kinds and varieties of these shall be considered in making up the limit of twelve.

Wild turkey gobblers, three during the open season of any one year, as herein provided.

Wild geese and brant of all kinds, four in any one day, and not more than twelve in any one week of seven days.

Wild ducks of all kinds, wild snipe of all kinds, wild black-bellied plover, wild yellowlegs, wild gallinle or Indian hen, and wild coot or mud hen, twenty-five in any one day, and not more than fifty in any one week of seven days; provided, that all kinds and varieties of game birds mentioned in this section shall be considered in making up the daily limit of twenty-five or weekly bag-limit of fifty.

Wild prairie chicken or pinnated grouse, five in any one day, and not to exceed ten in the open season of any one year.

Wild buck deer, two during the open season of any one year, as provided in this chapter.

Wild bear, one during the open season of any one year, as provided in this chapter.

Wild squirrel, ten in any one day.

Art. 882. **Closed season defined.**—The term "Closed Season" shall, for the purpose of enforcement of the game laws of this State mean the period of time during which it is unlawful to hunt, kill, attempt to kill, or take any of the game animals, wild fowl, or birds enumerated in this chapter, and the term "Open Season" shall mean the period of time in which it is lawful to hunt, kill, or take certain game, game animals, wild fowl, and birds set forth in this chapter.

Art. 883. **Five year closed season.**—It shall be unlawful for any person to hunt, kill, or take or to have in possession, within a period of five years from the passage of this Act, any wild woodcock, wild wood duck, wild sandhill crane, or whooping crane, wild inca and ground dove, or wild pheasant, except as hereinafter provided. Any person violating any provision of this section shall be deemed guilty of a misdemeanor and upon conviction shall be fined in a sum not less than ten (\$10.00) dollars nor more than one hundred (\$100.00) dollars, and each bird killed or possessed in violation of this article shall constitute a separate offense.

Art. 884. **Unlawful possession of game.**—It shall be unlawful for any person to sell or offer for sale, or to buy or offer to buy, or to have in possession for sale, or to have in possession after purchase has been made (either by himself or by another), any wild bird, wild fowl, wild game bird, or wild game animal, dead or alive, or any part thereof, protected by this chapter, except as hereinafter provided. This article, and all other articles in this chapter, shall apply to any bird or animal coming from without this State; and in prosecutions for violations of this chapter it shall be no defense that such bird or animal was not taken or killed within this State.

It shall further be unlawful to bring into this State, for any purpose whatever, during the closed season or time when it is unlawful to possess such bird or animal, either alive or dead, any kind of bird or animals protected by this chapter, except as hereinafter provided.

Art. 835. Bringing game into this State.—Any person violating any of the provisions of Article 884 shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum of not less than twenty-five (\$25.00) dollars nor more than two hundred (\$200.00) dollars; and the bringing in of each separate bird or animal protected by this chapter in violation of said article shall constitute a separate offense. Provided, that any person who shall buy any game bird or game animal, the sale of which is prohibited by this chapter, for the purpose of establishing testimony, shall not be prosecuted for such purchase, and a conviction may be had upon the uncorroborated testimony of such purchaser.

Art. 886. Wild ducks, geese and brant.—It shall be unlawful to hunt, kill, or take any wild duck, goose, or brant, by any means other than the ordinary gun, not to exceed ten gauge, capable of being held to and shot from the shoulder. Any person violating any provision of this article shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than ten (\$10.00) dollars nor more than one hundred (\$100.00) dollars, and each bird or fowl taken or killed in violation of this article shall constitute a separate offense.

Art. 887. Hunting at night.—It shall be unlawful to kill, hunt or shoot at any wild bird, wild game bird, wild fowl, or wild game animal protected by his chapter at any season of the year, between one-half hour after sunset and one-half hour before sunrise in any county in this State. Any person violating any provision of this chapter shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than twenty-five (\$25.00) dollars, nor more than one hundred (\$100.00) dollars, and each bird or animal so killed shall constitute a separate offense.

Art. 888. Protection against depredation of wild fowls or animals.—Whenever any wild birds, wild fowls, or wild animals, protected under the provisions of this chapter, are destroying crops or domestic animals, the Game, Fish and Oyster Commissioner is hereby authorized to permit the killing of such wild birds or wild animals, without regard to the open or closed season, bag limit, or night shooting; but before such permission shall be granted, the commissioner aforesaid, shall be furnished with a statement of facts, sworn to by persons whose property is being injured, with the endorsement of the county judge of the county in which the crops are being destroyed or domestic animals being injured or killed, to the effect that the sworn statement is true, and that such crops or domestic animals can only be preserved by the granting of such permit. Such permit when issued shall distinctly state the time for which it is granted, the area which it covers, and a designation of the person or persons permitted to kill the noxious birds and animals named in such permit. Such permit shall not authorize the killing of migratory birds protected by the Federal Migratory Bird Treaty Act, unless the applicant shall first procure a permit from the United States Department of Agriculture, in compliance with the regulations of such Migratory Bird Treaty Act.

Art. 888a. [883] **Taking game bird by net or trap.**—Whoever sets a net or trap or other device for taking any bird mentioned in article 872, or who snares or takes by such devices any such bird, without first obtaining from the Game, Fish and Oyster Commissioner a permit in writing so to do, shall be fined not less than ten nor more than one hundred dollars. [Sec. 18, Id.]

Art. 889. **Specimens for Taxidermist.**—Any person shall have the right to ship or carry to and from a taxidermist or tannery, for mounting or preserving purposes or to his home, any specimen or part of specimen of the wild birds or wild animals of this State, where same have been lawfully taken or killed by such person, and when such specimens or parts of specimens are not for sale, but before making shipment as herein provided, such person shall first make the following affidavit in writing before some officer authorized to administer oaths, and deliver same to the common carrier transporting same, or its agents:

State of Texas)
 County of _____) Before me, the undersigned authority, on this day personally appeared _____, who after being duly sworn, upon oath says: I live at _____ in the County of _____, State of _____; that I have personally killed _____, which I desire to ship from _____ to _____ County, to _____, State of _____, which I have lawfully killed for my own use and not for sale, and which shall not be bartered or sold; that I have not killed during the present hunting season more than the bag limit, as provided by law, of any of the wild game birds, wild fowl, or wild animals. Signature _____

Sworn to and subscribed before me this _____ day of _____, A. D. 192—.

Office held _____

The affidavit thus prepared by the affiant shall be attached to the shipment, and shall not be removed during the period of transportation. If such game is carried by the person killing same, it shall not be necessary to attach the affidavit herein set forth.

Art. 890. **Penalty.**—Any person who so ships any game from any place within this State without making the foregoing affidavit; or any agent of any express company or other common carrier who receives any shipment without it being accompanied by such affidavit and list attached; or any auditor or conductor or other person in charge of any railroad train, who knowingly permits any person to carry any wild birds, wild fowl or wild animals without such affidavit being made, as herein provided, shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum of not less than ten (\$10.00) dollars nor more than one hundred (\$100.00) dollars.

All express agents, conductors, and auditors of trains, captains of boats, and the Game, Fish and Oyster Commissioner and his deputies are hereby empowered to administer oaths necessary to the shipment of game, and for administering such

oaths they are hereby authorized to collect the sum of twenty-five (25c) cents from the person making such oath.

Art. 891. Destroying nests or eggs of birds.—It shall be unlawful for any person to destroy or take the nest, eggs, or young of any wild game bird, wild bird, or wild fowl, protected by this chapter, except as provided herein. Any person violating any provision of this article shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than ten (\$10.00) dollars nor more than one hundred (\$100.00) dollars.

Art. 892. Certain animals declared to be game animals.—Wild deer, wild elk, wild antelope, wild Rocky Mountain sheep, wild black bear, and wild gray and red squirrels, cat squirrels or fox squirrels, are hereby declared to be game animals within the meaning of this Act.

Art. 893. Forfeiture of license.—Any person convicted of violating any provision of the game laws of this State shall thereby automatically forfeit his license for said season. Any such person so convicted of violating the game laws shall not be entitled to receive from the State a license to hunt for one year immediately following the date of his conviction; and it shall be unlawful for any person who is convicted of violating any of the provisions of the game laws of this State to purchase or possess a hunting license for a period of one year immediately following date of such conviction; and it shall also be unlawful for any person convicted of violating any of the game laws of this State to hunt with a gun in this State for a period of one year immediately following date of such conviction.

Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not less than one hundred (\$100.00) dollars, nor more than two hundred (\$200.00) dollars.

Art. 894. Form of license.—All hunting licenses issued shall have printed across their faces the year for which they are issued; they shall bear the name and address or residence of the person to whom issued, and shall give the approximate weight, height, age, color of hair, and color of eyes of such person, in order that proper identification may be had in the field, and shall have printed thereon a statement, to be subscribed to in ink by the person to whom issued, that such person will not exceed in any one day the bag limit as printed on the license. Such license shall be dated on the date of issuance, and shall remain in effect until the last day of August thereafter; provided that non-resident or alien licenses shall have printed thereon the following: This license does not entitle the holder thereof to hunt upon the enclosed and posted lands of another, without the consent of the owner or agent.

Art. 895. County clerk to issue license.—The county clerk of each county in this State, is hereby authorized to issue hunting licenses under his official seal, to all persons complying with the provisions of this Act, and shall fill out correctly and preserve for the use of the Game, Fish, and Oyster Commission, the stubs

attached thereto; and the county clerk shall keep a complete and correct record of hunting licenses issued, showing the name and place of residence of each license and the serial number and date of the license issued. Said license stubs and penalties and forfeitures of bonds imposed and collected for violation of any of the provisions of this chapter, shall belong to the special game fund of this State, and shall be paid over by the Game, Fish, and Oyster Commissioner, to the State Treasurer during the first week of each month, and shall be credited to such special game fund; and such fund shall be used solely for the purpose of wild bird and game protection; for the creation, purchase, and maintenance of game sanctuaries and public hunting-ground; for the purchase, introduction, propagation, and distribution of game and wild birds; for the dissemination of information pertaining to the conservation and economic value of wild animal life; and in the employment of special deputy game commissioners, payment of their necessary expenses and the purchase and supply of means to enable the Game, Fish and Oyster Commissioner and his deputies to enforce the game laws of this State. All expenditures shall be verified by affidavit to the Game, Fish and Oyster Commissioner; and on the approval of such expenditures by the Game, Fish and Oyster Commissioner, it shall be the duty of the Comptroller of the State to draw his warrant on the Treasurer of the State for the amount of such expenditures in favor of the person claiming the same, such warrant to be paid out of the special game fund. All moneys and all balances now in such fund from moneys already paid into the State Treasury, or that may hereafter be paid into said fund through or because of this chapter, are made available as soon as paid into the State Treasury, and are hereby specifically appropriated to the use of the Game, Fish and Oyster Commissioner for the several purposes herein specified. The county clerk shall, within ten days after the close of each calendar month, make out a detailed report under the seal of his office, showing the serial number and date of each license issued during the month covered by the report, and the name and address of the person to whom issued, and shall forward such report, with remittance of fees due the State, to the Game, Fish, and Oyster Commission at Austin, and said Commission shall credit such county clerk with the amount so remitted. As soon as possible after the licenses in a license book have all been issued, and only the stubs remain therein, such county clerk shall forward such used license book to the Game, Fish and Oyster Commission at Austin, in order that such Commission may furnish necessary information regarding holders of licenses to any officers in the State.

Art. 896. License fees under control of council.—All license fees and hunting-boat registration fees collected under this Act, and all fines that may be made from this fund shall be expended for land or other real estate only upon the authorization of a majority vote of a council composed of Game, Fish and Oyster Commissioner, the Attorney General of Texas, and the State

Comptroller, who shall act on this council during their respective terms of office.

Art. 897. Game unlawfully taken to be disposed of by commissioner.—All wild birds, wild fowl, or wild game animals, or parts thereof, which have been killed, taken in any way, shipped, held in storage, or found in a public eating place, contrary to the provisions of this chapter, shall be disposed of by order of the Game, Fish and Oyster Commissioner, or one of his deputies by donating same to charitable institutions, hospitals, or needy widows and orphans.

If such birds, fowl or animals mentioned in this article are required to be placed in cold storage, the expense of such storage shall, upon his conviction, be placed in a bill of cost against the defendant or person from whom they were taken.

The Game, Fish and Oyster Commissioner, or any of his deputies shall have the right to search the game bag or any other receptacle of any kind whenever such Game, Fish and Oyster Commissioner or his deputy has reason to suspect that such game bag, or other receptacle or any buggy, wagon, automobile, or other vehicle may contain game unlawfully killed or taken, and any person who refuses to permit the searching of the same, or who refuses to stop such vehicle when requested to do so by the Game, Fish and Oyster Commissioner, or his deputy, shall be fined not less than ten (\$10.00) nor more than one hundred (\$100.00) dollars.

Art. 898. Commissioner to keep lists of fees and fines.—It shall be the duty of the Game, Fish and Oyster Commissioner to keep in his office, at Austin, a complete list of the license fees and fines collected; said records shall be kept open for inspection of the State Comptroller and of the public. At the close of each calendar month the Game, Fish, and Oyster Commissioner, shall file with the Comptroller, a report in writing, showing all fines, licenses, and other fees collected, their disposition, and any other particulars which he may deem proper.

Art. 899. Hunting under the license of another.—Any person who shall hunt under the license issued to any other person, or any person who shall permit any other person to hunt under a license issued to him, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum of not less than ten (\$10.00) dollars nor more than one hundred (\$100.00) dollars.

Art. 900. Hunting for Hire.—It shall be unlawful for any person to hire or employ any other person, or to be hired or employed by any other person, by the payment, or by the promise of payment, of money or any other thing of value, to hunt any bird, wild fowl, or game animal protected by this chapter. Any person violating any of the provisions of this article shall be deemed guilty of misdemeanor, and upon conviction shall be fined in any sum of not less than twenty-five (\$25.00) dollars, nor more than two hundred (\$200.00) dollars. Provided, that if any person who has received money, or a promise of money or other thing of value, to hunt any wild bird, wild fowl, or game

animal protected and mentioned by this chapter, testifies against the person employing him, all prosecutions against him in the case in which he testifies shall be dismissed.

Art. 901. Hunting from automobile, airplane or boat.—It is hereby declared unlawful for any person at any time and in any manner, to hunt, take, capture, or kill, or attempt to hunt, take, capture, or kill any of the wild game birds wild game fowl, or wild game animals, protected by the laws of this State, from an automobile, an airplane, a powerboat, a sailboat, any boat under sail, or any floating device towed by power-boat or sailboat. Any person violating any of the provisions of this article shall be deemed guilty of misdemeanor and upon conviction shall be fined in a sum of not less than twenty-five (\$25.00) dollars nor more than two hundred (\$200.00) dollars.

Art. 902. Hunting with headlight.—It shall be unlawful for any person at any time of the year to hunt deer or any other animal or bird protected by this chapter, by the aid of what is commonly known as a headlight or hunting-lamp, or by artificial light attached to an automobile, or by the means of any form of artificial light. Any person violating any of the provisions of this article shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum of not less than fifty (\$50.00) dollars nor more than two hundred (\$200.00) dollars, or by confinement in the county jail for not less than thirty (30) days nor more than ninety (90) days, or by both such fine and imprisonment. The possession of a headlight, or any other hunting light used on or about the head when hunting at night, between sunset and one-half hour before sunrise, by any person hunting in a community where deer are known to range, shall be prima facie evidence that the person found in possession of said headlight, or other hunting light, is violating the provisions of this article.

Art. 903. Boat owner to have license.—It is hereby declared unlawful for any person owning or navigating a sailboat or powerboat, to receive on board such boat for pay any person or persons engaged in hunting, before such person owning or navigating such boat shall have applied for and received a license from the Game, Fish, and Oyster Commissioner, or one of his deputies, granting him the right for one year, to receive and carry on his boat persons engaged in hunting. Before such license is issued, the person applying for it shall pay to the Game Fish, and Oyster Commissioner or one of his deputies, the sum of two (\$2.00) dollars, and shall file with such Game, Fish and Oyster Commissioner, the name of his vessel, her accommodations for passengers, and the number of her crew and shall file with the Game, Fish and Oyster Commissioner, or one of his deputies, an affidavit to the effect that he will not violate any of the provisions of this chapter, and will endeavor to prevent anyone whom he carries on his boat from violating any of the provisions of this chapter, and that he will not carry any hunter on his boat who does not possess a hunting license. Whenever any boat owner or navigator fails or refuses to com-

ply with any of the provisions of this section, the Game, Fish, and Oyster Commissioner is authorized and empowered to cancel his license without a refund or return of the license fee paid; and no license shall be renewed or issued to him thereafter for a period of one year.

Any person who carries out any hunting parties for reward or pay of any kind without first having procured his license, as provided in this article, shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not less than ten (\$10.00) dollars nor more than one hundred (\$100.00) dollars.

Art. 904. Hunting with gun; license for.—No citizen of this State shall hunt outside of the county of his residence with a gun without first having procured from the Game, Fish and Oyster Commissioner, or one of his deputies, or from any county clerk in this State, a license to hunt, and for which he shall pay either of such officers the sum of two (\$2.00) dollars; fifteen cents of which amount shall be retained by said officer as his fee for collecting.

The fee for a non-resident citizen or alien hunting license shall be twenty-five (\$25.00) dollars; three (\$3.00) dollars of such amount shall be retained by the officer issuing such license as his fee for collecting, issuing, and making report on license so issued and for remitting the remaining twenty-two (\$22.00) dollars to the Game, Fish and Oyster Commission.

Any person hunting with a gun out of the county of his residence without a license authorizing him to hunt out of the county of his residence, or any person who fails or refuses on demand by any officer to show such officer his hunting license required of him by this article shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not less than ten (\$10.00) dollars, nor more than one hundred (\$100.00) dollars; provided, that the provisions of this article requiring hunting license shall not apply to persons under seventeen years of age.

Art. 904a. Non-resident and alien license.—Any non-resident of this State or any alien who shall hunt wild game and birds in this State without first securing a license to hunt from the Commissioner or his deputy or the county clerk shall be fined not less than ten nor more than one hundred dollars. [Acts 1919, p. 298.]

Art. 905. Commissioner to enforce game law.—The Game, Fish and Oyster Commissioner and his deputies shall have the same power and authority as sheriffs to serve criminal processes in connection with cases growing out of the violations of this chapter, shall have the same power as sheriffs to require aid in executing such process, and shall be entitled to receive the same fees as are provided by law for sheriffs in misdemeanor cases.

Said Commissioner or any of his deputies may arrest without a warrant any person found by them in the act of violating any of the laws for the protection and propagation of game, wild birds or fish, and take such person forthwith before a magistrate having jurisdiction. Such arrests may be made on Sunday, and

in which case the person arrested shall be taken before a magistrate having jurisdiction, and proceeded against as soon as may be, on a week day following the arrest.

Art. 906. Deputy commissioners to enforce law.—It is hereby made a special duty of the Game, Fish and Oyster Commissioner to enforce the statutes of this State for the protection and preservation of wild game and wild birds; and to bring, or cause to be brought, actions and proceedings in the name of the State of Texas, to recover any and all fines and penalties provided for in the laws now in force, or which may hereafter be enacted, relating to wild game and wild birds. Said Game, Fish and Oyster Commissioner may make complaint and cause proceedings to be commenced against any person for violating any of the laws for the protection and propagation of game or birds without the sanction of the county attorney of the county in which such proceedings are commenced; and in such cases he shall not be required to furnish security for costs.

Art. 907. Prima-facie evidence.—The possession of any wild game bird, wild game fowl, or wild game animal mentioned in this chapter, whether dead or alive, during the time when killing or taking is prohibited shall be prima facie evidence of the guilt of the person in possession during the time when killing or taking is prohibited by law; provided, however, that it shall not be unlawful to ship or bring any wild game birds, wild fowl, or wild game animals from the Republic of Mexico into this State at any season; provided, that the party bringing the same into this State shall procure from the Game, Fish and Oyster Commissioner, or from one of his deputies, a permit to bring same into the State, and shall procure from the United States custom officer at the port of entry a statement showing that such game was brought from the Republic of Mexico; and provided, further, that such party comply with the provisions of this Act regulating the shipment and sale of such wild game birds, wild fowls, or game animals.

Art. 908. Hunting on game preserves for pay.—It is hereby declared unlawful for any person or persons, who may be acting as manager of any club, or the owner of any club, or shooting resort or shooting preserve, or lessor of premises leased for hunting purposes, to receive or accommodate as a guest or member of said club, or shooting resort, or shooting preserve, or lessee of premises leased for hunting purposes, for pay, any person or persons engaged in hunting, before such manager of such club, shooting resort, shooting preserve, or premises leased for hunting purposes, shall have applied for and received a license from the Game, Fish and Oyster Commissioner, or one of his deputies, granting him the right for the year beginning September 1 and ending August 31, following, to receive and accommodate any such person or persons at such club, shooting resort, shooting preserve, or premises leased for hunting purposes.

Before such license is issued the person applying for same shall pay to the Game, Fish and Oyster Commissioner the sum

of five (\$5.00) dollars, and shall file with the Game, Fish and Oyster Commissioner the name of said club, shooting resort, shooting preserve or premises leased for hunting purposes, and shall file with the Game, Fish and Oyster Commissioner an affidavit that he will not violate any of the provisions of this article and will endeavor to prevent guests of said club, shooting resort, shooting preserve, or premises leased for hunting purposes from doing so, and that no guest will be accommodated who has not previously secured a hunting license.

All such managers of clubs, shooting resorts, shooting preserves and premises leased for hunting purposes shall be required to keep a suitable record book, and each guest or member shall be required to register, showing his name and place of residence, license number, and a record of each day's kill of different birds and game, and a complete record must be made to the Game, Fish and Oyster Commissioner by such manager of club, shooting resort, shooting preserve or premises leased for hunting purposes, not later than February 10 of each year.

Whenever any manager of any club, shooting resort, shooting preserve or premises leased for hunting purposes, fails or refuses to comply with any of the provisions of this article, the Game, Fish and Oyster Commissioner is authorized and empowered to cancel his license without refund or return of the license fee, and no license shall be renewed or issued to such party, or parties, thereafter for a period of one year.

Any manager of any club, shooting resort, shooting preserve, or premises leased for hunting purposes, who accommodates hunters for reward, without first having secured the necessary license as provided in this article, or failing to comply with all the provisions thereof, shall be deemed guilty of a misdemeanor and upon conviction shall be fined the sum of not less than one hundred (\$100.00) dollars, nor more than two hundred (\$200.00) dollars, or by imprisonment in the county jail for not more than ninety (90) days, or by both such fine and imprisonment. Such fines shall be placed to the credit of the special game fund.

For the purpose of carrying out the provisions of this article, it shall be the duty of the Game, Fish and Oyster Commissioner to have prepared and to furnish to all deputy game commissioners blank license with stubs attached, numbered serially, such license to be called "Shooting Preserve License"; such shooting preserve license shall have printed across the face the year for which it is issued, shall bear the name and address of the licensee, name of club, character of game found on such preserve or lease, and the expiration date of such license. Said license must bear the seal of the Game, Fish and Oyster Commission, and must be signed by the Commissioner or one of his deputies. On the reverse side of said license shall be printed the open seasons and bag-limit, as provided in this chapter.

Art. 909. Storage after closed season.—All game birds, wild fowl, and game animals, named in this chapter, killed during the open season prescribed therefor, may be possessed during and

for an additional ten days after such season is closed. But it shall be unlawful, after such ten days, to place in storage or keep in storage any wild birds, or wild game animals, or parts thereof, named in this chapter. Any person owning or claiming such birds, fowl, or animals, or parts thereof, after such ten days, or any person storing such birds, fowl, or animals, or parts thereof, for such claimant or owner, shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum of not less than ten (\$10.00) dollars, nor more than one hundred (\$100.00) dollars, and each bird, fowl or animal, or part thereof, stored in violation of this section shall constitute a separate offense.

Art. 910. Female deer, fawn or young buck.—It shall be unlawful for any person to take, kill, wound, shoot at, hunt or possess, dead or alive, any wild female deer, wild fawn deer or any wild buck deer without a pronged horn, or to possess any deer carcass or green deer hide with all evidence of sex removed.

Any person violating any of the provisions of this article shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum of not less than fifty (\$50.00) dollars, nor more than two hundred (\$200.00) dollars.

Art. 911. Chief deputy to act as commissioner.—The Game, Fish and Oyster Commissioner shall appoint a chief deputy commissioner, who shall maintain an office in the Capitol of this State; and said chief deputy commissioner shall take the constitutional oath of office, and shall act as general assistant to the said Game, Fish and Oyster Commissioner; and, during the absence, sickness, or disability of the commissioner, he shall exercise the duties of the said commissioner. Said chief deputy commissioner shall devote his entire time to the work of his office. The chief deputy game, fish and oyster commissioner shall, before assuming the duties of his office, file with the Secretary of State a good and sufficient bond in the sum of five thousand (\$5,000.00) dollars, conditioned on the faithful performance of the duties of his office, which bond shall be approved by the Game, Fish and Oyster Commissioner. It shall be the duty of the chief deputy game, fish and oyster commissioner to prepare and furnish to each county clerk, blank hunting licenses, with stubs attached, numbered serially; and said chief deputy commissioner shall cause an account to be opened in his office with each county clerk, and charge said clerk with the number of licenses furnished him. He shall also open an account with each deputy of the Game, Fish and Oyster Commission and charge such deputy with the number of licenses furnished him. Said accounts shall show the serial numbers of such licenses.

Art. 912. Clerk and justice of the peace to remit fines.—It shall be the duty of any justice of the peace, clerk of any court, or any other officer of this State, receiving any fine or penalty imposed by any court for violation of any of the laws of this State pertaining to the protection and conservation of wild birds, wild fowl, wild animals, fish, oysters, and other wild

life, within ten days from and after the receipt or collection of such fine or penalty, to remit same to the Game, Fish and Oyster Commission at Austin, giving docket number of case, name of person fined, and section or article of the law under which conviction was secured, when such laws are required to be enforced by the Game, Fish and Oyster Commission.

Art. 913. **Propagation and scientific purposes.**—Nothing in this Act shall prevent the capture, by any means and at any time, day or night, of wild birds or wild fowl and their nests and eggs, or of wild animals or wild quadrupeds, for zoological gardens or parks, or for propagation purposes, or for scientific purposes; but, before any birds, fowl, animals, quadrupeds, nests, or eggs are taken or molested for the aforesaid purposes, permission must be secured from the Game, Fish and Oyster Commissioner, only, by the person desiring so to operate, such person shall make application in the form of an affidavit, in duplicate, setting forth what birds, fowls, animals, quadrupeds, nests, or eggs he desires, and the purposes for which he desires the same; and if such request is for collection of skins, nests, or eggs, for scientific purposes, such application should be accompanied by certificates from two well known ornithologists (where the specimens are birds or their nests or eggs) or mammalogists (where the specimens are animals or quadrupeds) residents of the United States, stating that the applicant is a fit person to be entrusted with such a permit and that they have known him for at least five years past, and the applicant should further be supplied with a Federal scientific collecting permit issued by the Bureau of Biological Survey of the United States Department of Agriculture, permitting him or her to collect migratory birds, and the serial number and date of said Federal permit should be furnished by the applicant on said affidavit, where request is made for the collecting of birds and their nests or eggs. Such scientific collecting permit as issued by the State of Texas will authorize the holder thereof to take, possess, and transport, in any manner and at any time, birds and their nests and eggs, for scientific purposes; provided, that before migratory birds, or their nests or eggs, are taken the Federal permit indicated above must be obtained. Such scientific permit shall be issued for the fiscal year and shall be null and void after midnight of December 31st of the year issued.

If any person desires to bring into the State any wild birds or wild animals, dead or alive, or the nests or eggs, of any bird, he shall apply to the Game, Fish and Oyster Commissioner, for permission to do so, attaching to such application an affidavit setting forth the number and species of birds or animals, or the nests or eggs of birds, desired to be introduced.

The Game, Fish and Oyster Commissioner may refuse to issue permits for any of the purposes set forth in this article if, in his judgment, such application, or party making same, is not satisfactory.

The Game, Fish and Oyster Commissioner is empowered to

prescribe rules and regulations governing the propagation of game birds and animals, and the taking of birds and animals for scientific purposes, and is authorized to cancel any permit issued, when, in his judgment, the holder thereof fails or refuses to comply with such rules and regulations.

In the shipment of skins of protected animals, or the skins or nests or eggs of birds, each package shall have clearly and conspicuously marked, on the outside thereof, the name and address of the sender, the number of the sender's permit, and the statement that it contains specimens of animals, or of birds or their nests or eggs for scientific purposes. A person operating under, or holding a permit for scientific collecting shall report, on or before January 10th, following the expiration of his permit, to the Game, Fish and Oyster Commissioner, the number of skins, nests or eggs of each species collected, or transported, together with the disposition of all such specimens not in his possession at the time of making said report, and also a statement covering any scientific data observed during his field collecting that, in his judgment, would be of interest to the ornithological or zoological public.

The Game, Fish and Oyster Commissioner shall, at all times have the power to take in any manner, keep, and transport, anywhere within the State, any of the wild birds or their nests or eggs, or any wild animals, for investigation, propagation, distribution, or scientific purposes.

Any person violating any provision of this article shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than twenty-five (\$25.00) dollars nor more than two hundred (\$200.00) dollars; and each bird, fowl, animal, quadruped, nest, or egg, taken or possessed in violation of this article shall constitute a separate offense.

Art. 914. Special deputy game commissioners.—It shall be the duty of the Game, Fish and Oyster Commissioner to appoint special deputy game commissioners, who shall be ex-officio deputy game, fish and oyster commissioners to enforce conservation laws in the various districts of the State, with all the powers of the latter to enforce the game, fish and oyster laws of this State. Such special deputy game commissioners shall not receive more than one hundred and fifty (\$150.00) dollars per month and expenses. Each special deputy game commissioner shall take the oath of office, and shall give a good and sufficient bond in the sum of one thousand (\$1,000.00) dollars for the faithful performance of his duties, such bond to be approved by and filed with the Game, Fish and Oyster Commissioner. Such special deputy game commissioners shall hold office at the discretion of the Game, Fish and Oyster Commissioner, and shall have all the power in the discharge of their duties as are conferred on the Game, Fish and Oyster Commissioner.

The Game, Fish and Oyster Commissioner, in order to enforce conservation laws in the various sections of the State, shall also

have the power to appoint deputy game commissioners in any county of the State; and said deputies shall have, in the discharge of their duties, the same powers and authority as are herein provided for the Game, Fish and Oyster Commissioner, and shall be subject to the supervision and control of and removal by said Game, Fish and Oyster Commissioner; except that they shall not be authorized to carry on or about their person, saddle, or saddle-bags any pistol, dirk, dagger, slung-shot, sword-cane, spear or knuckles made of any metal or any hard substance, Bowie knife or other knife manufactured or sold for the purpose of offense or defense. Such deputy game commissioners shall not receive more than three (\$3.00) dollars a day for each day of service performed, together with all necessary expenses incurred, when same have been rendered on sworn account, and when the performance of said services was authorized by the Game, Fish and Oyster Commissioner, the chief deputy commissioner, or a special deputy game commissioner, which account shall be approved by the Game, Fish and Oyster Commissioner or chief deputy commissioner, and paid on warrant drawn by the Comptroller.

Art. 915. **Season for turkeys.**—The open season for killing wild turkeys shall be during November and December. Whoever kills wild turkey hen, or more than three wild turkey gobblers during any one year shall be fined not less than ten nor more than one hundred dollars. Each gobbler killed above three shall be a separate offense.

Art. 915a. **Special deputy commissioners required to enforce game law.**—All special deputy game commissioners and deputy game commissioners are hereby empowered and required to enforce the game, fish and oyster laws of this State, and such deputy who violates such laws shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum of not less than one hundred (\$100.00) dollars nor more than two hundred (\$200.00) dollars.

Art. 916. **Killing turkeys in certain counties.**—It shall be unlawful for any person to take, kill, wound, shoot at, hunt for, or possess, dead or alive any wild turkey gobbler, or turkey hen in the counties of Cameron, Hidalgo, Star, Willacy, Kennedy, Brooks, Kleburg, or Nueces until November 16, 1930, from and after which time it shall be lawful to kill only turkey gobblers as herein provided in this bill.

Art. 917. **Game preserves—how acquired.**—Any person, firm or corporation owning and in possession of lands in the State of Texas, may transfer by an instrument of writing, duly acknowledged before an officer, authorized under the laws of this State to take acknowledgements, to the State of Texas the right to preserve, protect and introduce for propagation purposes any of the game birds or game animals mentioned in this chapter on the lands mentioned therein, for a period of not less than ten years. Such instrument of writing shall be filed in the office of the Game, Fish and Oyster Commissioner, whereupon the Game, Fish and Oyster Com-

missioner may at his discretion declare the lands described in said instrument a State Game Preserve, and thereafter for the period named therein shall for all the purposes relating to the preservation, protection and propagation of game birds and game animals be under the control of the Game, Fish and Oyster Commissioner. The aggregate acreage of all preserves which may be designated in any one county shall never exceed ten per cent of the total acreage of such county. Such preserves shall be numbered in the order of the filing of the instrument therefor. The Game, Fish and Oyster Commissioner shall cause notices to be prepared containing the words "State Game Preserve," "Trespassing Prohibited," and cause such notices to be posted at each gate or entrance thereto. All State game preserves established under the provisions of this chapter shall for all purposes of preservation, protection and propagation of game birds and game animals thereon be under the control and management of the Game, Fish and Oyster Commissioner, and he and his deputies may at all times enter in and upon such preserves in the performance of their duties.

It shall be unlawful for any person to hunt, pursue, shoot at, kill, take, destroy, or in any manner molest any of the game birds or game animals within the exterior boundaries of any game preserve, and any person who shall violate any provision of this chapter shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than fifty (\$50.00) dollars nor more than two hundred (\$200.00) dollars.

Art. 918. Cautioning sportsmen.—It shall be the duty of the Game, Fish and Oyster Commissioner and his deputies, in addition to their duties provided for in this chapter, to caution sportsmen and other persons while in the woods, marshes, or prairies of the State of danger from fire; and, to the extent of their power, to extinguish all fires left burning by any one, and to give notice, when possible to any and all persons, interested, of fires ranging beyond control to the end that same may be controlled and extinguished.

Art. 919. Power of commissioners to enter on lands.—The Game, Fish and Oyster Commissioner and his deputies shall at all times have the power to enter upon any lands or water where wild game or fish are known to range or stray for the purpose of enforcing the game, and fish laws of this State, and for the purpose of making scientific investigations or for research work as to such wild game or fish, and no action in any court shall be sustained against the commissioner or any of his deputies to prevent their entrance upon lands or waters when acting in their official capacity as herein set forth.

Art. 920. Citizen, non-resident and alien defined.—For the purpose of this chapter, any person, except an alien, who has been a bona fide resident of this State for a period of time exceeding six months, continuously and immediately before applying for a hunting license, shall be considered a citizen of this State.

An alien is any person who is not a natural born citizen of the

United States of America, and who has not declared his intention to become a citizen of the United States of America.

A non-resident shall be any person who is a citizen of any other State, or who has not continuously or immediately previous to the time of applying for a hunting license, been a bona-fide resident of the State of Texas, for a period of time more than six months.

Art. 921. **Constitutionality.**—If any paragraph, section, or part of this chapter shall be held unconstitutional or inoperative, it shall not affect any other paragraph, section, or part of this chapter; and the remainder of this chapter, save the part declared unconstitutional or inoperative, shall continue to be in full force and effect.

Art. 922. **Name of bill.**—This bill shall be known as the "Boyd-Hubby Game Bill" and shall take effect and be in force from and after September 1, 1925.

Art. 923. **Killing birds in closed season.**—No person shall kill or take any of the birds or fowls enumerated in Article 872 except during the open season as fixed for each kind of bird or fowl, and if any person shall kill, take or have in his possession, any of the birds or fowls enumerated in Article 872 at any time of the year except during the open season as provided for in this chapter, he shall be fined not less than ten nor more than one hundred dollars. [Acts 1919, p. 290, Sec. 9.]

Art. 923a. **Importing game in closed season.**—It shall be unlawful to bring into this State for any purpose whatever during the closed season, either alive or dead, any kind of wild game birds or fowl or animal, enumerated in this chapter, or to bring into this State for sale or exchange or barter or shipment for sale any such bird or fowl or animal, during the open season as set out in this chapter except as provided in article 908. Any person bringing such game, bird or fowl or animal into the State during the closed season or bringing such game bird or fowl or animal for sale or barter or shipment for sale during the open season, shall be fined not less than ten nor more than two hundred dollars. The bringing in of each game bird or fowl or animal herein interdicted is a separate offense. [Acts 1st C. S. 1919, p. 187.]

Art. 923b. **Protecting bats.**—Whoever wilfully kills or in any manner injures any winged mammal known as the common bat shall be fined not less than five nor more than fifteen dollars. [Acts 1907, p. 124.]

Art. 923c. **Birds protected by Audubon Society.**—After the recording of the lease made by the Commissioner of the General Land Office to the National Association of Audubon Societies for the purpose of protecting birds and bird life on and about the property leased in Kleberg County, known as North Bird Island and South Bird Island and on Green Island in Cameron County and on the group of three islands in Big Bay in Cameron County and on the flats and reefs and shallow waters near all of said islands as described in the laws of this State, it shall be un-

lawful for any person whomsoever except a representative, an agent or an employe of said Association or a peace officer of this State or of the United States to enter upon such leased area without the knowledge and consent of said association, for the purpose of catching or killing any bird or birds or for the purpose of taking any bird or bird eggs or to destroy any bird nests or bird eggs; it shall be unlawful for any person whomsoever to catch, kill or maim any bird or birds on such leased area or to catch, kill or maim or attempt to catch, kill or maim any bird or birds on or above said area by any means whatsoever even though such person may be above or outside of such leased area; it shall be unlawful for any person whomsoever to discharge any firearms or other explosive on or above such leased area; or to land, tie or anchor any fishing boat within such leased area. Nothing herein shall be construed to prohibit any representative, agent or employe of said Association from catching, killing or destroying within any such leased area any bird or birds and any animals that may be known to prey upon bird life or bird eggs nor to prohibit such representatives, agent or employe from taking bird eggs and catching any bird for propagation or conservation or scientific purposes only, nor to prohibit persons from taking refuge on such area on account of storms. Whoever violates any provision of this article shall be fined not less than twenty-five nor more than five hundred dollars, or be imprisoned in jail for not less than ten days nor more than six months, or both. [Acts 1st C. C. 1921, p. 33, Acts 1923, p. 188.]

Art. 923d. **Refusing to stop vehicle for search.**—The Commissioner or any of his deputies shall have the right to search the game bag or any other receptacle of any kind whenever such Commissioner or his deputy has reason to suspect that such game bag, or other receptacle or any buggy, wagon, automobile or other vehicle may contain game unlawfully killed or taken, and any person who refuses to permit the searching of the same, or who refuses to stop such vehicle when requested to do so by the Commissioner or his deputy, shall be fined not less than ten nor more than one hundred dollars. [Acts 1919, p. 294.]

Art. 923e. **Buying for evidence.**—One who buys, for the purpose of establishing testimony, a game bird or animal the sale of which is prohibited by this chapter shall not be prosecuted for such purchase. [Acts 1919, p. 296.]

Art. 923 (g) [889a] **Using deer call.**—Any person who at any time of the year in hunting deer uses a deer-call, whistle, decoy, call pipe, reed or other device, mechanical or natural, for the purpose of calling or attracting any deer, except by rattling deer horns, shall be fined not less than one hundred nor more than five hundred dollars, or be imprisoned in jail not less than twenty nor more than ninety days, or both. [Acts 1915, p. 162, Acts 1919, p. 295.]

Art. 923f. **Shipping deer.**—Whoever ships any deer or any part thereof by common carrier without the person shipping it making the affidavit prescribed in Article 889, and whoever ships or receives for shipment as the agent of any transportation company any deer or any part thereof, shall be fined not less than ten nor more than one hundred dollars. [Acts 2nd C. S. 1919, p. 190.]

Art. 923g. **Deer in Bosque County.**—For a period of five years after June 12, 1923, whoever shall hunt, trap, ensnare or kill any wild deer within Bosque County shall be fined not less than twenty-five nor more than one hundred dollars. [Acts 1923, p. 115.]

Art. 923h. **Sale or purchase of game.**—Whoever shall sell or offer for sale, or have in his possession for the purpose of sale, or whoever shall purchase or have in his possession after purchase, any wild deer, wild antelope or Rocky Mountain sheep, killed in this State, or the carcass, hide or antlers of any such animal, shall be fined not less than ten nor more than one hundred dollars. [Acts 1911, p. 101.]

Art. 923i. **Liberty County squirrels.**—Whoever shall ship or cause to be shipped beyond the limits of Liberty County, or any agent or employe of any express or railroad company or other common carrier who receives for the purpose of transportation, or who shall transport, carry or take beyond the limits of said county, any wild squirrels, shall be fined not less than ten nor more than one hundred dollars.

Art. 924. **Explosives and poisons.**—The catching, taking or the attempt to catch or take any fish, green turtle or terrapin in any of the salt or fresh waters, lakes or streams in the State by poison, lime, dynamite, nitroglycerine, giant powder or other explosive, or by the use of drugs, substances, or things deleterious to fish life, is hereby prohibited; and any person offending against this article shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than twenty-five (\$25.00) dollars nor more than two hundred (\$200.00) dollars, and by confinement in the county jail not less than thirty nor more than ninety days.

Art. 925, [870] **Taking fish without consent of owner.**—Whoever shall take, catch, ensnare or trap any fish by means of nets or seines or by poisoning, polluting, or by use of any explosive, or by muddying, ditching or draining in any lake, pool or pond in any county in this State without the consent of the owner of such lake, pool or pond, shall be fined not less than ten nor more than one hundred dollars. In prosecutions hereunder the burden to prove such consent shall be upon the defendant. [Id.]

Art. 926. **Fresh water streams defined.** For the purpose of establishing the dividing line between the salt and fresh waters of this State, in so far as it pertains to the fishing laws, all fresh water rivers and streams in this State, and all lakes,

lagoons, and bodies of rivers, except tidal bays or coastal waters, such as bays and gulfs, shall be and are hereby declared to be fresh water streams and rivers to their mouths, and it shall be unlawful to set nets or drag seines or fish in other ways in such streams, rivers and their connecting lakes, lagoons, and bodies of water mentioned, except in conformity with the laws enacted to govern, apply and control in fresh water fishing.

Art. 927. [923f] **Fishing in fresh waters.**—Except the ordinary hook and line or trot line, or a set or drag net or seine, the meshes of which shall be three or more inches square, or a minnow seine not more than twenty feet long used for catching bait, no person shall place in any fresh water river, creek, lake, bayou, pool, lagoon or tank, in this State, any net, trap or other device for catching fish, or take or catch any fish from said waters with any net, seine, device, or hook and line or trot line, other than as permitted herein. Whoever violates any provision of this article shall be fined not less than twenty-five nor more than one hundred dollars. [Acts 1913, p. 274, Acts 1917, p. 410, Acts 2nd. C. S. 1919, p. 210.]

Art. 928. **Fishing in closed fresh waters.**—The commissioner is authorized to close any fresh water river, creek, lake, pool, bayou, lagoon or tank in this State, against the use of nets or seines or any particular kind of such nets and seines whenever he thinks that such closing is necessary or best to protect and conserve the fish in such waters. Before closing such waters against the use of seines or nets or any particular kind of seine or net, he shall give notice by posting his intentions for two weeks, at not less than three stores or other places in proximity to such waters. Whoever shall fish with a net or seine in such closed waters, or who shall use such particular kind of net or seine as forbidden in such waters after the notice given as above required, shall be fined not less than twenty-five nor more than one hundred dollars. [Acts 2nd. C. S. 1919, p. 210.]

Art. 929. **Oversize or undersize fish for sale.**—It shall be unlawful for any person to sell, or offer for sale, or to have in his possession, or to have on board any boat or to have in any mercantile business establishment, or in any market where merchandise is disposed of, any redfish or channel bass of greater length than thirty-two inches, or less than fourteen inches; any salt water or speckled sea trout of less length than twelve inches; any sheephead of less than nine inches in length; any flounder of less than twelve inches in length; any pompano of less than nine inches in length; any mackerel of less than fourteen inches in length, and any salt water gaff-topsail of less than eleven inches in length.

The place of sale or offering for sale or possession shall for the purpose of this chapter to establish venue, be either the place from which such fish are shipped, or where the fish are found, or offered for sale. It shall be unlawful in selling or offering for sale any fish mentioned in this article to sever the head from the body, except in case of the redfish and catfish in which case

the head shall only be severed through the gill-cavity and the gill-fins shall remain on the body of such redfish or catfish. Such headless body of a redfish shall not measure more than twenty-seven inches in length, and such headless body of a catfish shall not measure less than eight inches in length; and all fish marketed or sold as mentioned in this article, must be weighed and sold with the head attached, except redfish and catfish as mentioned herein.

Any person violating any of the provisions of this article shall be deemed guilty of a misdemeanor and upon conviction shall be fined a sum not less than ten (\$10.00) dollars nor more than fifty (\$50.00) dollars.

Art. 930. Venue for under or oversize fish.—A prosecution for a sale of fish of unlawful size may be begun and carried on either in the county where such fish were shipped or in the county where they were received or offered for sale, or in any county through which such shipments may pass. [Acts 2nd C. S. 1919, p. 211.]

Art. 931. Undersize bass, etc.—Whoever shall take or catch from the fresh waters of this State, or have in his possession any bass of less length than eleven inches or any white perch or crappie of less length than seven inches shall be fined not less than ten nor more than one hundred dollars. [Id.]

Art. 932. Injuring small fish.—Whoever at any time shall catch or take from any fresh water river, lake, bayou, creek, pond or other natural or artificial stream or pond of water by use of any means whatever any crappie or bass of less length than he is permitted to catch or take from such water, shall immediately return the fish back into such water; and unnecessary injuring of such fish shall be an offense under this article. Whoever violates any provision hereof shall be fined not exceeding one hundred dollars. [Acts 3rd C. S. 1917, p. 69, Acts 4th C. S. 1918, p. 188.]

Art. 933. Closed season on crappie or bass.—Any person who shall take or catch or have in possession any bass or crappie from the fresh waters of this State during the months of March or April of any year; or shall take, catch or have in possession any bass of less length than eleven inches, or any white perch or crappie of less length than seven inches, shall be deemed guilty of a misdemeanor, and on conviction shall be fined a sum of not less than ten (\$10.00) dollars nor more than one hundred (\$100.00) dollars.

Art. 934. [908] [529d] License to fish for market.—Whoever fishes in the public waters of this State for oysters, fish, shrimp, turtle, terrapin, crabs, clams or other marine life for market or sells such product of such waters without first procuring a license to do so, as provided by law, shall be fined not less than ten nor more than fifty dollars. [Acts 1895, p. 173, Acts 1897, p. 126, Acts 1913, p. 270, Acts 2nd C. S. 1919, p. 200, Acts 1923, p. 295.]

Art. 935. Refusal to show license.—Any person fishing for

market or for the sale of marine life and having a license therefor who refuses to show it to the Commissioner, or his deputy when requested to do so, shall be fined not less than five nor more than twenty-five dollars. [Acts 2nd C. S. 1919, p. 200.]

Art. 936. **Wholesale dealer's license.**—Any individual, firm or corporation engaged in, or who may engage in the business of a wholesale dealer in fish and oysters shall secure from the Game, Fish and Oyster Commissioner, or one of his deputies, a license granting such individual, firm or corporation, permission to engage in said occupation for one year. For the purpose of obtaining this license, the applicant desiring same must make written application to the Game, Fish and Oyster Commissioner, or one of his deputies, in which he (the applicant) shall set forth under oath, if required, that he is a citizen of the United States by birth, or not being so, shall state that he has been granted, full naturalization papers, and by what court and at what time they were granted. Where a corporation applying for permit to conduct a wholesale business in fish, oysters, or other marine products as mentioned, contains foreigners, it shall conform to the foregoing provision as applied to individual applicants. He shall also agree that because of the privilege which he applied for from the State of Texas, that all products handled by him shall, at all times, be subject to the inspection of the Game, Fish and Oyster Commissioner, or any of his deputies; and in said application he shall authorize said Commissioner or any of his deputies to enter his place of business, or any place where he may have such products stored, and inspect same. He shall agree to keep correct record of all fish, oysters, shrimp and other taxed marine life handled by him under this law, in a book to be furnished by the Game, Fish and Oyster Commissioner; and further, that failure on his part to keep a correct record shall be grounds for the forfeiture of his license granted him under the application aforesaid. This application, having been duly executed and delivered to the Game, Fish and Oyster Commissioner, or any of his deputies, together with a fee of ten (\$10.00) dollars for same, it shall be the duty of the Game, Fish and Oyster Commissioner, or his deputy to issue to the applicant a license to engage in the business set forth in the application. Said license must be signed by the Game, Fish and Oyster Commissioner, or one of his deputies, stamped with the seal of his office, and state the name of the licensee, place of business and the kind of license applied for, and shall be good for twelve months following the date of issuance. For such license, the applicant shall pay one (\$1.00) dollar for each one thousand pounds of fish, shrimp and crabs handled by him, and a tax of one cent per barrel on oysters handled by him, which tax shall be paid monthly, the tax to be paid on the first of each month, which may be due upon said product handled during the preceding month, as shown by the record books, hereinbefore mentioned. And any person, firm, or corporation, or association of persons, or any officer, agent or employe of any company, corporation or association of persons

who shall engage in the business of a wholesale dealer in fish and oysters or either, without procuring a license to follow said business, or without paying the tax and fee required by this article, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than fifty (\$50.00) dollars, nor more than two hundred (\$200.00) dollars; and each day such business may be engaged in violation of this article, shall constitute a separate offense, and upon conviction of pursuing said occupation without payment of the tax and fee required by law, or for any other violation of the game, fish and oyster law, the license of such dealer shall be forfeited. A wholesale dealer, in the meaning and definition of this chapter, is any person, corporation or firm or partnership engaged in the business of buying and selling or handling for shipment, fish, oysters, shrimp, turtle, terrapin, crabs, clams, lobsters or other commercial marine life, in quantities of ten pounds or more to any customer during the same day, or whose daily sales, or whose sales for any one day, amount to more than the aggregate of one hundred pounds of above mentioned marine products.

Art. 937. **"Barrel of Oysters", Tax.**—There is hereby levied a tax of not less than one-fifth of one per cent per pound on all fish and shrimp taken and sold or offered for sale in this State, and not less than two cents a barrel on all oysters sold or offered for sale in this State whether from private or public beds and offered for sale or shipment, and not less than one-half a cent per pound on all turtles, and not less than twenty-five cents on each terrapin offered for sale and shipment. Such tax shall be paid under such rules and regulations as the Commissioner shall prescribe. For all purposes mentioned in this chapter a barrel of oysters shall be deemed to consist of three boxes of oysters in the shell, said boxes to be ten inches wide by twenty inches long and thirteen and one-half inches in depth. In filling such boxes for measurement, such oysters shall be placed so as not to fill such box more than two and one-half inches in the center above the height of the box. Two gallons of shucked oysters without their shells shall be deemed as equal to one barrel of oysters in the shell. [Acts 2nd C. S. 1919, p. 193.]

Art. 938. **Measurement of oysters.**—Whoever shall use any measurement other than that established in article 937 for the measurement of oysters in the purchase and sale of oysters, shall be fined not less than ten nor more than twenty-five dollars and any person who shall fill the measuring box in the buying and selling of oysters higher than two and one-half inches in the center of such box, shall be fined not less than ten nor more than twenty-five dollars. [Acts 1913, p. 275, Acts 2nd C. S. 1919, p. 194.]

Art. 939. **Failure to pay tax.**—Any person who shall not pay or who shall refuse to pay the tax imposed on the taking and sale of fish, oysters, turtle, terrapin and shrimp, as imposed in Article 10 of Acts 1925, p. 439, or who shall not pay or shall refuse to pay the taxes established and fixed by the

Game, Fish and Oyster Commissioner in Article 10 of said Act shall be deemed guilty of a misdemeanor and on conviction shall be fined in a sum not less than fifty (\$50.00) dollars nor more than one hundred (\$100.00) dollars, and if such person shall be a licensed fish dealer or fisherman or oysterman, his license as a fish dealer or fisherman shall be cancelled and not re-issued for a period of three years.

Art. 940. **Refusing to pay tax.**—If any person shall refuse to pay any tax provided in this chapter, on any fish, oyster, shrimp, turtle, terrapin, clam, crabs, or other marine life, which he has sold, he shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in a sum of not less than fifty (\$50.00) nor more than two hundred (\$200.00) dollars.

Art. 941. **Using seines or gigs.**—It shall be unlawful for for any person at any time to place, to set, or drag, any seine or net, or use any other device or method for taking fish other than the ordinary pole and line or castnet, or minnow seine of not more than twenty feet in length for catching bait within the waters of Agua Dulce Creek, Oso Creek, Shamrock Cove, Nueces Bay, Ingleside Cove, Red Fish Cove, Shoal Bay, Mut Flats, Shallow Bay, all of Aransas Bay between Port Aransas and Corpus Christi Bayou and lying between Harbor Island and Mud Island, Copano Bay, Mission Bay, in Refugio County, Puerto Bay, St. Charles Bay, Hynes Bay, Contec Lake, Powderhorn Lake, Oyster Lake, the waters of the Gulf Shore Line one-fourth mile from mean low tide from the South end of Padre Island to a point on Mustang Island two miles north of Corpus Christi Pass, Offats Bayou in Galveston County from its head to its mouth, Sabine Pass, leading from Sabine Lake to the Gulf of Mexico, San Luis Pass, leading from Galveston West Bay to the Gulf of Mexico, Turtle Bay, Lost Lake or Old River Lake in Chambers County, as shown by the Government charts, Brown's Cedar Pass, Mitchell's Cut, Pass Cavallo, leading from Matagorda Bay to the Gulf of Mexico; Cedar Bayou, leading from Mesquite Bay to the Gulf of Mexico; North Pass or St. Jo Pass; Aransas Pass, leading from Aransas Bay to the Gulf of Mexico; Corpus Christi Pass, leading from Corpus Christi Bay to the Gulf of Mexico; Brazos Santiago Pass, leading from the Lower Laguna Madra to the Gulf of Mexico or the pass on the North of Laguna Madra, leading into Corpus Christi Bay, which pass shall be defined as beginning one-fourth of a mile southwest of Peat Island and running from said point to Flour Bluff, all of said waters being situated in Nueces County, and all other passes connecting the bays and tidal waters of the State within the Gulf of Mexico, or within one mile of such passes, or within the waters of any pass, stream, or canal, leading from one body of Texas bay or coastal waters into another body of such waters; provided that nothing in this article shall prevent the use of spear or gig and light for the purpose of securing flounders from such passes, at any time of the year except the months of November and December, which months shall constitute a closed season on flounders in all coastal waters of the

State, and it shall be unlawful to possess or to take any flounder from the tidal waters of this State during the months of November and December of any year. And the Game, Fish and Oyster Commissioner, whenever he has reason to believe it is best for the protection and conservation and increase of fish life, or to prevent their destruction in the bays or parts thereof, or such tidal waters is hereby authorized to close such waters against fishing with any seine, net, spear, gig, light or other devices, except with hook and line or cast-net or minnow seine of not more than twenty feet in length; but before closing bays or parts thereof, or of other tidal waters, against such seining or netting or the using of gigs, spears, and lights, the Game, Fish and Oyster Commissioner shall give notice of a public hearing, and shall hold a public hearing in the port nearest the waters proposed to be closed and shall give notice of his intentions to close such bays or parts thereof of such tidal waters at least two weeks prior to such closing, giving the reason why such action is deemed necessary, and which notice shall contain a designation of the area which it is proposed to close, a statement that after the date indicated in such notice it shall be unlawful to drag a seine or net or use a gig or spear and light in taking fish from such bayou or parts of such tidal waters for the period of time which the Commissioner in said notice shall declare same to be closed; and such notice shall be posted in such fish houses as are in two towns nearest waters to be closed, and such notice shall contain the information as to where and when the public hearing is to be held, and provided further, that the Game, Fish and Oyster Commissioner shall have the authority, when proper hearing has been had, and investigation been made, and he has determined that any such closed area in the tidal waters of this State does not promote conservation of fish, to open such areas to seining, netting, gigging and fishing of all sorts. For the purpose of locating all closed waters mentioned in this chapter, it shall be the duty of the Game, Fish and Oyster Commissioner to have erected suitable stakes, monuments or markers at points determined by him as being the outermost boundaries of such closed waters, such stakes or markers to bear the words, "Warning—Closed Waters." Any person who shall violate any of the provisions of this section shall be deemed guilty of a misdemeanor, and on first conviction, shall be fined not less than fifty (\$50.00) dollars nor more than two hundred (\$200.00) dollars, and shall have his license revoked for a period of time not exceeding two years; and on second conviction shall be confined in the county jail for not less than thirty nor more than ninety days; and shall have his licence revoked for a period of not less than two years, provided further that the Game, Fish and Oyster Commissioner or his deputy shall have power to seize and keep such seines, or other tackle in his possession as evidence until trial of defendant, and no suit shall be maintained against him therefor.

Art. 941a. **Suckers, buffalo, carp and shad.**—Any and all

persons shall be permitted to take or catch sucker, buffalo, carp and shad in any fresh water rivers, creeks or lakes in the counties of Burnet, Williamson and Lampasas with a seine of any size mesh or by the use of wired rope or grab hooks, during the months of July, August and September of each year, provided, however, that any catfish, crappie, perch, bass or any other kind of fish caught by any of the above methods herein allowed shall be immediately released in the waters from which they were caught; and provided, further that the owner or the one in possession of any seine used for the purpose of seining shall within five days from and after the using of any seine for the purpose of catching fish make a report under oath to the Game, Fish and Oyster Commissioner, giving in said report the names of each and every person in the seining party, and showing in said report that all fish not permitted to be caught or taken with a seine were released in the waters from which they were taken immediately after they were caught.

Any person violating any of the provisions of this article shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in any sum not less than ten (\$10.00) dollars nor more than one hundred (\$100.00) dollars, and any person making a false affidavit shall be guilty of false swearing. [Acts 1925, p. 170.]

Art. 942. **Unlawful possession of seine.**—Whoever shall carry on, or over, or into the waters of any pass leading from the inland bays or tidal waters of this State to the Gulf of Mexico any seine or net except a cast net used for catching bait, or a minnow net not exceeding twenty feet in length, or shall carry by vehicle or in any other way, any seine or net except a cast net used for catching bait or a minnow seine not exceeding twenty feet in length to any point or place within one mile of such pass or shall have in his possession within one mile of any such pass any net or seine except a cast net for catching bait, or a minnow seine not exceeding twenty feet in length, shall be fined not less than twenty-five nor more than two hundred dollars, and be confined in the county jail not less than thirty nor more than ninety days. Nothing in this law shall apply to the carrying of nets or seines over closed waters within one mile of any town. [Acts 2nd C. S. 1919, p. 205, Acts 1923, p. 298.]

Art. 943. **Exceptions.**—Nothing in the foregoing article shall apply to vessels engaged in carrying freight or passengers, and engaged as seagoing vessels in coast and foreign trade, and licensed and recognized as such by the Federal Government; provided further that the Game, Fish and Oyster Commissioner may grant permits to persons desiring to fish, to carry their boats, nets and seine, and vehicles into, over and on such passes or closed waters or on land to within the mile limits of such passes, and such permits shall state at what time such boats, vehicles, nets and seines shall be taken away from such mile limit and such passes.

Art. 944. **Proof of possession.**—In all prosecutions under ar-

ticles 941 and 942 the identification of the boat or vehicle or the seine or net by which or from which the violation of the law occurred, shall be prima facie evidence against the owner or party last in charge of such boat, or against the owner of the vehicle or seines or net. [Id.]

Art. 945. [912] **Seining in salt water.**—The mesh of all seines and nets used for taking fish in salt waters of this State, not including the bag, shall not be less than one and one-half inch square mesh. The mesh of the bags and for fifty feet on each side of the bags, shall not be larger than a one inch square mesh. No seine or net of any kind of over two thousand feet shall be dragged or pulled in the salt water of this State, and any person dragging such seine, or dragging two or more seines which are connected or tied together with a combined length of more than two thousand feet, shall be upon first conviction thereof fined not less than twenty nor more than one hundred dollars; upon second conviction thereof shall be fined not less than fifty nor more than two hundred dollars, and shall have his license revoked for a period not less than thirty nor more than ninety days; and upon third conviction thereof shall be confined in jail for not less than thirty nor more than ninety days, and shall have his license revoked for a period of not less than one year. [Acts 2nd C. S. 1919, p. 201.]

Art. 946. **To tag seines and nets.**—All seines and nets used in the salt waters of this State shall be examined by the Commissioner or one of his deputies to see if they conform to the requirements of this law as to length and size of mesh, and if they are found to conform to such requirements, the Commissioner shall tag such seines or nets with a metal tag on which shall be indented the number of such seine and net; the cost of such tag to be paid by the owner of such seines or net. The Commissioner shall then issue to the owner of it a permit to use such seine or net for one year from the date of this permit; such permit shall state the name of the owner of such net, the date on which it was issued, the size of the mesh and the length and kind of such net. It shall be the duty of the owner of the seine or net to keep the tag attached to such seine or net, and where a seine or net is used without such tag being attached, it shall be a prima facie evidence that such seine or net is an unlawful seine or net; and any person who shall drag, haul or set any seine or net in the salt waters of this State without first having such seine or net examined by the Commissioner, or his deputy, and tagged, or who shall fail to have a permit therefor issued by said Commissioner or his deputy, or shall not keep such tag attached to such seine or net or attached to its floats, as prescribed in this article shall be fined not less than twenty nor more than two hundred dollars. [Id.; Acts 1923, p. 296.]

Art. 947. [906] **Seining within one mile from city.**—It shall be unlawful for any person to catch or attempt to catch any fish, green turtle, loggerhead, terrapin or shrimp in any of the bays or navigable waters of this State, within the limits or within one mile of the limits of any city or town in this State, with seines, drags, fykes, set nets, trammel nets, traps, dams or

weirs. A town or city in the meaning of this article shall be the collection of one hundred families within an area of one square mile. Anyone violating any provision of this article shall be fined not less than twenty-five nor more than two hundred dollars. In all prosecutions the identification of the boat from which such violation occurs shall be prima facie evidence against the owner, lessee, person in charge or master of such boat. It shall be the duty of such town to establish and maintain the buoys, stakes or other marks designating the limits of the one mile within which such seines shall be hauled and such nets set. [Acts 1897, p. 269, Acts 2nd C. S. 1919, p. 201.]

Art. 948. **Metallic seines.**—It shall be unlawful for any person to set or drag in any of the fresh waters of this State any net or seine made of wire or other metallic substance.

It shall be unlawful for any person to take or catch or attempt to take or catch fish in the fresh waters, rivers, creeks, lakes, bayous, lagoons, or in lakes or sloughs, subject to overflow from rivers or streams in this State, by any other means, other than by the ordinary hook and line or trotline, or by a set or drag net or seine or trammel net, the meshes of which are three or more inches square, or by a minnow seine, not more than twenty feet in length, and it shall be unlawful for any person to place in the fresh water rivers, creeks, lakes, bayous, lagoons, of this State any net or other device or trap for taking or catching fish other than as designated and permitted by this Article.

Any person violating any provision of this section shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined in any sum not less than twenty-five (\$25.00) dollars, nor more than one hundred (\$100.00) dollars.

Any fish trap, net or seine or other seine or other fishing device found in the waters of this State, in violation of this article are hereby declared to be a nuisance, and it shall be the duty of the Game, Fish and Oyster Commissioner and his deputies to destroy same whenever found, and no suit shall be maintained against them therefor.

The Game, Fish and Oyster Commissioner is authorized to close any of the waters mentioned in this article against the use of nets or seines or any particular kind of such nets and seines, whenever he thinks that such closing is necessary or best to protect and conserve the fish in such waters. But before closing such waters against the use of seines or nets or any particular kind of seine or net, he shall give notice by posting his intentions for two weeks at not less than three stores or other places in proximity to such waters.

Any person who shall fish with a net or seine in such closed waters or shall use such particular kind of net or seine, as forbidden in such waters, after the notice given as above required, shall be deemed guilty of a misdemeanor, and on conviction shall be fined in a sum of not less than twenty-five (\$25.00) dollars and no more than one hundred (\$100.00) dollars.

Art. 949. [912] **Seiners shall return small fish.**—Any person dragging a seine or engaging in taking fish in a set net shall

return to the water all fish under and above size according to the measure or weight established in this chapter, and all other fish except sharks, gars, rays, turtle and terrapin, saw fish and cat fish, except the gulf-topsail cat, which may be retained, and any person not returning such fish to the water as required by this article shall be fined not less than fifty nor more than one hundred dollars. [Acts 2nd C. S. 1919, p. 211.]

Art. 950. Net for shrimp.—The Commissioner is hereby authorized to permit the use of any shrimp seine or other device for catching shrimp in the tidal waters of this State. Any person desiring to use such seine shall apply to the Commissioner, or his deputy, for a permit to use such seine, net or other contrivance for catching shrimp and such Commissioner or his deputy shall fix and establish the mesh, construction, depth and length of such seine or net or other contrivance so that it shall not be used for other purposes than in taking shrimp, and he shall tag such seine officially and issue such permit and shall state in what waters and localities such seines or nets shall be used. Any person using such shrimp seine or other contrivance for catching shrimp in the tidal waters of this State without the permit herein provided for, or who shall use any seine or contrivance or net in any waters or locality other than that stated in such permit, shall be fined not less than twenty-five nor more than two hundred dollars. [Acts 2nd C. S. 1919, p. 205.]

Art. 951. March and April closed to seines and artificial bait.—It shall be unlawful for any person to catch any fish in the fresh waters of this State, with any seine or net other than minnow seine, not exceeding twenty feet in length, or to drag any seine, except such specified minnow seine, or to set any net, in the fresh waters of this State during the months of March and April, or to fish with any artificial bait of any kind in the fresh waters of this State during the months of March and April. Any person violating any of the provisions of this Article shall be deemed guilty of a misdemeanor and shall be upon conviction fined a sum of not less than twenty (\$20.00) dollars nor more than one hundred (\$100.00) dollars. This article shall not apply to any artificial lake, pond or pool, owned by any person, firm, corporation, city or town, that does not have as its source of water supply a river or creek or is not subject to overflow from a river or creek.

Art. 951a. [872] Fish ladder.—It shall be the duty of every person, firm or corporation, municipal or private who has erected, or who may erect any dam, water wier, or other obstruction on any regular flowing stream within this State, on the written order of the commissioners' court in the county in which such obstruction is erected, to construct and keep in repair fish ways or fish ladders at such dam, weir or obstruction, at the discretion of the Fish Commissioner, so that at all seasons of the year fish may ascend above such dam, weir or obstruction to deposit their spawn. Whoever erects or owns or maintains any such dam, obstruction or weir, and shall fail or refuse to build, construct and keep in repair such fish way or fish ladder, within 90 days after having been notified by such Commissioner to do so, shall be fined not less than twenty-five nor more than five hun-

dred dollars. Each week, after the expiration of 90 days after receiving such notice, of such failure or refusal is a separate offense. [Acts 1881, p. 83, Acts 1915, p. 118, Acts 2nd C. S. 1919, p. 203.]

Art. 952. Fish in certain counties.—

Section 1. Whoever shall barter or sell or offer for barter or sale any bass, perch, crappie or catfish taken from any of the fresh waters of the counties of Comal, Guadalupe, Bexar, Kerr, Bandera and Real, shall be fined not less than five nor more than fifty dollars.

Sec. 2. Whoever shall use any dynamite, powder or other explosive in any of the fresh water streams of said counties and shall destroy any fish thereby shall be fined not less than one hundred nor more than one thousand dollars, and may be imprisoned in jail not exceeding one year.

Sec. 3. No person shall take or catch any fish in the fresh waters, creeks, lakes, bayous, pools, lagoons, or tanks in said counties by any other means than by the ordinary hook and line, or trot line or artificial baits, and no person shall place in the fresh waters, rivers, creeks, lakes, bayous, lagoons, ponds, or tanks in said counties any seine, net or other device or trap for taking or catching fish; any persons may use a minnow seine which is not more than ten feet in length, and the meshes of which are not less than one-fourth inch square, for the purpose of catching minnows for bait. No person shall use the minnow seine herein permitted to take any fish other than minnows for bait.

Sec. 4. No person, firm or corporation or their agents shall take, catch, seine, entrap by any means, or have in their possession any bass, perch, or crappie, or catfish taken from any fresh waters in said counties from the first of February to the first of May of any year.

Sec. 5. If any person shall at any time, catch or take from any fresh water river, lake, bayou, lagoon, creek, pond, or other natural or artificial stream or pond of water within said counties by use of any means whatsoever any bass of less than eleven inches in length he shall immediately return same back into such water; and unnecessarily injuring such fish shall be deemed an offense under the provisions hereof. Each such fish shall constitute a separate offense.

Sec. 6. No person shall take from the fresh waters of said counties more than ten bass in any one day.

Any person violating any provision of Sections 3, 4, 5 and 6 of this article shall be fined not less than ten nor more than fifty dollars. [Acts 1923, p. 126.]

Art. 953. Fish in Medina waters.—No person who shall fish in any water which is located in the valley of the Medina River, where the lower or diversion dam above the town of Castroville crosses the Medina River in Medina County to a point on the Medina River in Bandera County, which, by following the meanders of the Medina River upward toward its source, shall constitute a distance of twenty-five miles, or in any water which is impounded in Medina county by said lower or diversion dam, or in any water which is impounded in Medina county and in Ban-

dera County by what is known as the upper main dam which crosses the Medina River, a distance of about four miles above the said lower or diversion dam, shall catch and retain, or have in his possession, any bass or other fish of the bass species, which are less than eleven inches in length, or catch and retain or have in his possession, in any one day, more than a total aggregate of ten bass or other fish of the bass species; or catch and retain, or have in his possession in any one day a total aggregate of more than twenty perch, crappie or sun fish, or other fish of the perch, crappie or sun-fish species, which shall be smaller than two inches long.

No person shall sell or offer for sale, or buy any fish caught in any of the waters herein described.

Any person violating any provision of this article shall be fined not less than five nor more than fifteen dollars for each violation of this law. Each fish caught or sold in violation of this article shall be a separate offense, and the accused may be prosecuted either in the county where the fish is caught, or where he is found with them in his possession, or where the fish are sold, or bought, or where they are offered for sale.

Nothing in this article shall prohibit the catching of more than twenty perch or sun fish to be used for bait, provided none of the perch or sun fish so caught to be used for bait shall be larger than two inches in length. [Acts 1917, p. 154.]

Art. 954. **Fish pound in gulf waters.**—It shall be unlawful for any person, firm or corporation to erect, set operate or maintain any fish pound net in any waters of the Gulf of Mexico within three nautical miles from the coast line of this State, without first obtaining a permit for such purpose. Application for such permits shall be made to the Game, Fish and Oyster Commissioner. Such commissioner shall issue to the person, firm or corporation applying therefor, if entitled thereto under the provisions of this chapter, a permit duly signed, to erect, set, operate or maintain a fish pound net in the waters above specified. No person, firm or corporation shall set, erect, operate or maintain any pound net at any place closer than three miles of any other pound net owned or operated by any other person, firm or corporation. No pound net shall ever be placed or operated closer than three miles of any pass mentioned in this chapter. Any person violating any of the provisions of this article shall be deemed guilty of a misdemeanor and upon conviction shall be fined in a sum not less than fifty (\$50.00) dollars nor more than two hundred (\$200.00) dollars.

Art. 955. **Sale fish in certain counties.**—If any person shall sell or offer for sale any bass, white perch, crappie, channel or other catfish, caught, trapped or ensnared in the streams of the counties of Burnet, San Saba, Brown, McCulloch, Edwards, Coleman, Concho, Menard, Mason, Gillespie, Kimble, Sutton, Kinney, Uvalde, Real, Kerr, Comal, Val Verde, Bandera, Reeves, Ward, Loving, Pecos, Medina, Bexar, Hunt, Runnels, Rains, Kimble, Williamson, Zavalla, Dimmit, Milam, Travis, Lampasas, or Llano, State of Texas, he shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not less than five dollars nor more than fifty dollars. No

person shall take or catch any fish in the fresh water rivers, creeks, lakes, bayous, pools, or lagoons in the counties above named by any other means than by ordinary hook and line or trot line or artificial bait, and no person shall place in the fresh water rivers, creeks, lakes, bayous, pools or lagoons of the counties above mentioned, any seine, net or other device or trap for taking or catching fish; provided, however, that persons may use a minnow seine which is not more than twenty feet in length for the purpose of catching minnows for bait. In seining for bait as herein permitted, all fish and minnows more than three inches in length shall be returned to the water at once while alive. No person shall use the minnow seine herein permitted for the purpose of taking any fish other than minnows for bait. Any person violating any provision of this section shall be fined not less than five nor more than one hundred dollars.

No person shall take from the fresh waters of any county mentioned more than thirty-five of such fish in any one day. Any person violating this provision of this article shall be fined not less than five nor more than one hundred dollars. The taking of each fish in excess of the number herein allowed shall be a separate offense.

No person shall knowingly place, throw, or deposit upon the banks or grounds adjacent to any of the fresh waters, creeks, lakes, bayous, rivers, pools, lagoons, or tanks in the counties above named any catfish, perch, crappie, white perch, bass, trout, or other edible fish, and leave such fish to die without any intention upon the part of such person either to eat such fish or use same for bait. Any person found guilty of the violation of this provision shall be fined not to exceed twenty-five dollars. The allowing of each fish so to die shall be a separate offense. [Acts 1923, p. 166; Acts 1925, p. 174.]

Art. 956. Mischief in prohibited waters.—Whoever shall wilfully and with intent to injure the owner, take any boat, seine or net or other device for fishing into prohibited waters, or shall use said articles for the unlawful taking or catching of fish, so as to cause the destruction of same, shall be fined not less than ten nor more than two hundred dollars, and be confined in jail not less than thirty nor more than ninety days. [Acts 1913, p. 275.]

Art. 957. Season for salt water terrapin.—Whoever kills, takes or has in his possession any salt water terrapin at any time except during November, December, January and February shall be fined not less than fifty nor more than one hundred dollars. [Acts 2nd C. S. 1919, p. 208.]

Art. 958. [910] Underweight turtle or terrapin.—Whoever sells or ships any green turtle of less than twelve pounds in weight or terrapin of less than six inches in length of under shell shall be fined not less than ten nor more than two hundred dollars. [Acts 1895, p. 173, Acts 1913, p. 270.]

Art. 959. [905] Buoy or marker.—Whoever shall deface, injure, or destroy or remove any buoy, marker or fence or any part thereof, used to designate or enclose a private oyster bed or a location where oysters have been deposited to be prepared for market, without the consent of the owner thereof, or any

buoy, marker or sign placed or used by the Commissioner for the purpose of designating any waters closed against fishing or oyster taking, without the consent of said Commissioner, shall be fined not less than fifty nor more than two hundred dollars. [Acts 2nd C. S. 1919, p. 200.]

Art. 960. Public or private oyster bed.—All oyster beds shall be public or private; all not designated private shall be public. All natural oyster beds and oyster reefs of this State shall be deemed public and a natural oyster bed shall be declared to exist when as many as five barrels of oysters may be found within twenty-five hundred square feet of any position of said reef or bed and any lands covered by water containing less oysters than the above amount shall be subject to location at the discretion of the Commissioner, but this shall not apply to a reef or bed that has been exhausted within a period of eight years. [Acts 2nd C. S. 1919, p. 193.]

Art. 961. Right to private oyster bed.—When any creek, bayou, lake or cove shall be included within the metes and bounds of any original grant or location of land in this State, the lawful occupant of such grant or location shall have the exclusive right to use said creek, lake, bayou or cove for gathering, planting, or sowing oysters within the metes and bounds of the official grant or patent. The Commissioner may require the owner of oysters produced in said water when offered for sale, to make an affidavit that such oysters were so produced. The failure of the person claiming that such oysters were produced on his private oyster bed or bottoms, to have and to show such affidavit to the Commissioner or one of his deputies, or to whoever he offers such oysters for sale, shall be presumptive that such oysters were taken from a public bed, and on prosecution for the same it shall devolve on the defendant to show that such oysters were taken from his private bed, or bottom of oysters. [Acts 2nd C. S. 1919, p. 193.]

Art. 962. [920] Theft of oysters.—Whoever fraudulently takes the oysters placed on private reefs without the consent of the owner of the private reef or from beds or deposits made for the purpose of preparing oysters for market without the consent of the owner of the oysters who has deposited them to prepare them for market under the provisions of law, shall be confined in the penitentiary not less than one nor more than two years. [Acts 2nd C. S. 1919, p. 200.]

Art. 963. [904] License to dredge oysters.—Anyone who is an American citizen or any firm or any corporation composed of such citizens desiring to use scrapers or dredges in removing oysters from the natural oyster reefs of this State shall procure from the Commissioner or his deputy a license to do so. It is unlawful to use a dredge or any means other than hand tongs in removing oysters from such reefs in bodies of water less than four feet deep, and it is unlawful to use a power dredge except one operated by hand power for removing oysters from such reefs in bodies of water less than six feet deep. Whoever violates any provision of this article shall be fined not less than twenty-five nor more than two hundred dollars. [Acts 1891,

p. 157, Acts 1913, p. 269, Acts 2nd C. S. 1919, p. 207, Acts 1923, p. 298.]

Art. 964. [923b] **Oysters from closed reef.**—Whenever the Commissioner believes that any public reef is being overworked or damaged in any way, or where such reef has been worked under his supervision, he may close such reef against anyone taking oysters from it, but before he closes it he shall give two weeks' notice of such closing by posting notices in such fish houses as are in two towns nearest such reef. In such notices he shall state the date of closing and the time for which such reef shall be closed. Whoever takes oysters from such reef within the time closed by the Commissioner shall be fined not less than twenty-five nor more than two hundred dollars. [Acts 1913, p. 274, Acts 2nd C. S. 1919, p. 207.]

Art. 965. **Oysters from insanitary reef.**—It shall be unlawful to ship, sell or possess for the purpose of sale any fish or oysters taken from insanitary or polluted reefs or beds. Any reef or bed of oysters which has been declared by the State Health Department as insanitary or polluted is within the meaning of this article insanitary and polluted. Whoever sells or has in his possession for the purpose of sale fish or oysters taken from such insanitary or polluted reef or bed shall be fined not less than twenty-five nor more than two hundred dollars. [Acts 2nd C. S. 1919, p. 209.]

Art. 966. [914] **Taking oysters in closed season.**—Whoever shall take or catch oysters from any public beds or reefs for sale or for market from the first day of April to the first day of September, shall be fined not less than ten nor more than two hundred dollars. Each day is a separate offense. That part of the Laguna Madre which is South and West of Baffin's Bay is exempt from the operation of this article. [Acts 2nd C. S. 1919, p. 206.]

Art. 967. [904] **Buying or planting oysters in closed season.**—Whoever plants or buys oysters for planting, bedding, marketing or any other purpose from the first day of May to the first day of September in any year without the consent of the Commissioner shall be fined not less than ten nor more than one hundred dollars. [Acts 1891, p. 155, Acts 1913, p. 269.]

Art. 968. [903] **Shipping oysters in closed season.**—No transportation company operating within this State, its officers agents or employes, shall receive for shipment, or ship, within the boundaries of this State, from the first day of May to the first day of September of any year, any oysters from any public bed or reef for depositing or for marketing; provided, that nothing in this chapter shall be construed to prohibit any such transportation company, its officers, agents or employes, from shipping or receiving for shipment, any oysters taken from a private bed located under the laws of this State, offered for shipment by the owner or owners, locator or locators, of such bed, such fact to be established by the affidavit of the person or persons offering such oysters for shipment. Any officer, agent or employe of such transportation company violating any provision of this article shall be fined for each offense not less than ten nor

more than one hundred dollars. [Acts 1907, p. 238, Acts 1913, p. 269, Acts 2nd, C. S. 1919, p. 203.]

Art. 969. Scattering oyster culls.—It shall be unlawful for any person to fail, or refuse to scatter the culls of such oysters as he may take from the oyster reefs as directed by the Game, Fish and Oyster Commissioner, and it is hereby declared to be unlawful for any person to open or shuck oysters for market near or on the reefs or beds from which such oysters were taken, or to open or shuck oysters for market on any fishing vessel or barge, except when such vessel or barge be in some part or place where oysters are commonly sold. The shell from oysters opened or shucked on board any vessel or barge must be deposited on shore as directed by the Game, Fish and Oyster Commissioner. Any one violating any of the provisions of this article shall be fined in a sum not less than twenty-five (\$25.00) dollars, nor more than one hundred (\$100.00) dollars; and on such conviction the Game, Fish and Oyster Commissioner in his discretion may cancel the license of the captain of the boat on which such person is employed or for which he is gathering oysters, as well as cancel the license to fish and gather oysters of such persons offending, and no new license shall be issued to such captain or to such person convicted for a period not to exceed two years.

Art. 970. Sale of oysters taken for planting.—No person gathering oysters for planting or depositing for preparations for market, on locations obtained from the State or on private property, shall sell, market or in any way dispose of oysters so gathered at the time of gathering, for any other purpose than planting or preparing for market, provided, this shall not be considered as meaning the right to dispose of a location or oyster bed. Any person offending against this article shall be fined not less than fifty nor more than two hundred dollars. [Acts 2nd C. S. 1919, p. 206.]

Art. 971. [918] Cargo of Young Oysters.—Any person offering for sale, or who shall sell, any cargo of oysters which shall contain more than five per cent young oysters shall be fined not less than ten nor more than two hundred dollars. Any oyster that measures less than three and one-half inches from hinge to mouth shall be deemed a young oyster for the purpose of this chapter. The Commissioner is authorized to permit the taking of oysters of less size than three and one-half inches from any reef he may designate but it shall be unlawful to take any oysters from reefs other than those designated by such Commissioner, and any one taking such oysters smaller in measurement than three and one-half inches from hinge to mouth from other than such reefs as designated by such Commissioner shall be fined not less than twenty-five nor more than two hundred dollars. [Id.]

Art. 972. Using insanitary container.—Any receptacle for oysters which has not been thoroughly cleaned before oysters are placed in it, is hereby declared to be insanitary. Whoever sells oysters from such receptacle, or ships oysters in such

receptacle shall be fined not less than twenty-five nor more than one hundred dollars. [Acts 2nd C. S. 1919, p. 209.]

Art. 973. **Floating or bloating oysters.**—No person, firm or corporation shall ship into or in this State, sell or have in his possession for the purpose of sale, any oyster or shell fish in which any formaldehyde or other preservative has been placed, or any oysters or other shell fish which have been subjected to "floating," "drinking" or "bloating" in water containing less salt than in which they are grown, or oysters or other shell fish to which water has been added either directly or indirectly or in the form of melted ice. Unpolluted salt cold or ice water may be used in washing shucked or shelled oysters or other shell fish, if the washing does not continue any longer than the minimum time necessary for chilling, and whoever engages in "floating," "drinking" or "bloating" oysters in this State, or who ships into or in this State such oysters, or who has in his possession, sells or offers to sell any such oysters, shall be fined not less than twenty nor more than two hundred dollars. [Id.]

Art. 974. **"Net" defined.**—Whenever a net mentioned in this chapter as a trammel, strike, gill, hoop, pound, purse or other kind of a net, the standard net of such variety or kind or the usual or ordinary kind of such net as manufactured and sold as in or to the trade is meant. [Id.; Acts 1923, p. 299.]

Art. 975. **License for mussel or clam.**—Whoever takes from the public waters of this State for sale, any mussels, clams or naiad or shells thereof without first obtaining a license from the Commissioner, shall be fined not less than ten nor more than one hundred dollars. [Acts 2nd C. S. 1919, p. 214.]

Art. 976. **Marl, sand and shell.**—Whoever shall, for himself, or for or on behalf of or under the direction of another person, association of persons, corporate or otherwise, take or carry away any marl, sand or shells or mudshell or gravel placed under the management, control and protection of the Commissioner, or shall disturb any of said marl, sand, shells or mudshell or gravel or oyster beds or fishing waters or shall operate in or upon any of said places for any purpose other than that necessary or incident to navigation or dredging under State or Federal authority, without having first obtained a written permit from said Commissioner for the territory in which such operation is carried on, shall be fined not less than ten nor more than two hundred dollars. Each day's operation shall be a separate offense. [Acts 2nd C. S. 1919, p. 218.]

Art. 977. **Charts as evidence.**—All United States Coastal Survey Charts covering the coast of Texas are admissible in any prosecution under this chapter.

Art. 978. [871] **Witnesses must testify.**—Any court, office or tribunal having jurisdiction of the offenses set forth in this chapter or any district or county attorney may subpoena persons and compel their attendance as witnesses to testify as to violations of any provision of this chapter. Anyone so summoned and examined shall not be liable to prosecution for any such violation about which he may testify; and a conviction of

said offense may be had upon the unsupported evidence of an accomplice or participant. [Acts 2nd C. S. 1919, p. 207.]

Art. 978a. **Trespass on hatchery or reservation.**—Any person entering and trespassing on the grounds of any State fish hatchery or on the grounds set apart by the State for the propagation and keeping of birds and animals, without the permission of the Commissioner or deputy in charge of such reservation, shall be fined not less than ten nor more than twenty-five dollars. [Acts 2nd C. S. 1919, p. 208.]

Art. 978b. **Protecting fish and game in hatchery.**—Whoever shall take, injure or kill any fish kept by the State in its hatcheries, or any bird or animal kept by the State on its reservation grounds or elsewhere for propagation or exhibition purposes, shall be fined not less than fifty nor more than two hundred dollars. [Id.]

Art. 978c. [915] **Screening canal or pipe.**—Every person, firm or corporation using any means for the purpose of taking water from the fresh waters of the State, when directed to do so by the Commissioner, shall place screens over the entrance of the canal, pipe, or over whatever means are used for diverting the water, or over the mouth of the intake pipe, for the purpose of preventing fish from entering said pipe or canal. The size of and regulations for placing such screen and any other obstruction shall be designated by the Commissioner. Whoever fails to comply with this article after notification by the Commissioner to do so shall be fined not less than fifty nor more than two hundred dollars. Each day is a separate offense. [Acts 1909, p. 331, Acts 1913, p. 271.]

Art. 978d. **Closed season for green turtle.**—It shall be unlawful for any person to take or kill or have in his possession at any time before September 1, 1920, any sea turtle known as the green turtle, and it shall be unlawful to destroy or take the eggs of such turtle and any person who shall take, kill or have in his possession within such five years, or shall destroy or take the eggs of such turtle, shall be deemed guilty of a misdemeanor and upon conviction shall be fined in a sum of not less than fifty (\$50.00) nor more than one hundred (\$100.00) dollars.

(The foregoing article is senseless but is a correct copy of the enrolled bill.)

Art. 978e. **Closed season on bass and crappie.**—It shall be unlawful for any person, firm or corporation, or their agents, to buy or sell, or offer for sale, or offer to buy, or have in his or their possession for sale, or to carry, transport or ship for the purpose of sale, barter or exchange, any fresh water crappie or bass within the State of Texas.

Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine in any sum not exceeding one hundred dollars, and each sale or shipment or act in violation hereof shall constitute a separate offense.

TITLE 14
TRADE AND COMMERCE.

Chapter	Chapter
Offenses Affecting Written Instruments	Blue Sky Law 8
Forgery of Land Titles, Etc.	Agricultural and Livestock Pools 9
Counterfeiting	Protecting Movement of Commerce 10
Warehouses and Cotton	Gasoline and Petroleum Products 11
Weights and Measures	Miscellaneous Offenses 12
Labels, Trade Marks, Etc.	
Assumed Name	

CHAPTER ONE.

OFFENSES AFFECTING WRITTEN INSTRUMENTS.

Article	Article
"Forgery" 979	Filling up over signature 992
Forgery of will 980	Person not guilty, when 993
Forgery of obligation of foreign government 981	Altering teacher's certificate 994
Passing obligation of foreign government 982	Penalty for forgery 995
Possession of obligation of foreign government 983	Passing forged instrument 996
Alteration also forgery 984	Preparing implements for forgery 997
Intent necessary 985	Possession with intent to pass 998
"Instrument in writing" 986	Evidence in case of bank bills 999
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"Another" 988	Substituting one instrument for another 1001
"Pecuniary obligation" 989	Altering or injuring public records 1002
"Transferred or in any manner have affected" 990	Falsely personating another 1003
All participants guilty 991	False personation in acknowledgments 1004
	Procedure 1005

Art. 979. [924] [530] [431] "Forgery".—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. [O. C. 431.]

Art. 980. Forgery of will.—Any person who executes what purports to be the last will and testament of another, without the consent of such other person, is also guilty of forgery. Prosecution under this article may be begun at any time after such forgery is committed and within five years after the death of the purported testator, but not thereafter. [Acts 1919, p. 119.]

Art. 981. Forgery of obligation of foreign government.—He is guilty of forgery who without lawful authority and with intent to injure or defraud shall falsely make, alter forge or counterfeit any bond, certificate, obligation, or instrument in writing having a value or purporting to be of value issued by or purporting to be issued by or under the authority or direction of any foreign government or de facto foreign government, or any officer or agent of any foreign government or de facto foreign government, or any person or persons claiming to act by or under the authority of any foreign government or de facto foreign government or claiming by right of any office, military

or civil, to have a right in any foreign country to issue money, bills of exchange, notes, or any papers circulating as money or mediums of exchange in any foreign country or portion thereof, or purporting to be redeemable in money or other thing of value, and any person violating any of the provisions of this article shall be punished as provided in article 995. [Act Sept. 16, 1914.]

Art. 982. **Passing obligation of foreign government.**—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 article 981 he shall be punished as provided by article 996. [Act Sept. 16, 1914.]

Art. 983. **Possessing of obligation of foreign government.**—If any person shall knowingly have in his possession any instrument of writing, the making of which is by law an offense under the provisions of article 981 hereof, with intent to use or pass the same as true, he shall be punished as is provided in article 998. [Act Sept. 16, 1914.]

Art. 984. [925] [531] [432] **Alteration also forgery.**—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. [O. C. 432.]

Art. 985. [926] [532] [433] **Intent necessary.**—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. [O. C. 442.]

Art. 986. [927] [533] [434] **“Instrument in writing”.**—The words “Instrument in writing,” as used 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 definition of forgery, the signature, when made otherwise than by writing, must be made to resemble manuscript. [O. C. 434.]

Art. 987. [928] [534] [435] **“Alter”.**—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. [O. C. 438.]

Art. 988. [929] [535] [436] **"Another"**.—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 or 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. [O. C. 439.]

Art. 989. [930] [536] [437] **"Pecuniary obligation"**.—**"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. [O. C. 440.]

Art. 990. [931] [537] [438] **"Transferred or in any manner have affected"**.—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. [O. C. 441.]

Art. 991. [932] [538] [439] **All participants guilty**.—One is guilty of making or altering, 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. [O. C. 435.]

Art. 992. [933] [539] [440] **Filling up over signature**.—It is a 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. [O. C. 436.]

Art. 993. [934] [540] [441] **Person not guilty, when**.—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. [O. C. 437.]

Art. 994. [935] **Altering teacher's certificate**.—Whoever shall wilfully 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. [Acts 1893, p. 205.]

Art. 995. [936] [541] [442] **Penalty for forgery**.—Any person guilty of forgery shall be confined in the penitentiary not less than two nor more than seven years. [O. C. 433.]

Art. 996. [937] [542] [443] **Passing forged instrument**.—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 confined in the penitentiary not less than two nor more than five years. [O. C. 443.]

Art. 997. [938] [534] [444] **Preparing implements for forgery.**—Whoever shall prepare in this State any implements 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 mentioned, shall be confined in the penitentiary not less than two nor more than five years. [O. C. 444.]

Art. 998. [939] [544] [445] **Possession with intent to pass.**—If any person shall knowingly have in his possession 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 confined in the penitentiary not less than two nor more than five years. [O. C. 445, Acts 1858, p. 169.]

Art. 999. [940] [545] [446] **Evidence in case of bank bills.**—Upon a trial for 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. [O. C. 446.]

Art. 1000. [941] [546] [447] **Falsely reading instrument.**—Whoever 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 property, 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, shall be confined in the penitentiary not less than two nor more than five years. [O. C. 447.]

Art. 1001. [942] [547] [448] **Substituting one instrument for another.**—Whoever with intent to defraud shall substitute one instrument in writing for another, and by this means induce any person to sign an instrument materially different from that which he intended to sign, shall be confined in the penitentiary not less than two nor more than five years. [O. C. 448.]

Art. 1002. [943] **Altering or injuring public records.**—If any person, without authority of law, shall wilfully and maliciously change, alter, mutilate, destroy, deface or injure any book, paper, record or any other document, required or permitted by law to be kept by any officer within this State, he shall be fined not exceeding five thousand dollars, or imprisoned in the penitentiary not less than one nor more than five years. [Acts 1899, p. 301.]

Art. 1003. [944] [548] [449] **Falsely personating another.**—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 instrument in writing which, if genuine, would create, increase, diminish or discharge any pecuniary obligation, or would transfer, or in any way affect any property, he shall be confined in the penitentiary not less than two nor more than seven years. [O. C. 449.]

Art. 1004. [945] [549] [450] **False personation in acknowledgments.**—If any person shall falsely personate another whether bearing the same name or not, and in such assumed character shall, before any officer authorized by law to authenticate instruments of writing for registration, acknowledge the execution of an instrument of writing purporting to convey, or in any manner affect, 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 confined in the penitentiary not less than two nor more than ten years. [O. C. 450.]

Art. 1005. [946] [549a] [450a] **Procedure.**—A conviction for any offense mentioned in articles 979, 996 and 998 shall be a bar to any other prosecution under said articles based upon the same transaction or same forged instrument of writing. One or more of said several offenses may be charged in separate counts in the same indictment, and prosecuted together to final judgment without election by the State as to which it relies upon for a conviction. 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. It is unlawful for any county or district attorney, or any person acting as such, to wilfully or knowingly demand or receive fees for more than one prosecution that could have been combined or prosecuted in one indictment, subject to the penalties prescribed by law for the punishment of extortion of illegal fees. [Acts 1895, p. 106.]

CHAPTER TWO.

FORGERY OF LAND TITLES, ETC.

	Article		Article
"Forgery of patents, etc.....	1006	Non-residents may commit.....	1009
False certificate by officers.....	1007	Proof and allegations.....	1010
Knowingly uttering forged instruments	1008	Rules in forgery applicable.....	1011

Art. 1006. [947] [550] [451] **"Forgery of patents," etc.**—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 acknowledgement,

or proof of record, or certificate of record belonging to 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 anyone 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 interest of, the true owner 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. [Acts 1876, p. 59.]

Art. 1007. [948] [551] [452] **False certificate by officers.**—If any person authorized by law to take the proof of acknowledgment of any instrument, document or paper whatsoever, affecting or relating to the title of lands in this State, wilfully 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 1006 of this chapter. [Id.]

Art. 1008. [949] [552] [453] **Knowingly uttering forged instruments.**—Every person who knowingly utters, publishes, passes, or uses, or who in any way aids, assists in or advises the 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 to 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 1006 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 1006 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 of record of any such false, altered, forged or counterfeited matter, docu-

ments, 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. [Id.]

Art. 1009. [950] [553] [454] **Non-residents may commit.**—Persons out of the State may commit and be liable to indictment and conviction for committing any 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 offending against its provisions, whether within or without the State.

Art. 1010. [951] [554] [455] **Proof and allegations.**—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. 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 co-partnership, or member thereof, or any particular person. [Acts 1876, p. 59.]

Art. 1011. [953] [556] [457] **Rules in forgery applicable.**—The rules prescribed in the preceding chapter relative to the offense of forgery, so far as the same are applicable, shall apply to the various offenses enumerated in this chapter. [Id.]

CHAPTER THREE.

COUNTERFEITING AND DIMINISHING VALUE OF COIN.

	Article		Article
"Counterfeiting"	1012	"Gold and silver coin"	1016
Passing counterfeit coin	1013	What sufficient to constitute	
Making dies, etc.	1014	passing	1017
Passing coin of diminished value.	1015		

Art. 1012. [954-5-6-7] **"Counterfeiting".**—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; or who, with like intent, alters any coin of lower value so as to make it resemble coin of higher value. The resemblance between the true and the false coin need not be perfect to constitute the offense of counterfeiting. Who-

ever shall counterfeit any gold or silver coin shall be confined in the penitentiary not less than five nor more than ten years.

Art. 1013. [958] [561] [463] **Passing counterfeit coin.**—Whoever 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, shall be confined in the penitentiary not less than two nor more than five years. [O. C. 455.]

Art. 1014. [959] [562] [464] **Making dies, etc.**—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 confined in the penitentiary not less than two nor more than five years.

Art. 1015. [960] [563] [465] **Passing coin of diminished value.**—If any person shall with intent to profit thereby diminish the weight of any gold or silver coin and afterwards 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 confined in the penitentiary not less than two nor more than five years. [O. C. 457; Acts 1858, p. 169.]

Art. 1016. [961] [564] [466] **“Gold and silver coin”.**—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 United States or of any foreign country. [O. C. 458.]

Art. 1017. [962] [565] [467] **What constitutes passing.**—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.

CHAPTER FOUR.

WAREHOUSES AND COTTON.

Article	Article
Issuing receipt without basis.....1018	Forging warehouse receipt.....1026
Receipt containing false statement.....1019	Unlicensed cotton classer.....1027
Duplicating receipts.....1020	Substituting sample.....1028
Exception.....1021	Fraudulent certificate.....1029
Failure to disclose ownership.....1022	Wilfully plating cotton.....1030
Unlawful delivery by warehouse-	Ginner to comply with law.....1031
man.....1023	Unlicensed ginner.....1032
Exception.....1024	Ginner's record.....1033
Unlawfully depositing goods.....1025	Pink bollworm laws.....1034

Art. 1018. **Issuing receipt without basis.**—A warehouseman, or any officer, agent or servant of a warehouseman, who issues or aids in issuing a receipt, knowing that the goods for which such receipt is issued have not been actually received by such warehouseman, or are not under the actual control of such

warehouseman at the time of issuing such receipt, shall be confined in the penitentiary not exceeding five years, or be fined not exceeding five thousand dollars, or both. [Acts 1919, p. 225, Acts 1st C. S. 1917, p. 82.]

Art. 1019. Receipt containing false statement.—A warehouseman, or any officer, agent or servant of a warehouseman, who fraudulently issues or aids in fraudulently issuing a receipt for goods, knowing that it contains any false statement, shall be imprisoned in jail not exceeding one year, or be fined not exceeding one thousand dollars, or both. [Acts 1919, p. 225.]

Art. 1020. Duplicating receipts.—A warehouseman, or any officer, agent, or servant of a warehouseman, who issues or aids in issuing a duplicate or additional negotiable receipt for goods, knowing that a former negotiable receipt for the same goods or any part of them is outstanding and uncanceled, without plainly placing upon the face thereof the word "Duplicate," shall be confined in the penitentiary not exceeding five years, or be fined not exceeding five thousand dollars, or both. [Id.]

Art. 1021. Exception.—The preceding article shall not apply where such goods were delivered upon an order of court upon proof of loss or destruction of a negotiable receipt therefor. [Id.]

Art. 1022. Failure to disclose ownership.—Where there are deposited with or held by a warehouseman, goods of which he is owner, either solely, jointly or in common with others, such warehouseman, or any of his officers, agents, or servants who, knowing this ownership, issues or aids in issuing a negotiable receipt for such goods which does not state such ownership, shall be imprisoned in jail not exceeding one year, or be fined not exceeding one thousand dollars. [Id.]

Art. 1023. Unlawful delivery by warehouseman.—A warehouseman, or any officer, agent or servant of a warehouseman, who delivers goods out of the possession of such warehouseman, knowing that a negotiable receipt the negotiation of which would transfer the right to the possession of such goods is outstanding and uncanceled, without obtaining the possession of such receipt at or before the time of such delivery, shall be imprisoned in jail not exceeding one year, or be fined not exceeding one thousand dollars, or both. [Id.]

Art. 1024. Exception.—The preceding article shall not apply where such goods were delivered upon an order of court upon proof of loss or destruction of a negotiable receipt therefor; nor where such goods have been lawfully sold to satisfy a warehouseman's lien, or have been lawfully sold or disposed of because of their perishable or hazardous nature. [Id.]

Art. 1025. Unlawfully depositing goods.—Whoever deposits goods to which he has no title, or upon which there is a lien or mortgage, and who takes for such goods a negotiable receipt which he afterwards negotiates for value with intent to deceive and without disclosing his want of title or the existence of the lien or mortgage, shall be imprisoned in jail not exceeding one year, or be fined not exceeding one thousand dollars, or both. [Id.]

Art. 1026. Forging warehouse receipt.—Whoever shall forge any warehouse receipt or knowingly negotiate any forged warehouse receipt purporting to be issued under and by authority of the law passed at the First Called Session of the Thirty-fifth Legislature, being Chapter forty-one of the General Laws of such Session and known as the "Permanent Warehouse Law," shall be fined not less than one hundred nor more than one thousand dollars, or be confined in the penitentiary for not less than two nor more than five years, or both. [Acts 1st C. S. 1917, p. 65.]

Art. 1027. Unlicensed cotton classer.—Whoever shall engage in business as a public cotton classer, classing cotton for the public generally, without holding a license as a public cotton classer, as provided by law, shall be fined not exceeding one hundred dollars. [Id.]

Art. 1028. Substituting sample.—Whoever with intent to defraud shall substitute any sample of cotton or other farm product for a sample taken under authority of law shall be fined not less than twenty-five nor more than two hundred dollars. [Id.]

Art. 1029. Fraudulent certificate.—Whoever shall issue, or cause to be issued, any certificate of sample, weight, grade, or class, of any cotton or other farm products, for commercial purposes, with intent to deceive or defraud, shall be fined not less than twenty-five nor more than two hundred dollars. Each instrument so issued shall be a separate offense. [Id.]

Art. 1030. Wilfully plating cotton.—Each ginner, and any officer, servant or employe of a corporation, person or gin company, conducting a gin business, who shall wilfully plate a bale of cotton, which is to say, who shall wilfully and knowingly place on the outside of said bale a better grade and quality of cotton than on the inside of said bale, for the purpose of deceiving, shall be confined in the penitentiary not exceeding two years, or be fined not exceeding five thousand dollars, or both. [Acts 2nd C. S. 1914, p. 32.]

Art. 1031. Ginner to comply with law.—Whoever operates a cotton gin, either for himself or for another for commercial purposes, without complying with the laws of this State governing such ginners, shall be fined not less than twenty-five nor more than two hundred dollars. [Acts 1st C. S. 1917, p. 65.]

Art. 1032. Unlicensed ginner.—Whoever shall operate any gin, ginning cotton for commercial purposes, without first obtaining a license as a licensed ginner from the Commissioner of Agriculture, shall be fined not less than twenty-five nor more than two hundred dollars. [Id.]

Art. 1033. [1986-7-9] Ginner's record.—Every person, firm, corporation or association of persons owning, controlling or operating a public cotton gin shall keep or cause to be kept in a book a public record of all cotton brought to them for ginning and packing, showing correctly the amount of cotton received, date of its receipt, by whom brought to the gin, and the name or names of the party or parties claiming to own the same, and after ginning and packing said cotton shall place or cause to be

placed on each bale of cotton the initials of the party or parties claiming to own said cotton, under which the ginner shall place some private ginner's mark and record, all of which shall be recorded in said book. Any ginner who fails, neglects or refuses to comply with any provision of this article shall be fined not exceeding twenty-five dollars. [Acts 1901, p. 263.]

Art. 1034. **Pink bollworm laws.**—Whoever shall transport any cotton or cotton products by any means from any territory in this State which has been quarantined and placed under restrictions by proclamation of the Governor of the State, in accordance with the authority conferred by the laws of this State relating to the pink bollworm; or whoever shall violate any proclamation or any rule, regulation or other restriction authorized by said laws or bring into the State any material contaminated with said worm or its eggs; or whoever shall plant, cultivate, grow, allow to grow, gather, transport or market cotton in or from any territory in this State, that has been quarantined and declared a non-cotton zone and placed under restrictions by any of the proclamations authorized by said laws; or whoever shall fail to comply with any of the said rules and regulations so promulgated for the control and direction of cotton growing and marketing in any restricted or regulated zone; or shall violate any proclamation, regulation or restriction authorized by said laws, or any ginner who shall fail or refuse to disinfect cotton seed as provided for in said laws; or whoever shall wilfully refuse or knowingly neglect to comply with any such proclamation, restriction or regulation promulgated and maintained for the protection of the cotton industry, shall be fined not less than fifty nor more than five hundred dollars. Each transaction of each product so shipped or transported, and each act in violation of the restrictions herein authorized governing the planting, growing, marketing and cleaning the fields, shall constitute a separate offense. The district court of the county in which any criminal case is filed under the provisions of this article may, upon the application of either the State or of the defendant and a showing that the applicant cannot obtain a fair trial in that county, order a change of venue to an adjoining county or district. [Acts 1st C. S. 1921, p. 128.]

CHAPTER FIVE.

WEIGHTS AND MEASURES.

Article	Article
Duty of local sealer.....1035	Inspection of fruits and vegetable tables.....1046
Removing tag of sealer.....1036	"Public weigher".....1047
False weights and measures.....1037	Weight certificate.....1048
Hindering sealers.....1038	Record of weights.....1049
Refusing to permit test of weight.1039	Issuing false certificate.....1050
Refusing to permit test of article.1040	Requesting false certificate.....1051
Unlawfully sealing.....1041	Weigher to comply with law.....1052
Failure to regard unit of measure.1042	Shipping at false weight.....1053
Parties may contract.....1043	Deposit for installing service.....1054
Receptacle containing mill products.....1044	Water, gas and electric meters.....1055
Containers for fruit or vegetables.1045	Diverting from meters.....1056
	Misreading meter.....1057

Art. 1035. **Duty of local sealer.**—Each local or deputy sealer

of weights and measures appointed by any city or town council or commission, shall be under the supervision of the Commissioner of Agriculture and shall be required to report to him regularly and carry out all his instructions, and on failure or refusal to do so shall be fined not less than ten nor more than two hundred dollars. [Acts 1919, p. 240.]

Art. 1036. **Removing tag of sealer.**—Whoever removes or obliterates any tag or device placed by any authorized sealer, deputy sealer or inspector upon any weight or measure, or weighing or measuring instrument, shall be fined not less than ten nor more than two hundred dollars. [Id.]

Art. 1037. **False weights and measures.**—Any person, who, by himself or his employe or agent, or as the employe or agent of another, shall use, in the buying or selling of any commodity, or retain in his possession, a false weight or measure, or weighing or measuring instrument, or shall offer or expose for sale, or sell, except as specifically allowed by law, or use or retain in his possession any weight or measure or weighing or measuring instrument contrary to law, or any person, who, by himself, or his employe or agent, or as the employe or agent of another, shall sell or offer or expose for sale, or use or have in his possession for the purpose of selling or using, any device or instrument to be used to, or calculated to, falsify any weight or measure, shall be fined not less than ten nor more than two hundred dollars. Possession of such false weights or measures or instruments shall be prima facie evidence of the fact that they were intended to be used in the violation of law. [Id.]

Art. 1038. **Hindering sealers.**—Whoever hinders or obstructs in any way the Commissioner of Agriculture, or his deputy, inspector or sealer or any local sealer, in the performance of their duties, shall be fined not less than ten nor more than two hundred dollars. [Id.]

Art. 1039. **Refusing to permit test of weight.**—Any person neglecting or refusing to exhibit any weight, measure, or weighing or measuring instrument of any kind, or appliances and accessories connected with any of such instruments or measures which are in his possession or under his control to the Commissioner, his deputy, inspector or to any local inspector or sealer, for the purpose of allowing the same to be inspected and examined as provided for by law, shall be fined not less than ten nor more than two hundred dollars. [Id.]

Art. 1040. **Refusing to permit test of article.**—Any person, who, by himself, or his employe or agent, or as the proprietor or manager, shall refuse to exhibit any article, commodity, produce or anything being sold or offered for sale at a given weight or quantity, or ordinarily so sold, to the Commissioner or to his deputy or to a sealer or his deputy or to an inspector or local sealer, for the purpose of allowing same to be tested and proved as to quantity contained therein, shall be fined not less than ten nor more than two hundred dollars. [Id.]

Art. 1041. **Unlawfully sealing.**—Any sealer, deputy sealer, inspector or local sealer appointed under the provisions of law,

or discharging the duties of a sealer of weights and measures in this State, who shall seal any weight, measure, balance or apparatus before testing and making the same conform with the standards of the State or who shall condemn any weight, measure, balance or apparatus without first testing the same, shall be fined not less than twenty-five nor more than two hundred dollars, and shall be immediately suspended from office. [Id.]

Art. 1042. **Failure to regard unit of measure.**—Whoever in buying any commodity or article of property, merchandise or produce, the standard weight of which per bushel or barrel, or divisible merchantable quantities of a bushel or barrel, or by the cord or ton or cubic yard, has been fixed by the laws of this State, shall take any greater number of pounds thereof to the bushel, barrel or cubic yard, or divisible merchantable quantity of bushel, barrel, cubic yard or lineal yard, or in selling any of the same, shall give any less number of pounds thereof to the bushel, barrel, cubic or lineal yard, or divisible merchantable quantity of bushel, barrel, cubic or lineal yard than is allowed by the laws of this State, with intent to gain an advantage thereby, shall be fined not less than twenty nor more than two hundred dollars. [Acts 1919, p. 235.]

Art. 1043. **Parties may contract.**—The preceding article does not apply where the buyer or seller is expressly authorized by special contract or agreement to take more or give less of such article. [Id.]

Art. 1044. [730] **Receptacle containing mill product.**—Any one engaged in the manufacture of mill products of any character who shall use any bag, box, barrel or any other receptacle into which to put such product other than the one bearing the name of such mill manufacturing the same, shall be fined not less than one hundred nor more than one thousand dollars or be confined in jail for thirty days, or both. [Acts 1907, p. 244.]

Art. 1045. **Containers for fruit or vegetables.**—Whoever shall make, sell, or offer to sell containers for the shipment of fruit or vegetables, which containers are of different size or dimensions from the standards of such containers established by the laws of this State, shall be fined not to exceed one thousand dollars. [Acts 1917, p. 402.]

Art. 1046. **Inspection of fruits and vegetables.**—Any grower, shipper's agent, packer, or any agent, receiver or representative of any common carrier or transportation company, who shall violate any provision of the laws of this State relating to standards of grades and pack of fruit and vegetables, or who shall refuse to submit any such fruit or vegetables packed or ready for shipment to inspection by any inspector appointed, as authorized by law, by the Commissioner of Agriculture and empowered by such Commissioner to make such inspection, shall be fined not to exceed one hundred dollars. [Acts 4th C. S. 1918, p. 150.]

Art. 1047 **"Public Weigher."**—All persons engaged in the

business of public weighing for hire, or any person who shall weigh or measure any commodity, produce or article, and issue therefor a weight certificate or weight sheet, which shall be accepted as the accurate weight upon which the purchase or sale of such commodity, produce, or article is based, shall be known as a public weigher, and shall comply with the provisions of the law regulating public weighers, provided the provisions of this article shall not apply to any owner, manager, agent or employe of any compress or any public or private warehouse in their operations as a warehouseman. This law shall not apply in any manner to any Texas port. [Acts 1921, p. 168.]

Art. 1048. Weight Certificate.—The Commissioner of Agriculture shall prescribe the form of weight certificate to be used by all public weighers in this State, which certificate shall be known as a State Certificate of Weights and Measures; such certificate shall state thereon the kind of produce; the number of the same, the date of the receipt of the produce, the owner, agent or consignee, the total weight of the produce, the vessel, railroad, or other means by which the produce was received, and any trade mark or other mark thereon; and such other information as may be necessary to distinguish or identify the produce from a like kind. No certificate other than the one herein prescribed shall be used by any public weigher in this State, and such certificate when so made and properly signed, shall be prima facie evidence of such weight. [Acts 1919, p. 124.]

Art. 1049 Record of Weights.—All public weighers, within this State, shall keep and preserve a correct and accurate record of all weights made by them, which record shall be open for the inspection of the Commissioner of Agriculture, his deputies or inspectors, and the public at any and all times. Such record shall be uniform throughout the State, and the form of such record shall be prescribed by said Commissioner. [Id.]

Art. 1050. Issuing false certificate.—All certificates of weights and measures or weight sheets as provided for in this chapter shall contain the accurate and correct weight of any and all commodities weighed when issued by public weighers. Any public weigher, or deputy public weigher, who shall issue any certificate of weights and measures or weight sheet giving false weights or measures of any article, or commodity weighed or measured by him, or his representative or deputy, to any person, firm or corporation, shall be fined not less than twenty-five nor more than two hundred and fifty dollars, and may be imprisoned in jail for not less than thirty days nor more than six months, and in addition thereto, he shall be suspended from office and not permitted to continue the business of public weighing any longer. [Id.]

Art. 1051. Requesting false certificate.—Whoever shall request a public weigher, deputy public weigher or any person employed by him, or pay to him any money, or give him anything to weigh any produce, commodity or article, falsely or incorrectly, or who shall request a false or incorrect certificate

of weights or measures, or weight sheet, shall be fined not less than twenty-five nor more than two hundred dollars, and in addition thereto may be imprisoned in jail for not less than thirty days nor more than six months. [Id.]

Art. 1052. **Weigher to comply with law.**—Any person, or agent or representative of any corporation, who shall engage in the business of weighing for the public, or who shall grant or issue a certificate or weight sheet, upon which a purchase or sale is made without complying with the terms of the statutes regulating public weighers, shall be fined not less than twenty-five nor more than two hundred dollars. Each certificate so granted, or weight sheet issued by him is a separate offense. [Id.]

Art. 1053. **Shipping at false weight.**—Whoever ships to any one in this State anything in which the weight is necessary to be given at any weight other than the true weight properly certified to shall be fined not less than one hundred nor more than five hundred dollars and may be imprisoned in jail for not more than twelve months, or both so fined and imprisoned. [Id.]

Art. 1054. **Deposit for installing service.**—Every person, firm, company, corporation, receiver or trustee engaged in the furnishing of water, light, gas or telephone service which requires the payment on the part of the user of such service a deposit of money as a condition precedent to furnishing any such service, shall pay six per cent interest per annum on such deposit to the one making same, or to his heirs or assigns, from the time of such deposit, the same to be paid on the first day of January of each year, or sooner if such service be discontinued. When such service is discontinued, such deposit, together with any unpaid interest thereon, or such part of such deposit and unpaid interest not consumed in bills due for such service, shall be returned to such depositor, his heirs or legal representatives. Whoever violates any provision of this article shall be fined not less than twenty-five nor more than two hundred dollars, or be confined in jail not less than six months nor more than one year, or both. [Acts 2nd C. S. 1923, p. 101.]

Art. 1055. **Water, gas and electric meters.**—All water meters, gas meters and electric meters are subject at all times to inspection of the Commissioner of Agriculture and said Commissioner either on his own motion or complaint of any user of any of the above named meters, shall have same inspected as to its correctness, and if found incorrect to discontinue its use until corrected, so that it will register correctly and whoever refuses to discontinue such meter when so notified by said Commissioner that it is incorrect or when so ordered to discontinue such meter should fail or refuse to comply with such order of said Commissioner shall be fined not less than twenty-five nor more than one hundred dollars and each day he shall fail or refuse to comply with such order to discontinue same shall be a separate offense. [Acts 1923, p. 225.]

Art. 1056. [993] **Diverting from meters.**—Whoever, intentionally, by any means or device, prevents electric current, water or gas from passing through any meter belonging to a

person, corporation or company engaged in the manufacture or sale of electricity, water, or gas, for lighting, power or other purposes, furnished such person to register the current of electricity, water or gas, passing through meters, or intentionally prevents a meter from duly registering the quantity of electricity, water or gas supplied, or in any way, interferes with its proper action or just registration, or without the consent of such person, corporation or company, intentionally diverts any electric current from any wire, or water or gas from any pipe or pipes of such person, corporation or company, or otherwise intentionally uses, or causes to be used, without the consent of such person, corporation or company any electricity or gas manufactured, or water produced or distributed, by such person, corporation or company, or any person who retains possession of, or refuses to deliver, any meter, lamp, or other appliances which may be, or may have been loaned them by any person, corporation or company for the purpose of furnishing electricity, water, or gas, through the same, with the intent to defraud such person, corporation or company, shall for every such offense be fined not less than twenty-five nor more than one hundred dollars. The presence at any time, on or about any such meter, wire or pipe of any device or pipes or wires resulting in the diversion of electric current, water or gas, as above defined or resulting in the prevention of the proper action or just registration of the meter or meters, as above set forth, shall constitute prima facie evidence of knowledge on the part of the person having custody and control of the room or place where such device or pipe or wire is of the existence thereof and the effect thereof and shall further constitute prima facie evidence of intention on the part of such person to defraud and shall bring such person prima facie within the scope, meaning and penalties of this article. [Acts 1905, p. 205; Acts 3rd C. S. 1917, p. 107; Acts 1923, p. 224.]

Art. 1057. **Misreading meter.**—Any person engaged in the manufacture or sale of electricity, water, or gas for lighting, power or other purposes, or any officer or employe of any person, corporation or company so engaged who shall knowingly misread any meter or overcharge any customer for such light, water or gas furnished, or shall cause or knowingly permit any light, water or gas meter to register or show greater than the true amount of light, electricity, water or gas sold or furnished any customer shall, for every such offense, be fined not less than twenty-five nor more than one hundred dollars. [Acts 1923, p. 225.]

CHAPTER SIX.

OFFENSES AGAINST LABELS, TRADE MARKS, ETC.

Article	Article
Using trademark of another.....1058	Unlawfully using or displaying..1062
Possession prima facie evidence, etc.1059	Filling or not returning container..1063
Penalties1060	Injuring milk containers, etc....1064
Counterfeiting trade mark, etc...1061	Ownership of containers, etc.....1065
	Dairy trade mark.....1066

Art. 1058. [1392] **Using trade mark of another.**—Each

manufacturer or dealer in carbonated goods, mineral waters, soda water or other beverage, and each manufacturer of medicine or other compound, requiring the use of kegs, casks, barrels, boxes, syphons, bottles, or any other vessels for containers, upon which the names, brands, marks, or trade marks, or other designation of ownership or proprietorship, is stamped, engraved, etched, blown in, impressed, or otherwise produced upon such boxes, syphons, bottles, or any other vessels for containers, may file in the office of the county clerk of the county in which the principal place or office of business is situated, a fac simile or description of the name or names, marks or devices, so used by such manufacturer or dealer in such wares herein enumerated, and cause such description to be published in a public newspaper published in such county for three successive weeks. The act of so filing and publishing shall operate as a trade mark, securing to said manufacturer the full protection of the law as a trade mark, entitling said manufacturer to the sole and exclusive use in Texas of said mark, name or device. No person, corporate or otherwise, other than the proprietor, or by his written consent, shall fill for sale for the purpose of traffic with any compound whatever, any box, syphon, bottle or other container so marked, recorded and published as provided in this article, or deface, erase, obliterate, cover up or otherwise remove or cancel any such mark or device. [Acts 1893, p. 125; Acts 1901, p. 288.]

Art. 1059. [1393] **Possession prima facie evidence.** — To wilfully have in possession, otherwise than by contract with the proprietor of the goods above enumerated, or with his duly accredited agents, any vessel in said article 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 wilfully break, damage, or destroy any such vessel, is prima facie evidence of such unlawful use. [Acts 1893, p. 125.]

Art. 1060. [1394] [918c] **Penalties.** — Whoever violates any provision of the two preceding articles 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 each and every other receptacle, except a fountain, five dollars; and for each fountain, twenty-five dollars; said fines to be the minimum in each case, the maximum not to exceed double the minimum. [Acts 1893, p. 125.]

Art. 1061. [1395] [918d] **Counterfeiting trade mark, etc.** Whenever any person, association, private corporations or union of workmen, 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 be fined not less than twenty-five nor more than one hundred dollars, and each day's violation shall be a separate offense. [Acts 1895, p. 108.]

Art. 1062. [1396] [918e] Unlawfully using or displaying. Every person, whether in his individual capacity or as the officer, agent or receiver of a corporation, who shall wilfully 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 be fined not less than twenty-five nor more than one hundred dollars. [Id.]

Art. 1063. Filling or not returning container.—Whoever shall, other than the lawful owner, for any purpose whatever, fill with milk, cream, butter or ice cream any milk can, milk bottle, milk jar, butter box, ice cream can or ice cream tub or mutilate or destroy without the consent of the owner of the same, or wilfully refuse to return or deliver to such owner, upon demand, any such milk can, milk bottle, milk jar, butter box, ice cream can, or ice cream tub branded or stamped with the name or trade mark of such owner, or bearing any private mark in common use by such owner, or from which such brand or stamp or private mark, or marks have been removed, cut off or defaced, shall be fined not less than ten nor more than one hundred dollars. [Acts 4th C.S. 1918, p. 167.]

Art. 1064. Injuring milk containers, etc.—Whoever shall remove, cut off, deface or obliterate the stamp or brand or private mark of any owner of any milk bottle, milk jar, butter box, milk can, ice cream can or ice cream tub, or stamp or place other than brands or stamps or private mark on any such milk bottle, milk jar, milk can, butter box, ice cream can or ice cream tub, without the written permission of such owner, shall be fined not less than ten nor more than one hundred dollars. [Id.]

Art. 1065. Ownership of milk containers, etc.—Any person, firm or corporation, or joint stock association owning or using milk cans, milk bottles, milk jars, butter boxes, ice cream cans or ice cream tubs in his, her or their name or names, or private mark or marks in common use branded or stamped or placed on the same shall be considered the owner thereof. [Id.]

Art. 1066. Dairy trade mark.—Any person, firm or corporation engaged in the dairying business or in the distribution or

sale of milk requiring the use of bottles may file in the office of the county clerk of the county in which such person, firm or corporation expects to sell or distribute milk, a fac simile or description of the name, trade name, mark or design used by such person, firm or corporation for advertising purposes, and cause such fac simile or description to be published in a public newspaper published in such county for three successive weeks, and the act of filing and publication shall operate to secure to such dairyman, milk distributor or milk dealer, the exclusive right to use in said county said name, trade name, mark or design, and the same may be impressed upon the bottles of the owner of such name, mark or design, and such impression upon such a bottle is prima facie proof that the owner of such name, mark or design is the owner of such bottle, either as the original owner or transferee as provided by law. Whoever sells or offers for sale a bottle upon which such name, mark or design appears shall, unless he be the owner thereof, be fined not less than ten nor more than fifty dollars. Any dairyman, milk distributor or milk dealer who shall deliver or sell milk in a bottle bearing a name, mark or design recorded as herein provided without the consent of the owner of said name, mark or design, shall be fined not less than one nor more than fifty dollars. [Acts 1921, p. 161.]

CHAPTER SEVEN.

ASSUMED NAME.

Transacting business under assumed name.....	Article as- 1067	Corporations not included.....	Article 1069
Change of ownership.....	1068	Punishment.....	1070

Art. 1067. **Transacting business under assumed name.**—No person or persons shall carry on or conduct or transact business in this State under any assumed name or under any designation, name, style, corporate or otherwise, other than the real name or names of the individual or individuals conducting or transacting such business unless such person or persons shall file in the office of the county clerk of the county or counties in which such person or persons conduct, or transact or intend to conduct or transact such business, a certificate setting forth the name under which such business is or is to be conducted or transacted, and the true or real full name or names of the person or persons conducting or transacting the same, with the post-office address or the addresses of said person or persons. Said certificate shall be executed and duly acknowledged by the person or persons so conducting or intending to conduct said business in the manner now provided for acknowledgment of conveyance of real estate. [Acts 1921, p. 142.]

Art. 1068. **Change of ownership.**—Whenever there is a change in ownership of any business operated under any such assumed name as set out in the preceding article, the person or persons withdrawing from said business or disposing of their interest therein, shall file in the office of the county clerk of the county or counties in which such business is being conducted

and has a place or places of business, a certificate setting forth the fact of such withdrawal from or disposition of interest in such business, which certificate shall be executed and duly acknowledged by the person or persons so withdrawing from or selling their interest in said business in the manner now provided for acknowledgement of conveyance of real estate. [Id.]

Art. 1069. **Corporations not included.**—The preceding articles shall in no way apply to any corporation duly organized under the law of this State or to any corporation organized under the laws of any other State and lawfully doing business in this State. [Id.]

Art. 1070. **Punishment.**—Any person owning, carrying on, or transacting business as described in the preceding articles of this chapter who shall fail to comply with any provision of this Chapter shall be fined not less than twenty-five nor more than one hundred dollars. Each day of such violation shall be a separate offense. [Id.]

CHAPTER EIGHT.

BLUE SKY LAW OF TEXAS.

Article	Article
Definitions	1071
To file with Secretary of State	1072
Stock of solvent concerns	1073
Changing document	1074
Using mail, etc. without permit	1075
Merger	1076
Unlawful Merger	1077
	Unlawfully paying dividend 1078
	False entry 1079
	Advertising in paper 1080
	Sale of stock without permit 1081
	Exceptions 1082
	General penalty 1083

Art. 1071. **Definitions.**—The term “stock” as used in this chapter shall include the certificates of stock of every corporation, as well as the certificates or any other written instruments evidencing ownership or membership in any joint stock association, common law trust, or any other organization, association, or concern of whatsoever nature, which is organized, formed or created, or intended to be organized, formed or created, which may, or which is designed to own property of any character.

The terms “person,” “company,” or “concern” shall refer to and include any such concern, or individual, or person who may issue such stock, and whose such stock or certificate shall represent or evidence ownership or membership therein, which ownership or membership may be designed to be transferred, assigned or negotiated by the transfer, assignment or negotiation of such instrument. [Acts 2nd C. S. 1923, p. 114.]

Art. 1072. **To file with Secretary of State.**—Every concern which shall hereafter be formed or created, or which shall hereafter attempt to increase its capital stock, or commence the transaction of business in this State, shall, before offering for sale, directly or indirectly, through itself, its agents or employes, or through any character of person, or association, whether herein defined or not, holding company, sales company, or otherwise any stock as defined in the preceding article, and before transacting any business in this State, except the preparation of instruments hereinafter mentioned and other instruments relative to the organization and transaction of business thereof, file

in the office of the Secretary of State, together with a fee equal in amount to the filing fee of a private corporation having capital and surplus of like amount, the following: [This requirement as to fees shall not apply to corporations.]

1. An application for a permit to sell any of the securities mentioned herein, or any other securities offered, or to be offered for sale, and for the transaction of any and all other business in this State. Said application must show the name under which such business is to be conducted, its location and general purpose, the age, occupation and general qualifications of such trustees or managing officers, and also fully the business in which each has been engaged for the last five years immediately preceding the filing of such application.

2. A copy of its articles of association, partnership agreement, constitution, by-laws, or any other contract, agreement or other form of organization under which business is to be transacted, and all amendments thereto, showing the county or counties in which such instruments are filed, or to be filed for record; also showing the capital stock, par value of such stock, price at which same is to be sold, commission to be paid for the sale of same, amount of such stock, or other interest therein issued, or to be issued for promotion, compensation or other purposes.

3. Copies of stock certificates, bonds, debentures, or other securities offered, or to be offered for sale, or other disposition, together with copies of application blank for such securities. Such application must show the capital stock, the price at which same is to be sold, the commissions to be paid for the sale thereof, the amount of such stock or other interest therein issued, or to be issued for promotion, compensation, or other purposes.

4. A detailed statement showing the assets and liabilities of such issuer together with a profit and loss statement. .

Any person violating any provision of this article, shall be fined not less than one thousand nor more than ten thousand dollars, and in addition thereto be imprisoned in the penitentiary for not less than one nor more than five years. [Id.]

Art. 1073. **Stock of solvent concerns.**—Any concern which has been a solvent going concern for a period of two years next preceding the date of any application named in this law, may submit to the Secretary of State satisfactory evidence of such fact and of its present sound solvent condition; whereupon the Secretary of State shall consider the same and shall require such further evidence, and may make such independent investigation as he may deem proper, concerning such matter. If upon full consideration thereof he shall conclude that such concern has been a solvent going concern for a period of two years and is at present solvent, he shall enter such finding upon his record, whereupon the proposed issue and sale of such stock, debentures or other securities as in this chapter defined of such concern shall be exempted from the general requirements of this law. [Id.]

Art. 1074. **Changing document.**— Any original document

under which a permit has been granted shall not be changed or amended without permission to do so being granted by the Secretary of State. [Id.]

Art. 1075. Using mail, etc., without permit.—Any person, broker, agent, joint stock company, co-partnership or other company, individual or organization, domestic or foreign, sending advertising matter through the mails, by express, telegram or otherwise wholly within this State offering for sale or selling any of the securities enumerated in article 1071 without first having been issued a permit as provided by law shall be deemed guilty of having violated the provisions of this chapter. [Id.]

Art. 1076. Merger.—The merger, absorption or transfer of property of any company, association, joint stock company, co-partnership or other company, individual or organization by another coming under the provisions of article 1071 is declared to be unlawful, unless same is approved by the Secretary of State, after notice to all stockholders of the interested companies mailed thirty days in advance of said merger, and approved by the holders of a majority in amount of the outstanding and issued stock. [Id.]

Art. 1077. Unlawful Merger.—Whoever shall bring about or effect, or who shall assist in bringing about or in effecting, or who shall attempt to bring about or effect, any merger, absorption or transfer of property of any person or concern designated by this chapter in violation of the preceding article, shall be confined in the penitentiary for any term not exceeding ten years. [Id.]

Art. 1078. Unlawfully paying dividend.—Whoever shall in any manner participate in declaring, issuing, or paying any cash dividend, by, or for any such concern to any stockholder thereof out of any funds other than the actual earnings or from the lawful liquidation of such company, shall be confined in the penitentiary for any term not exceeding ten years. [Id.]

Art. 1079. False entry.—Whoever shall knowingly or willfully subscribe or make, or cause to be subscribed or made, any false entry in any book, record, instrument, document or paper required by this law to be filed with the Secretary of State, or for any concern embraced within the terms of this chapter, or shall exhibit any such false entry in or of any such book, record, instrument, document, or paper, with the intention of deceiving any person or official authorized to examine into the affairs of such concern, or who shall knowingly make or publish any false statement of the financial or other condition of such concern, shall be punished by confinement in the penitentiary for any term not exceeding ten years. [Id.]

Art. 1080. Advertisement.—If any owner, manager, or executive of any newspaper or other publication issued in this State shall knowingly advertise the sale of securities within this State not authorized to be sold within this State as required by this chapter, and which under this law can not be legally sold without a permit from the Secretary of State, he shall be fined not less than one hundred nor more than one thousand dollars, or be imprisoned in jail not less than ten days nor more than six

months, or both. Every issue of such publication in which such advertisement appears shall be deemed to evidence and constitute a separate offense. [Id.]

Art. 1081. **Sale of stock without permit.**—Any person who shall sell, or offer for sale, or in any manner be concerned with selling, or offering for sale, any stock of any concern embraced within the provisions of this chapter, for whose sale no permit as herein required has been issued, shall be confined in the penitentiary for any term not exceeding ten years. [Id.]

Art. 1082. **Exceptions.**—This chapter shall not apply to banking corporations or private banks, railroad or building and loan corporations, nor to the stock thereof, nor be construed to in any manner affect the existing laws of this State relating to the regulations of any corporation or concern, but in all respects shall be cumulative thereof. [Id.]

Art. 1083. **General penalty.**—Whoever violates any provision of this chapter not covered by a specific penalty herein shall be fined not less than one thousand nor more than ten thousand dollars, and in addition thereto may be imprisoned in the penitentiary not less than one nor more than five years, or both.

CHAPTER NINE.

AGRICULTURAL AND LIVESTOCK POOLS.

	Article		Article
May incorporate.....	1084	To file statement.....	1089
Definitions.....	1085	Pools may use security.....	1090
Loans and interest.....	1086	Term of loan.....	1091
Agents for borrowers.....	1087	Unlawfully disposing of receipt.....	1092
Officers to furnish bonds.....	1088	Penalty.....	1093

Art. 1084. **May incorporate.**—Any association of persons, which may include corporations duly chartered, State banks and trust companies, and national banks and trust companies, and cooperative associations composed of persons engaged in producing or producing and marketing staple agricultural products, or livestock, or both, may organize pools for the purpose of borrowing and lending money on agricultural products and livestock, or both, for agricultural purposes, or for the raising, breeding, fattening or marketing of livestock.

Any number of persons not less than three, may incorporate for the purpose of growing, storing, preparing for the market, and marketing agricultural products, or for the purpose of growing, raising, fattening for the market, and marketing livestock, or for both such purposes, and may use any of such livestock or farm products, or both, as security in financing such enterprises, and shall have all the privileges of a pooling organization in borrowing money to promote the business of such corporation. [Acts 2nd C. S. 1923, p. 82.]

Art. 1085. **Definitions.**—The term “pools” shall mean agricultural financing pools.

The term “agricultural products” shall mean any or all products of the farm, orchard and dairy usually classed as agricultural products other than livestock.

The term “livestock” shall mean any herd of cattle, sheep, goats or swine.

The term "margins" shall mean additional surety in money of legal tender of the United States. [Id.]

Art. 1086. **Loans and interest.**—The interest charged on all such loans shall not exceed by more than one and one-half per cent the rate of interest charged such pooling institutions by the farm loan banks, provided that no loans shall be made by any pooling organization to any person or association of persons, unless such person or association is engaged in producing or producing and marketing staple agricultural products, or live-stock, upon which such loan is made. All such commodities, articles or things classed herein as agricultural products shall be insured with some stock insurance company authorized to do business in this State. Such insurance shall be for not less than the full amount of the loan. At no time shall a greater amount than seventy-five per cent of the market value of such commodities, articles or things on date of loan be loaned thereon. [Id.]

Art. 1087. **Agents for borrowers.**—All such pools shall have the right to act as agents for all borrowers, in the sale of such commodities, articles or things on which loans have been made and the commissions charged for such service shall not exceed fifty cents per bale for cotton sold and shall in all cases on all other commodities, articles or things be reasonable. Where such pools operate bonded and licensed warehouses, it shall have authority to make a charge for storage, for drawing and handling of samples and for insurance in addition to other charges as provided for herein. [Id.]

Art. 1088. **Officers to furnish bonds.**—The officers of such pools shall be a president, vice-president, and a secretary and treasurer, provided that the office of secretary and treasurer may be held by one person, and a board of directors, all of which shall be members of such organization. The board of directors shall elect said president, vice-president, secretary and treasurer from the said board of directors. The secretary-treasurer and each officer in charge of the management shall be required to furnish to such pool a good and sufficient bond conditioned upon the faithful performance of duty. Such bonds shall be not less than five per cent of the total of the capital stock and surplus of said pool. The directors of any such pool shall not permit such persons to conduct the affairs of such pools when they have not so furnished bond. [Id.]

Art. 1089. **To file statement.**—All such pools shall on the first of January, April, July and October of each year file with the Commissioner of Markets and Warehouses a sworn statement of the condition of the affairs of such pool, and such statement shall be made to show the amount of business done, the number of negotiable receipts on which loans have been made and the value of such commodities, the total of all such loans and the total of all obligations of the pool and to whom due and the amount of interest being paid on same and the quantity or number of sales made for clients and the gross receipts of such sales and the amount of commissions charged thereon, and the

number and value of all live stock mortgages and other securities. [Id.]

Art. 1090. **Pools may use security.**—All such pools shall be authorized to use such security or collateral held by them as security for loans made to such pooling organizations, provided that when any loan due the pooling organization is satisfied, such organization shall deliver to the borrower a final receipt of settlement, and when any article, commodity or thing is sold the negotiable receipt shall be delivered to the maker thereof, and canceled in accordance with the provisions of the Warehouse Acts of this State. [Id.]

Art. 1091. **Term of loan.**—The maximum term of any loan on agricultural products shall not exceed twelve months and no loans on live stock shall be for any term exceeding three years. Loans may be renewed conditioned upon new and agreed valuations of the commodity, article or thing, or upon additional security, or both. [Id.]

Art. 1092. **Unlawfully disposing of receipt.**—No person shall dispose of any negotiable bonded warehouse receipt placed with any pooling organization as security on loan, or to be held by such pool pending the sale of any such commodity, article or thing represented by such receipt, except as provided for in this chapter. [Id.]

Art. 1093. **Penalty.**—Whoever violates any provision of this chapter shall be fined not less than twenty-five nor more than one thousand dollars, or be imprisoned in jail not more than one year, or be both so fined and imprisoned. [Id.]

CHAPTER TEN.

PROTECTING MOVEMENT OF COMMERCE.

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Art. 1094. **Interfering with workers.**—It shall be unlawful for anyone by or through the use of any physical violence or by threatening the use of any physical violence, or by intimidation or threatening destruction of his property to interfere with or molest or harass any person or persons engaged in the work of loading or unloading or transporting any commerce within this State. [Acts 4th C. S. 1920, p. 7.]

Art. 1095. **Conspiracy to intimidate.**—It shall be unlawful for any two or more persons to conspire together to prevent or attempt to prevent, by the use of physical violence or intimidation or by threats of physical violence or by abusive language spoken or written to any person engaged in loading or unloading or transporting any commerce within this State, any person from performing the duties of such employment. [Id.]

Art. 1096. **"Intimidation" construed.**—Every person who shall through any act or written communication or conversation with any person or persons engaged in loading, unloading or transporting any commerce by any common carrier in Texas, or

with the father, mother, wife, sister, brother, child or children of such person or persons while so engaged, or during the hours of day or night while not engaged in such work and when employed for such work, which is reasonably calculated, intended or designed to cause such person or persons so engaged to desist from performing such work through fear of physical violence or destruction of his property, shall be deemed to have intimidated, molested or harassed such person or persons engaged in the work of loading or unloading or transporting commerce within this State. [Id.]

Art. 1097. **Definitions.**—The term “person or persons engaged in the work of loading or unloading or transporting commerce in this State” as used in this chapter shall be construed as including any person or persons employed in any way in the docks, wharves, switches, railroad tracks, express companies, compresses, depots, freight depots, pipelines, or approaches or appurtenances to or incident to or used in connection with the handling of commerce by common carriers within this State. This article by naming certain occupations and work shall not be construed to exclude any other occupation or work not named, but reasonably incident to and necessary for the transportation of commerce in this State by common carriers. For the purposes of this chapter the words “common carrier” are defined to mean any railway corporation, any express company, any inter-urban railway company, any street car company, any ship, dock, wharf company, any pipe line company, engaged in the transportation of freight, express or passengers. The word “commerce” is defined to mean any freight, express or passengers being handled or transported by any common carrier as herein defined. [Id.]

Art. 1098. **Exceptions.**—The provisions of this chapter shall not apply to peace officers in the discharge of their lawful duties. [Id.]

Art. 1099. **Penalty.**—Any person violating any provision of this chapter shall be fined not less than one hundred nor more than one thousand dollars, or be imprisoned in jail not less than thirty days nor more than one year, or both. Should any person violating any provision of this chapter use any physical violence upon, or threaten the life of any person engaged in the work of loading or unloading, or transporting any commerce, as defined in this chapter, he shall be confined in the penitentiary not less than one nor more than five years. [Id.]

Art. 1100. **Procedure.**—Indictment for violation of any provision of this law may be returned by the grand jury of the county in which the violation occurs, or by the grand jury of any county adjoining the county in which the territory embraced in the Governor's proclamation is situated. Any person indicted may be prosecuted and tried in the county in which the indictment is returned, but no indictment shall be returned in any county except where the offense occurred, until after the Governor has issued his proclamation as provided for herein. Nothing in this law as to change of venue shall in any manner abridge the right of the defendant to apply for and secure a change of venue under the existing laws of this State, the same as if the

indictment had been returned in the county where the offense is alleged to have been committed.

When the provisions of this law have been violated, and the grand jury of the county in which the offense was committed have returned an indictment the district judge in whose court the indictment may be returned shall grant a change of venue upon motion made by the Attorney General representing this State, or at his direction, or by the local prosecuting attorney. The motion for a change of venue shall be sufficient if it sets out that the offense charged is prohibited by the provisions of this law, and that on account of local conditions, preferences, prejudices or influence, it is the opinion of the Attorney General that a fair and impartial trial can not be had in the county where the indictment is found. Upon the filing and presenting of such motion it will be the duty of the district judge in whose court such case may be pending to immediately issue a proper order changing the venue of such case to such other county as the court may select not subject in the opinion of the Attorney General to like conditions and objections. [Id.]

CHAPTER ELEVEN.

GASOLINE AND PETROLEUM PRODUCTS.

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Art. 1101. **Sale under another name.**—No person, firm or corporation, shall sell gasoline, benzine, naphtha, or other similar product of petroleum, capable of being used for illuminating, heating or power purposes, under any other than the true name of said products; and such petroleum products shall be subject to inspection by the proper authorities. [Acts 1919, p. 213.]

Art. 1102. **Shall mark containers.**—No person, firm, association of persons, corporation or carrier selling or transporting for hire any gasoline, benzine, naphtha or other highly inflammable substance made from petroleum, shall fail to plainly mark the packages containing the same in accordance with the regulations of the Interstate Commerce Commission, unless such regulations should conflict with the provisions of this chapter. [Id.]

Art. 1103. **To give name of manufacturer.**—No person, firm, association of persons, corporation or carrier selling or transporting for hire any gasoline, benzine, naphtha or other similar product of petroleum, shall fail to truly label in large letters showing the name of the manufacturer and the place of manufacture of the products, any tank car, barrel, cask, tank wagon, receptacle or reservoir in which any petroleum product shall be shipped or stored within this State, or from which sales or delivery of the same are to be made. [Id.]

Art. 1104. **Must not flash.**—No person, firm, association of persons or corporation shall sell any product of petroleum to be used for illuminating purposes unless such petroleum product

is such that it will not flash at a temperature less than 110 degrees Fahrenheit. [Id.]

Art. 1105. Sale of inferior product.—No person, firm, association of persons or corporation, shall sell as gasoline any substance, liquid or product or petroleum which falls below the standard and definition of gasoline as provided in this chapter. [Id.]

Art. 1106. "Gasoline".—For the purpose of this chapter the word GASOLINE whether used alone or in connection with other words shall apply only to the petroleum products complying with the following minimum requirements:

- (a) Boiling point must not be higher than "60 degrees" C, ("140 degrees" F.)
- (b) Twenty per cent of the sample must distill below "105 degrees" C., ("221 degrees" F.)
- (c) Forty-five per cent must distill below "135 degrees" C., ("275 degrees" F.)
- (d) Ninety per cent must distill below "180 degrees" C., ("256 degrees" F.)
- (e) The end or dry point of distillation must not be higher than "220 degrees" C., ("428 Degrees" F.)
- (f) Not less than ninety-five per cent of the liquid will be recovered from the distillation.
- (g) Gasoline to be high grade, refined and free from water and all impurities, and shall have a vapor tension not greater than 10 pounds per square inch at 100 degrees Fahrenheit temperature. [Id.]

Art. 1107. Tests of petroleum products.—The apparatus and methods of conducting all tests and arriving at proper standards of gasoline and other products under this Act shall be those now or hereafter authorized and used by the U. S. Bureau of Mines. [Id.]

Art. 1108. Using incorrect measure.—No person, firm, association of persons, corporation or carrier, shall use any scales, measure or measuring device in the handling or sale of petroleum products unless the same is true and accurate according to the standard of weights and measures under the laws of this State nor use any pumping device unless the same is correct according to such standard at three speeds, fast, slow and medium. [Id.]

Art. 1109. Breaking seal on incorrect measure.—The inspector shall seal and forbid the use of any inaccurate measuring device until such time as the defect is corrected. The breaking of said official seal shall be prima facie evidence of a violation of this law and no person, firm, association of persons, corporation or carrier shall refuse to permit the inspector provided for by law to inspect and seal, if deemed necessary, any such measuring device, or to break the seal after being placed by such inspector. [Id.]

Art. 1110. Hindering inspector.—The Director of Food and Drug Division of the State Board of Health, his inspectors, or any person by him duly appointed for that purpose shall have in the performance of their duties under this law the power to in-

ceal 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 with which such container is apparently filled, shall be fined not exceeding five hundred dollars. [Acts 1858, p. 170.]

Art. 1116. [1452] [971] **Restricting work of foreign crew.**—Any officer, sailor, or member of the crew of a foreign sea-going vessel who shall engage in working on the wharves or levees of ports in this State beyond the end of the vessel's tackle shall be fined not less than ten nor more than one hundred dollars or be imprisoned in jail not less than ten nor more than thirty days, or both. [Acts 1885, p. 52.]

Art. 1117. [967] [570] [472] **Fraudulent insurance.**—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 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 fined not exceeding the amount for which such merchandise or commodity may be insured.

Art. 1118. [1000] [580] [479] **False certificate by notary public.**—If any notary public shall make any false certificate as to the proof or acknowledgement 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 of acknowledgement 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 confined in the penitentiary not less than two nor more than five years.

Art. 1119. [1001] [581] [480] **False declaration or protest.**—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 he is authorized by law to make such declaration or protest, he shall be confined in the penitentiary not less than two nor more than five years.

Art. 1120. [1002] [582] [481] **Acts of notary included.**—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 commerce or navigation are included in the two preceding articles.

Art. 1121. [1003] [583] [482] **False declaration by master of vessel.**—If the 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 confined in the penitentiary not less than two nor more than five years.

Art. 1122. [1004-1005] [584] **Unlawfully throwing ballast.**—If any part of the ballast of any vessel shall be thrown from such vessel into the sea within six miles of any bar or harbor in this State, the master or officer in charge thereof at the time shall be fined not less than one hundred nor more than two hundred dollars. [Acts 1879, p. 153.]

Art. 1123. [1006] [586] [483] **False entry in book of accounts.**—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 confined in the penitentiary not less than two nor more than five years.

Art. 1124. **Stevedore unlawfully pursuing occupation.**—Any contracting stevedore, as that term is defined by the laws of this State, who shall engage in business as such without first obtaining the license and executing the bond required by the statutes of this State, shall be fined not less than one hundred nor more than five hundred dollars for each day he shall pursue such occupation or business without thus qualifying, and any member of a firm or association or any manager of a corporation who comes within the meaning of a contracting stevedore who shall thus offend is amenable to prosecution.

Art. 1125. [1007] **Commission merchant.**—Whoever shall pursue the business of selling produce or goods, wares or merchandise of any kind upon consignment for commission, without first making and filing the bond required by the laws regulating commission merchants, shall be fined not less than one hundred nor more than five hundred dollars. [Acts 1913, p. 179.]

Art. 1126. [641] [414] [386] **Pawnbroker.**—If any pawnbroker, or person doing business as such, shall receive any article in pledge or sell any article pledged to him, without complying with the statutes regulating pawnbrokers, he shall be fined not less than twenty-five nor more than one hundred dollars.

Art. 1127. **“Loan broker” defined.**—A “loan broker” is a person, firm or corporation who pursues the business of lending money upon interest and taking as security for the payment of such loan and interest an assignment of wages, or an assignment of wages with power of attorney to collect the same, or other order for unpaid chattel mortgage or bill of sale upon household or kitchen furniture. [Acts 1915, p. 48.]

Art. 1128. **Defaulting loan broker.**—Held unconstitutional. [Id.]

Art. 1129. **Loan broker violating law.**—If any loan broker, or person doing business as such shall make any loan upon chattel mortgages or bill of sale upon household or kitchen furniture, or shall make any loan taking as security for the payment thereof an assignment of wages or an assignment of wages with power of attorney to collect the same, whether the same be called a loan or purchase, without complying with the laws regulating loan brokers in this State, he shall be fined not less than fifty nor more than two hundred and fifty dollars for each day such business is so unlawfully conducted. [Id.]

Art. 1130. **Patent right notes and liens.**—All notes and liens given for a patent right consideration or patent right territory shall state on their face that the same were given for a patent right and if anyone selling a patent or patent right territory shall take a note or lien for the purchase price of the same,

contrary to the provisions of this law, he shall be fined not less than twenty-five nor more than two hundred dollars. [Id. p. 128.]

Art. 1131. [1504-1505-1506] Bond investment company.— Any officer, agent, or representative of any domestic or foreign corporation or company doing business in this State as a bond investment company or company to place or sell bonds, certificates or debentures on the partial payment or installment plan, who shall attempt to place or sell shares or transact any business in the name of or on behalf of such company while it fails to comply with the laws of this State requiring deposits to be made with the State Treasurer, shall be fined not less than one hundred nor more than one thousand dollars, or be imprisoned in jail not less than thirty days nor more than six months, or both. [Acts 1897, p. 118.]

Art. 1132. Unlawfully acting as accountant.— If any person represents himself to the public as having received a certificate as a Certified Public Accountant issued as provided for by the law of this State, or advertises as a "Certified Public Accountant," or uses the initials "C. P. A.," or otherwise falsely holds himself out as being qualified under said law, while practicing in this State, without having actually received such certificate; or it has been recalled or revoked, and he shall continue to use the initials "C. P. A.," or shall refuse to surrender such certificate after revocation thereof; or shall otherwise violate any provision of the law governing Certified Public Accountants of this State, he shall be fined not to exceed two hundred dollars. No audit company, incorporated or unincorporated, shall use the title "Certified Public Accountants" or the initials "C. P. A.," and no firm or partnership shall use such title or initials unless each member of said firm or partnership is a legal holder of a certificate issued under the laws of this State. Whoever violates any of these provisions shall be fined not to exceed two hundred dollars. The use by any person, firm or corporation of the abbreviated title "Certified Accountant," or of the initials "C. A.," shall be a violation of this law and shall subject each person so using it to such fine. [Acts 1915, p. 188.]

Art. 1133. Accountant falsifying report.— If any person practicing in this State as a Certified Public Accountant under the laws of this State shall wilfully falsify any report or statement bearing upon any examination, investigation or report made by him or under his direction as such, he shall be fined not less than one hundred nor more than one thousand dollars. [Id.]

Art. 1134. Violating building and loan association law.— Every officer, director, member of any committee, clerk or agent of any building and loan association doing business in this State, who embezzles, abstracts or misapplies any of the moneys, funds or credits of such corporation; or who issues or puts into circulation any warrant or other order; or who assigns, transfers, cancels or delivers up any note, bond, draft, mortgage, judgment, decree, or any other written instrument belonging to such association; or who certifies to or makes a false entry in any

book, report or statement of or to such association, with intent in either case to deceive, injure or defraud such association, or any member thereof, or to deceive any one appointed to examine the affairs of such association, shall be confined in the penitentiary not less than one nor more than ten years. [Acts 1st C. S. 1913, p. 72.]

Art. 1135. Failure to make reports.—Any officer of any building and loan association whose duty it is to make the reports required by law of such association, who shall fail to make such reports as required by the law regulating such associations, shall be fined not less than twenty-five nor more than two hundred dollars, or be imprisoned in jail not less than one nor more than six months. [Id.]

Art. 1136. Acting for unauthorized association.—Whoever acts as agent for any building and loan association not authorized to do business in this State, or shall solicit sales of, sell or dispose of any shares of such unauthorized association, or shall in any manner aid in the transaction of the business of such unauthorized association, shall be fined not less than fifty nor more than five hundred dollars. [Id.]

Art. 1137. Dealing in acceptances.—Any officer, director, employe, or agent of any corporation organized for the purpose of contracting with reference to, or otherwise dealing in acceptances, bills of exchange, bills of lading, warehouse and other receipts growing out, or to be used in aid, of the transportation, warehousing, distribution, or financing of agricultural products, who shall enter into, or cause such corporation to enter into, any contract of acceptance, guaranty, indorsement, or suretyship, without complying with the laws of this State regulating such contracts, shall be fined not less than two hundred nor more than one thousand dollars, or be imprisoned in jail not less than three months nor more than one year, or both. [Acts 2nd C. S. 1919, p. 21.]

TITLE 15

OFFENSES AGAINST THE PERSON.

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CHAPTER ONE.

ASSAULT AND ASSAULT AND BATTERY.

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Art. 1138. [1008] [587] [484] **"Assault and battery".**—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.

Art. 1139. [1009] [588] [485] **Intent presumed, and "injury".**—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.

Art. 1140. [1010-11-12] **How it may be committed.**—An assault or an 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; or by any means used, as by spitting in the face or otherwise, which is capable of inflicting an injury; and may be committed though the person actually injured thereby was not the person intended to be injured.

Art. 1141. [1013] [592] [489] **"Coupled with ability to commit".**—By the terms "coupled with an ability to commit," as used in article 1138 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 as-

sailed 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 cannot 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. [Amended in revising in 1879.]

Art. 1142. [1014-15] **Lawful violence.**—Violence used to the person does not amount to an assault or battery in the following cases:

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. To preserve order in a meeting for religious, political or other lawful purposes.

3. To preserve 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.

7. Where violence is permitted to effect a lawful purpose, only that degree of force must be used which is necessary to effect such purpose.

Art. 1143. [1016] [595] [492] **Verbal provocation.**—No verbal provocation justifies an assault and battery, but insulting and abusive words may be given in mitigation of the punishment affixed to the offense.

Art. 1144. [1017] [596] [493] **“Battery”.**—The word “battery” is used in this Code in the same sense as “assault and battery.”

Art. 1145. [1019] [598] [495] **Punishment.**—The punishment for a simple assault or for assault and battery shall be a fine not less than five nor more than twenty-five dollars.

Art. 1146. [1021] [600] [495b] **Intimidation.**—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 fined not less than twenty-five nor more than five hundred dollars, or be confined not less than one nor more than six months in jail. [Acts 1887, p. 13.]

CHAPTER TWO.

AGGRAVATED ASSAULTS AND OTHER OFFENSES.

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Art. 1147. [1022] [601] **Definition.**—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.

Art. 1148. [1024] [603] **Punishment.**—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 jail not less than one month nor more than two years, or both such fine and imprisonment.

Art. 1149. **Assault with motor vehicle.**—If any driver or operator of a motor vehicle or motorcycle upon the public highways of this State shall wilfully, or with negligence, as is defined in this title in the chapter on negligent homicide, collide with or cause injury less than death to any other person upon such highway, he shall be held guilty of aggravated assault and shall be punished accordingly unless such injuries result in death, in which event he shall be dealt with under the general law of homicide. [Acts 1917, p. 484.]

Art. 1150. **Failure to stop and render aid.**—Whenever an automobile, motorcycle or other motor vehicle whatsoever, regardless of the power by which the same may be propelled, or drawn, strikes any person or collides with any vehicle containing a person, the driver of, and all persons in control of such automobile, motor vehicle or other vehicle shall stop and shall render to the person struck or to the occupants of the vehicle

collided with all necessary assistance including the carrying of such person or occupants to a physician or surgeon for medical or surgical treatment, if such treatment be required, or if such carrying is requested by the person struck or any occupant of the vehicle collided with; and such driver and person having or assuming authority of such driver shall further give to the occupant of such vehicle or person struck, if requested at the time of such striking or collision or immediately thereafter, the number of such automobile, motorcycle or motor vehicle, also the name of the owner thereof and his address, the names of the passenger or passengers not exceeding five in each automobile or other vehicle, together with the address of each one thereof. Any person violating any provision of this article is punishable by imprisonment in the penitentiary not to exceed five years or in jail not exceeding one year or by fine not exceeding five thousand dollars, or by both such fine and imprisonment. [Id.]

Art. 1151. **Assault with a prohibited weapon.**—If any person shall wilfully commit an assault or an assault and battery upon another with a pistol, dirk, dagger, slung shot, sword cane, spear or knuckles made of any metal or made of any hard substance, bowie knife, or any knife manufactured or sold for the purpose of offense or defense, while the same is being carried unlawfully by the person committing said assault, he shall be deemed guilty of an assault with a prohibited weapon and upon conviction shall be punished by a fine not to exceed two hundred dollars or by imprisonment in jail not to exceed two years, or by confinement in the penitentiary for not more than five years. [Acts 1913, p. 237.]

CHAPTER THREE.

HAZING AND OTHER VIOLENCE.

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Art. 1152. **"Hazing" defined.**—No student of the University of Texas, of the A. & M. College of Texas, of any normal school of Texas, or of any other State educational institution of this State, shall engage in what is commonly known and recognized as hazing, or encourage, aid or assist any other person thus offending.

"Hazing" is defined as follows:—

1. Any wilful act by one student alone or acting with others, directed against any other student of such educational institution, done for the purpose of submitting such student made the subject of the attack committed, to indignity or humiliation, without his consent.
2. Any wilful act of any one student alone, or acting with others, directed against any other student of such educational institution, done for the purpose of intimidating such student: attacked by threatening such student with social or other ostracism, or of submitting such student to ignominy, shame, or dis-

grace among his fellow students, and acts calculated to produce such results.

3. Any wilful act of any one student alone, or acting with others, directed against any other student of such educational institution, done for the purpose of humbling, or that is reasonably calculated to humble the pride, stifle the ambition, or blight the courage of such student attacked, or to discourage any such student from longer remaining in such educational institution or to reasonably cause him to leave such institution rather than submit to such acts.

4. Any wilful act by any one student alone, or acting with others, in striking, beating, bruising or maiming; or seriously offering, threatening, or attempting to strike, beat, bruise, or maim, or to do or seriously offer, threaten, or attempt to do physical violence to any student of any such educational institution or any assault upon any such students made for the purpose of committing any of the acts, or producing any of the results to such student as defined in the preceding subdivisions of this article. [Sec. 1, Act April 3, 1913, Acts 1913, p. 239.]

Art. 1153. **Teacher, etc., assisting in hazing.**—No teacher, instructor, member of any faculty, or any officer or director, or a member of any governing board of any of such educational institutions shall knowingly permit, encourage, aid or assist any student in committing the offense of hazing, or wilfully acquiesce in the commission of such offense, or fail to promptly report his knowledge or any reasonable information within his knowledge of the presence and practice of hazing in the institution in which he may be serving to the executive head or governing board of such institution. Any act of omission or commission shall be deemed "hazing" under the provisions of this chapter. [Sec. 2, Id.]

Art. 1154. **Student punished.**—Any student of any of the said State educational institutions of this State who shall commit the offense of hazing shall be fined not less than twenty-five nor more than two hundred and fifty dollars or shall be confined in jail not less than ten days nor more than three months, or both. [Sec. 3, Id.]

Art. 1155. **Teacher, etc., punished.**—Any teacher, instructor, or member of any faculty, or officer or director of any such educational institution who shall commit the offense of hazing shall be fined not less than fifty or not more than five hundred dollars, or shall be imprisoned in jail not less than thirty days or not more than six months, or both, and in addition thereto shall be immediately discharged and removed from his then position or office in such institution, and shall thereafter be ineligible to reinstatement or re-employment as teacher, instructor, member of faculty, officer, or director in any such State educational institution for a period of three years. [Sec. 4, Id.]

Art. 1156. **Construction of Statute.**—Nothing herein shall be construed as in any manner affecting or repealing any law of this State respecting homicide, or murder, manslaughter, assault with intent to murder, or aggravated assault. [Sec. 5, Id.]

Art. 1157. **Violence to induce confession.**—Any sheriff, deputy sheriff, constable, deputy constable, Texas ranger, city marshal, chief of police, policeman, or any other officer having under arrest or in his custody any person as a prisoner who shall torture, torment or punish such person by inflicting upon him any physical or mental pain for the purpose of making or attempting to make such person confess to any knowledge of the commission of any offense against the laws of this State, shall be fined not less than one dollar nor more than one thousand dollars or be imprisoned in jail not to exceed one year, or both such fine and imprisonment, and in addition thereto the jury may state in its verdict that the defendant should never thereafter be allowed to hold any office of profit or trust under the laws of this State, or any subdivision thereof, nor any city or town thereof. Should the jury so state in its verdict, the court trying said case shall render judgment in accordance with said verdict and thereafter the defendant shall forever be barred from holding any such office. [Acts 1923, p. 269.]

Art. 1158. **Whipping inmate of Training School.**—Corporal punishment in any form shall not be inflicted upon any inmate of the State Training School except as a last resort to maintain discipline, and then only in the presence of the superintendent and a resident nurse. At no time shall any inmate be struck more than twenty times, and that only with such instrument and in such manner as will inflict reasonable and moderate punishment, considering the age, size and strength of the culprit and the strength of the person administering such punishment. At no time shall any weapon or instrument of torture be used, or any instrument which by its make, coupled with the manner of its use would be calculated to inflict bodily injury. Anyone violating any provision of this article shall be fined not less than \$25.00 nor more than \$100.00 or confined not less than thirty nor more than ninety days in jail, or both. [Acts 1st C. S. 1913, p. 11.]

CHAPTER FOUR.

ASSAULTS WITH INTENT TO COMMIT SOME OTHER OFFENSES.

	Article		Article
Assault to maim, disfigure or castrate	1159	Assault with intent to rape	1162
Assault with intent to murder	1160	Assault with intent to rob	1163
"Bowie knife" and "dagger"	1161	Assault in attempting burglary	1164
		Test of assault to commit offense	1165

Art. 1159. [1025] [604] [499] **Assault to maim, disfigure or castrate.**—If any person shall assault another with intent to commit the offense of maiming, disfiguring, or castration, he shall be fined not exceeding one thousand dollars, or be imprisoned 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. [Acts 1871, p. 20.]

Art. 1160. [1026] [605] [500] **Assault with intent to murder.**—If any person shall assault another with intent to murder, he shall be confined in the penitentiary not less than two nor more than fifteen years; if the assault be made with a

bowie-knife or dagger, or in disguise, or by laying in wait, or by shooting into a private residence, the punishment shall be double. [O. C. 493, Acts 1871, p. 20, Acts 1903, p. 160.]

Art. 1161. [1027] [606] [501] **“Bowie-knife” and “dagger”**.—A “bowie-knife” or “dagger” as 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.

Art. 1162. [1029] [608] [503] **Assault with intent to rape**.—If any person shall assault a woman with intent to commit the offense of rape, he shall be confined in the penitentiary for any term of years not less than two. [O. C. 494, Acts 1895, p. 104.]

Art. 1163. [1030] [609] [504] **Assault with intent to rob**.—If any person shall assault another with the intent to commit the offense of robbery, he shall be confined in the penitentiary not less than two nor more than ten years. [Acts 1858, p. 171.]

Art. 1164. [1031] [610] [506] **Assault in attempting burglary**.—If any person in attempting to commit burglary shall assault another, he shall be confined in the penitentiary not less than two nor more than five years. [Acts 1858, p. 171.]

Art. 1165. [1023-1032] [611] [506] **Test of assault to commit offense**.—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.

CHAPTER FIVE.

MAIMING DISFIGURING AND CASTRATION.

Maiming	Article 1166	Castration	Article 1168
Disfiguration	1167		

Art. 1166, [1033-4] **Maiming**.—Whoever shall wilfully and maliciously cut off or otherwise deprive a person of the hand, arm, finger, toe, foot, leg, nose or ear, or put out an eye or in any way deprive a person of any other member of his body shall be confined in the penitentiary not less than two nor more than ten years.

Art. 1167. [1035-6] **Disfiguring**.—Whoever wilfully and maliciously places any mark by means of a knife or other instrument upon the face or other part of the person of another shall be confined in the penitentiary not less than two nor more than five years or be fined not exceeding two thousand dollars. [Acts 1858, p. 171.]

Art. 1168. [1037-8] **Castration**.—Whoever wilfully and maliciously deprives any person of either or both or any part of either or both of the testicles shall be confined in the penitentiary not less than five nor more than fifteen years.

CHAPTER SIX.

FALSE IMPRISONMENT.

	Article		Article
"False imprisonment".....	1169	Punishment	1174
Assault and violence necessary..	1170	Detaining after discharge on ha-	
What impediment necessary.....	1171	beas corpus.....	1175
Character of threat necessary....	1172	Refusal to allow consultation with	
Lawful detention.....	1173	counsel	1176

Art. 1169. [1039] [618] **"False imprisonment"**—False imprisonment is the wilful 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.

Art. 1170. [1040] [619] **Assault or violence necessary.**—The assault or violence may be such as is spoken of in defining an assault and battery.

Art. 1171. [1041] [620] **What impediment necessary.**—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.

Art. 1172. [1042] [621] **Character of threat necessary.**—The threat must be such as is calculated to operate upon the person threatened and inspire a just fear of some injury to his or another's person, reputation or property and the age, sex, condition, disposition or health of the one threatened is to be considered in determining whether the threat was sufficient to intimidate and prevent such person from moving beyond the bounds in which he was detained.

Art. 1173. [1043] [622] **Lawful detention.**—It is no offense to detain one for the objects mentioned in article 1142 as justifying the use of force, but when it is claimed as a justification that such circumstances existed it must be shown also that the detention was necessary to effect any such object.

Art. 1174. [1044] [623] **Penalty.**—Any person guilty of false imprisonment shall be fined not exceeding five hundred dollars or be confined in jail not exceeding one year.

Art. 1175. [1045] [624] **Detention after discharge on habeas corpus.**—If any officer or any 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 be fined not exceeding one thousand dollars or be confined in jail not exceeding two years.

Art. 1176. [1046] [625] **Refusal to allow consultation with counsel.**—if any officer or any person having the custody of a prisoner shall wilfully 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 confined in jail not less than sixty days nor more than six months and be fined not exceeding one thousand dollars.

CHAPTER SEVEN.

KIDNAPPING AND ABDUCTION.

	Article		Article
"Kidnapping"	1177	Of female under fourteen	1180
If one kidnapped be actually re-	1178	Abduction complete	1181
moved	1178	Punishment for abduction	1182
"Abduction"	1179		

Art. 1177. [1056] [626] [521] **Kidnapping.**—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 "kidnapping." If the person kidnapped be under fifteen years of age, it is not necessary that there should be force in order to constitute kidnapping. One guilty of kidnapping shall be confined in the penitentiary not less than two nor more than five years or be fined not exceeding two thousand dollars. [Acts 1858, p. 171.]

Art. 1178. [1058] [628] [523] **If one kidnapped be actually removed.**—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.

Art. 1179. [1059] [629] [524] **"Abduction".**—"Abduction is the false imprisonment of a woman with intent to force her into a marriage or for the purpose of prostitution.

Art. 1180. [1060] [630] [525] **Of female under fourteen.**—If a girl under the age of fourteen years 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 though a marriage afterward take place between the parties.

Art. 1181. [1061] [631] [526] **Abduction complete.**—Abduction is complete if the female is detained as long as twelve hours though she may afterwards be relieved from such detention without marriage or prostitution.

Art. 1182. [1062] [632] [527] **Punishment for abduction.**—One guilty of abduction shall be fined 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 EIGHT.

RAPE.

	Article		Article
"Rape"	1183	Proof of carnal knowledge	1187
"Force"	1184	Defendant must be over fourteen	1188
"Threats"	1185	Penalty	1189
"Fraud"	1186	Attempt to rape	1190

Art. 1183. [1063] [633] [528] **"Rape".**—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 the 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 eighteen years other than the wife of the person with or without her consent and with or without the use of force, threats or fraud; provided that if she is fifteen years of age or over the defendant may show in consent cases she was not of previous chaste character as a defense. [Acts 1891, p. 96, Acts 1895, p. 79, Act April 2, 1918, Acts 4th C. S. 1918, p. 123.]

Art. 1184. [1064] [634] [529] **“Force”**.—The definition of “force” as applicable to assault and battery applies also to 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.

Art. 1185. [1065] [635] [530] **“Threat”**.—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 other circumstances of the case.

Art. 1186. [1066] [636] [531] **“Fraud”**.—The fraud must consist in the use of some stratagem by which the woman is induced to believe the man 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 set out in this article.

Art. 1187. [1067] [637] [532] **Proof of carnal knowledge**.—Penetration only is necessary to be proved on a trial for rape.

Art. 1188. [1068] [638] [533] **Defendant must be over fourteen**.—One under the age of fourteen at the time the offense was committed can not be convicted of rape or assault with intent to rape.

Art. 1189. [1069] [639] [534] **Penalty**.—A person 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.

Art. 1190. [1070] [640] [536] **Attempt to rape**.—If it appear on the trial of an indictment for rape that the offense though not committed was attempted by the use of force, threats or fraud, but not such as to bring it within the definition of an assault with intent to commit rape, the jury may find the defendant guilty of an attempt to rape and assess his punishment at confinement in the penitentiary for any term of years not less than two.

CHAPTER NINE.

ABORTION.

	Article		Article
Abortion	1191	Murder in producing abortion	1194
Furnishing the means	1192	Destroying unborn child	1195
Attempt at abortion	1193	By medical advice	1196

Art. 1191. [1071] [641] [536] **Abortion**.—If any person

shall designedly administer to a pregnant woman or knowingly procure to be administered with her consent any drug or medicine, or shall use towards her any violence or means whatever externally or internally applied, and thereby procure an abortion, he shall be confined in the penitentiary not less than two nor more than five years; if it be done without her consent, the punishment shall be doubled. By "abortion" is meant that the life of the fetus or embryo shall be destroyed in the woman's womb or that a premature birth thereof be caused. [Acts 1907, p. 55.]

Art. 1192. [1072] [642] [537] **Furnishing the means.**—Whoever furnishes the means for procuring an abortion knowing the purpose intended is guilty as an accomplice.

Art. 1193. [1073] [643] [538] **Attempt at abortion.**—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 fined not less than one hundred nor more than one thousand dollars.

Art. 1194. [1074] [644] [539] **Murder in producing abortion.**—If the death of the mother is occasioned by an abortion so produced or by an attempt to effect the same it is murder.

Art. 1195. [1075] [645] [540] **Destroying unborn child.**—Whoever 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, shall be confined in the penitentiary for life or for not less than five years.

Art. 1196. [1076] [646] [541] **By medical advice.**—Nothing in this chapter applies to an abortion procured or attempted by medical advice for the purpose of saving the life of the mother.

CHAPTER TEN.

ADMINISTERING POISONOUS AND INJURIOUS POTIONS.

	Article		Article
Poisoning food, well, etc.....	1197	}	Death within a year, murder.....
Administering injurious substances	1198		Malpractice punishable.....
			1200

Art. 1197. [1077] [647] [542] **Poisoning food, well, etc.**—Whoever shall mingle or cause to be mingled any noxious potion or substance with any drink, food or medicine, with intent to kill or to injure any other person, or shall wilfully poison or cause to be poisoned any spring, well, cistern or reservoir of water with such intent, shall be confined in the penitentiary not less than two or more than ten years.

Art. 1198. [1078] [648] [543] **Administering injurious substances.**—Whoever with intent to injure shall cause another person to inhale or swallow any substance injurious to health or any function of the body, or administer such substance with intent to kill, shall be confined in the penitentiary not less than two nor more than five years. [Acts 1858, p. 172.]

Art. 1199. [1079] [649] [544] **Death within a year, murder.**—If by reason of the commission of any offense named in

the two preceding articles the death of a person be caused within one year, the offender shall be deemed guilty of murder. [O. C. 539.]

Art. 1200. [1080] [650] [545] **Malpractice punishable.**—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. [O. C. 540.]

CHAPTER ELEVEN.

HOMICIDE.

	Article		Article
"Homicide"	1201	Body of deceased must be found	1204
Destruction of life must be complete	1202	Person killed must be in existence	1205
Foregoing article refers to acts of others	1203	Homicide produced by words, etc.	1206

Art. 1201. [1081] [651] [546] **"Homicide".**—"Homicide" is the destruction of the life of one human being by the act, agency, procurement, or culpable omission of another. [O. C. 541.]

Art. 1202. [1082] [652] [547] **Destruction of life must be complete.**—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. [O. C. 542.]

Art. 1203. [1083] [653] [548] **Foregoing article refers to acts of others.**—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 or any attendant. If the person inflicting the injury which makes it necessary to call aid in preserving the life of the person injured shall wilfully 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. [O. C. 543.]

Art. 1204. [1084] [654] [549] **Body of deceased must be found.**—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. [O. C. 544, Acts 1887, p. 14.]

Art. 1205. [1085] [655] [550] **Person killed must be in existence.**—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. [O. C. 445.]

Art. 1206. [1086] [656] [551] **Homicide produced by words, etc.**—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. [O. C. 546.]

CHAPTER TWELVE.

JUSTIFIABLE HOMICIDE.

Article	Article		
When justifiable.....	1207	Persons aiding escape.....	1217
Killing a public enemy.....	1208	Federal officers included.....	1218
Execution of a convict.....	1209	In suppressing riots.....	1219
By officer in execution of lawful		Adultery as justification.....	1220
order.....	1210	In defense of person or property.....	1221
Even though order is erroneous.....	1211	In preventing felonies.....	1222
Qualification of foregoing.....	1212	Presumption from weapon of de-	
Order may be written or verbal.....	1213	ceased.....	1223
Written order.....	1214	Defense against milder attack.....	1224
Verbal order justifies only in		Retreat not necessary.....	1225
felony.....	1215	Requisites of the attack.....	1226
Persons aiding officer justified.....	1216	Defense of property.....	1227

Art. 1207. [1087] [657] [552] **When justifiable.**—Homicide is justifiable in the cases enumerated in the succeeding articles of this chapter.

Art. 1208. [1088-89] **Killing a public enemy.**—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. Homicide of a public enemy by poison or by the use of poisoned weapons is not justifiable. Homicide of a public enemy who is a deserter or prisoner of war or the bearer of a flag of truce is not justifiable.

Art. 1209. [1091] [661] [556] **Execution of a convict.**—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.

Art. 1210. [1092] [662] [557] **By officer in execution of lawful order.**—Homicide by an officer in the execution of lawful orders of magistrates and courts is justifiable when he is violently resisted and has just grounds to fear danger to his own life in executing the order.

Art. 1211. [1093] [663] [558] **Even though order is erroneous.**—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.

Art. 1212. [1094] [664] [559] **Qualification of the foregoing.**—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 person having legal custody of him, if his escape can in no other manner be prevented.

Art. 1213. [1095] [665] [560] **Order may be written or verbal.**—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.

Art. 1214. [1096] [666] [561] **“Written order”.**—Under written orders are included all process in a criminal or civil action which directs the seizure of the person or of property.

Art. 1215. [1097] [667] [562] **Verbal order justifies only in felony.**—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.

Art. 1216. [1098] [668] [563] **Persons aiding officer justified.**—Persons called in aid of an officer, in the performance of a duty, are justified in the same manner as the officer himself.

Art. 1217. [1099] [699] [564] **Persons aiding escape.**—All person 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.

Art. 1218. [1100] [670] [565] **Federal officers included.**—Officers acting under the authority of the laws or courts of the United States have the same rights and are liable to the rules prescribed in this chapter.

Art. 1219. [1101] [671] [566] **In suppressing riots.**—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.

Art. 1220. [1102] [672] [567] **Adultery as justification.**—Homicide is justifiable when committed by the husband upon one taken in the act of adultery with the wife, provided the killing take place before the parties to the act have separated. Such circumstance cannot justify a homicide where it appears that there has been, on the part of the husband, any connivance in or assent to the adulterous connection.

Art. 1221. [1104] [674] [569] **In defense of person or property.**—Homicide is permitted in the necessary defense of person or property, under the circumstances and subject to the rules herein set forth.

Art. 1222. [1105] [675] [570] **In preventing felonies, etc.**—Homicide is justifiable when inflicted for the purpose of preventing 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 another in his behalf, when the killing takes place under the following circumstances:

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 herein-after 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 is justifiable if done while the robber is in the presence of the one robbed or is flying with the property 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.

Art.. 1223. [1106] [676] [571] **Presumption from weapon of deceased.**—When the homicide takes place to prevent murder, maiming, disfiguring or castration, if the weapon 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.

Art. 1224. [1107] [677] [572] **Defense against milder attack.**—Homicide is justifiable also in the protection of the person or property against any other unlawful and violent attack besides those mentioned, 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 justified in killing the aggressor unless the life or person of the injured party is in peril by reason of such attack upon his property.

Art. 1225. [1108] [678] [573] **Retreat not necessary.**—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.

Art. 1226. [1109] [679] [574] **Requisites of the attack.**—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.

Art. 1227. [1110] [680] [575] **Defense of property.**—When under article 1224 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 THIRTEEN.

EXCUSABLE HOMICIDE.

Art. 1228. [1111] [681] [576] **“Excusable homicide.”**—

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.

Art. 1229. [1112] [682] [577] **Must be done by lawful means.**—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.

CHAPTER FOURTEEN.

HOMICIDE BY NEGLIGENCE.

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In first degree.....	1231	Previous rules apply to second de-	
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Art. 1230. [1113] [683] [578] **Two kinds.**—Homicide by negligence is 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.

1. IN THE PERFORMANCE OF A LAWFUL ACT.

Art. 1231. [1114-5] **In first degree.**—Whoever in the performance of a lawful act shall by negligence and carelessness cause the death of another is guilty of negligent homicide of the first degree. A lawful act is one not forbidden by the penal law and which would give no just occasion for a civil action.

Art. 1232. [1116] [686] [581] **Must be apparent danger of causing death.**—To constitute this offense there must be an apparent danger of causing the death of the person killed or some other.

Art. 1233. [1117] [687] [582] **How distinguished from excusable homicide.**—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.

Art. 1234. [1118] [688] [583] **Examples.**—Throwing timbers by a workman from the roof or upper part of the 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 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.

Art. 1235. [1119] [689] [584] **No apparent intention to kill.**—To bring the offense within the definition of negligent homicide either of the first or second degree, there must be no apparent intention to kill.

Art. 1236. [1120] [690] [585] **Must be consequence of the act.**—The homicide must be the consequence of the act done or attempted to be done.

Art. 1237. [1121] [691] [586] **Punishment.**—Negligent homicide of the first degree shall be punished by confinement in jail not exceeding one year, or by fine not exceeding one thousand dollars.

2. IN THE PERFORMANCE OF AN UNLAWFUL ACT.

Art. 1238. [1122] [692] [587] **Previous rules apply to second degree.**—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.

Art. 1239. [1123] [693] [588] **Only committed, when.**—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.

Art. 1240. [1124] [694] [589] **“Unlawful act”.**—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.

Art. 1241. [1125] [695] [590] **If intent is to commit a felony.**—When one in the execution of or in attempting to execute an act made a felony by law shall kill another, though without an apparent intention to kill, the offense does not come within the definition of negligent homicide.

Art. 1242. [1126] [696] [591] **In attempt at misdemeanor.**—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 jail not exceeding three years, or by fine not exceeding three thousand dollars.

Art. 1243. [1127] [697] [592] **Punishment.**—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 jail not exceeding one year.

CHAPTER FIFTEEN.

MANSLAUGHTER.

Article	Article
Definition of manslaughter.....1244	General character of female.....1250
“Under the influence of sudden passion.....1245	Jury to determine real cause.....1251
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What are adequate causes.....1248	Provoking contest.....1254
Killing for insult to female.....1249	Punishment for manslaughter...1255

Art. 1244. [1128] [698] [593] **Manslaughter.**—Manslaughter is voluntary homicide committed under the immediate

influence of sudden passion arising from an adequate cause, but neither excused nor justified by law.

Art. 1245. [1129] [699] [594] **“Under the influence of sudden passion.”**—By the expression “under the immediate influence of sudden passion” is meant:

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. 1246. [1130] [700] [595] **“Adequate cause”**.—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.

Art. 1247. [1131] [701] [596] **What are not adequate causes.**—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.

Art. 1248. [1132] [702] [597] **What are adequate causes.**—The following are deemed adequate causes:

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 killing was 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 killing 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 killing.

Art. 1249. [1133] [703] [598] **Killing for insult to female.**—When it is sought to reduce the homicide to the grade of manslaughter by reason of insulting words or conduct towards a female relation, 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.

Art. 1250. [1134] [704] [599] **General character of female.**—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.

Art. 1251. [1135] [705] [600] **Jury to determine real cause.**—The jury shall be at liberty to determine whether, under

all the circumstances, the insulting words or gestures were the real cause of the killing.

Art. 1252. [1136] [706] [601] **“Relation” includes whom.**—Any female under the permanent or temporary protection of the accused at the time of the killing is included within the meaning of the term “relation.”

Art. 1253. [1137] [707] [602] **Passion must actually exist.**—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 article 1245, but also that such state of mind did actually exist at the time of the commission of the offense.

Art. 1254. [1138] [708] [603] **Provoking contest.**—Though a homicide may take place under circumstances showing no deliberation, yet if the party killing 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.

Art. 1255. [1139] [709] [604] **Punishment for manslaughter.**—Whoever is guilty of manslaughter shall be confined in the penitentiary not less than two nor more than five years.

CHAPTER SIXTEEN.

MURDER.

	Article		Article
“Murder”	1256	Threats and character of de-	1258
Punishment for murder.....	1257	ceased	

Art. 1256. [1140] [710] [605] **“Murder”.**—Whoever with malice aforethought shall kill any person within this State shall be guilty of murder. Murder is distinguishable from every other species of homicide by the absence of circumstances which reduce the offense to negligent homicide or manslaughter, or which excuse or justify the homicide. [O. C. 607, Act Feb. 12, 1858, Acts 1913, p. 238.]

Art. 1257. [1141] [711] [606] **Punishment for murder.**—The punishment for murder shall be death or confinement in the penitentiary for life or for any term of years not less than five. [Id.]

Art. 1258. [1143] [713] [608] **Threats and character of deceased.**—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 killing 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.

CHAPTER SEVENTEEN.

DUELING.

Art. 1259. [1145] [715] [610] **Dueling.**—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 confined in the penitentiary not less than two nor more than five years.

Art. 1260. [1146] [716] [611] **Homicide committed in a duel.**—If in any duel hereafter fought in this State, either of the combatants be killed or receive a wound from which he dies within three months, the survivor shall be deemed guilty of murder.

CHAPTER EIGHTEEN.

GENERAL PROVISIONS RELATING TO HOMICIDE.

Means or instrument used must be considered.....1261 If injury be done in a cruel manner1262	Article Article	If in sudden passion not with deadly weapon.....1263 If evil or cruel disposition be exhibited1264
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Art. 1261. [1147] [717] **Means or instrument used must be considered.**—The instrument or means by which a homicide is committed are to be taken into consideration in judging of the intent of the defendant; 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.

Art. 1262. [1148] [718] **If injury be done in a cruel manner.**—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.

Art. 1263. [1149] [719] **If in sudden passion not with deadly weapon.**—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 party from whose act the death resulted may be prosecuted for and convicted of any grade of assault and battery.

Art. 1264. [1150] [720] **If evil or cruel disposition be exhibited.**—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.

CHAPTER NINETEEN.

THREATS.

Seriously threatening life.....1265 Threat must be seriously made..1266	Article Article	Certain threats not included..... 1267 Threatening letter..... 1268
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Art. 1265. [1442] [962] [809] **Seriously threatening life.**

—Whoever shall seriously threaten to take the life of any human being or to inflict upon any human being any serious bodily injury shall be fined not less than one hundred nor more than two thousand dollars, and in addition thereto may be imprisoned in jail not exceeding one year. [Act Feb. 22, 1875, Acts 1875, p. 51.]

Art. 1266. [1443] [963] [810] **Threat must be seriously made.**—To constitute the offense it is necessary that the threat be seriously made, and it is for the jury to determine whether the threat, if made, was seriously made or was merely idle and with no intention of executing the same.

Art. 1267. [1445] [965] [812] **Certain threats not included.**—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.

Art. 1268. [1446] [966] [813] **Threatening letter.**—Whoever 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, shall be fined not less than one hundred nor more than one thousand dollars, and in addition thereto may be imprisoned in jail not exceeding one year. [Added in revising, 1879.]

TITLE 16

OFFENSES AGAINST REPUTATION.

	Chapter		Chapter
Libel	1	False accusation and threats	
Slander	2	of prosecution	4
Sending anonymous letters	3		

CHAPTER ONE.

LIBEL.

	Article		Article
"Libel"	1269	Actual injury not necessary.....	1281
Punishment	1270	Intent to injure presumed.....	1282
Forged writing.....	1271	The offense relates to persons.....	1283
"Maker"	1272	Not libelous.....	1284
"Publisher"	1273	Recorder of minutes not liable.....	1285
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May avoid responsibility.....	1279	Province of jury.....	1291
Mechanical editor.....	1280	Scope of title.....	1292

Art. 1269. [1151] [721] "Libel".—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.

Art. 1269a. **Libel on Banks.**—Any person who shall knowingly make, utter, circulate, or transmit to another, or others, any statement untrue in fact, derogatory to the financial condition of any bank, banking house, banking company, trust company, in the State, with intent to injure any such financial institution; or who shall counsel, aid, procure, or induce another to originate, make, utter, transmit, or circulate any such statement or rumor, with like intent, shall be guilty of an offense and upon conviction shall be punished by a fine not more than two thousand five hundred (\$2,500) dollars or by imprisonment in the State Penitentiary for a period of not exceeding two years or by both such fine and imprisonment.

Art. 1270. [1152] [722] **Punishment.**—If any person be guilty of libel he shall be fined not less than one hundred nor more than two thousand dollars, or be imprisoned in 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.

Art. 1271. [1153] [723] **Forged writing.**—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.

Art. 1272. [1154] [724] **"Maker".**—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.

Art. 1273. [1155] [725] **“Publisher”**.—He is the publisher of a 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.

Art. 1274. [1156] [726] **“Circulating”**.—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.

Art. 1275. [1157] [727] **The ideas the statement must convey**.—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.

Art. 1276. [1158] [728] **Mode of publication**.—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.

Art. 1277. [1159] [729] **A manuscript must be circulated**.—In order to render any manuscript a libel, it must be circulated or posted up in some public place.

Art. 1278. [1160] [730] **Editor, etc., prima facie guilty**.—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.

Art. 1279. [1161] [731] **Editor, etc. may avoid responsibility**.—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.

Art. 1280. [1162] [732] **Mechanical executor not guilty, unless.**—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.

Art. 1281. [1163] [733] **Actual injury not necessary.**—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.

Art. 1282. [1164] [734] **Intent to injure presumed.**—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.

Art. 1283. [1168] [738] **The offense relates to persons.**—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.

Art. 1284. [1165-6-7-9-70-71] **Not libelous.**—It is no libel:

1. To make any publication respecting a body politic or corporate as such.

2. To make publications respecting the merits or doctrines of any particular religion, system of morals or politics, or of any particular form of government.

3. To publish any statement respecting any legislative or judicial proceedings, whether 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.

4. 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.

5. To publish true statements of fact as to the qualifications of any person for any occupation, profession or trade.

6. 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.

Art. 1285. [1172] [742] **Recorder of minutes not liable.**—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 cannot 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.

Art. 1286. [1173] [743] **Members who assent.**—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 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 of proceedings of such body or association, subject, however, to the restrictions contained in the succeeding article.

Art. 1287. [1174] [744] **Intent to injure.**—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.

Art. 1288. [1175] [745] **“Malicious”.**—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.

Art. 1289. [1176] [746] **Statement in legislative or judicial proceeding.**—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.

Art. 1290. [1177] [747] **Truth of statement may be shown, when.**—In the following cases the truth of any statement charged as libel may be shown in justification of the defendant:

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 mafeasance 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.

Art. 1291. [1178] [748] **Province of jury.**—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.

Art. 1292. [1179] [749] **Scope of title.**—This title regulates the law with regard to libel when prosecuted as a penal offense, and is not intended to affect civil remedies for the recovery of damages.

CHAPTER TWO.

SLANDER.

Art. 1293. [1180] [750] **Definition and punishment.**—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 shall be fined not less than one hundred nor more

than one thousand dollars, and may be in addition thereto imprisoned in jail not exceeding one year.

Art. 1294. [1181] [751] **Procedure.**—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.

SENDING ANONYMOUS LETTERS.

Art. 1295. [1182] **Sending or delivering—Punishment.**—If any person shall send or cause to be sent to any person any anonymous letter or written instrument of any character whatsoever, reflecting upon the integrity, chastity, virtue, good character or reputation of the person to whom such letter or written instrument is sent or addressed, or of any other person, or wherein the life of such person is threatened, said person so sending such letter or written instrument shall be fined not less than two hundred and fifty nor more than one thousand dollars, and confined in jail for not less than one nor more than twelve months. [Acts 1909, p. 138.]

Art. 1296. [1183] **Definition of.**—By an anonymous letter or written instrument, within the meaning of this chapter, is meant where the sender of the same withholds his full and true name from the same or where no name or where a fictitious name is signed thereto, or where any description of such sender instead of a name is used, such as “a friend” or the like. [Id.]

Art. 1297. [1184] **Joint offender may be made to testify.**—If two or more persons are concerned in the composition or sending of any anonymous letter or written instrument, as herein prohibited, then either of such persons shall be compelled to testify thereto; and the fact that such testimony will incriminate such person shall not exempt him from testifying in regard thereto. Where such person has been compelled to testify as above stated, then, when he has testified fully in regard thereto, he shall not be prosecuted for the particular offense about which he has testified. [Id.]

CHAPTER FOUR.

FALSE ACCUSATION AND THREATS OF PROSECUTION.

Article	Article
Malicious prosecution.....1298	Threats of prosecution to extort money.....1301
Combination to falsely accuse another.....1299	Publishing another as a coward.....1302
Combination to extort money.....1300	“Whitecapping” defined, punishment for.....1303

Art. 1298. [423] [292] [273] **Malicious prosecution.**—Whoever for the purpose of extorting money from another, or the payment or security of a debt due him by such other, or with intent to vex, harass or injure such person, shall institute or cause to be instituted any criminal prosecution against such other person, shall be fined not less than one hundred nor more than one thousand dollars, or be confined in jail not less than one month nor more than one year. [Added in revising, 1879.]

Art. 1299. [1185] [752] **Combination to falsely accuse another.**—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 fined not exceeding two thousand dollars, or be imprisoned in jail not exceeding two years.

Art. 1300. [1186] [753] **Combination to extort money.**—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.

Art. 1301. [1187] [754] **Threats of prosecution to extort money.**—Whoever 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, shall be punished in the manner set forth in article 1299.

Art. 1302. [1188] [755] **Publishing another as a coward.**—Whoever in any newspaper or hand bill, or by notice posted up in any place shall publish another as a coward, or use toward him other opprobrious language, shall be fined 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.

Art. 1303. [1189] **“Whitecapping”.**—Whoever shall post any anonymous notice or make any threats or signs or skull and cross bones, or shall by any other method post any character or style of notice or threat to do personal violence or injury to property on or near the premises of another, or who shall cause the same to be sent with the intention of interfering in any way with the right of such person to occupy said premises or to follow any legitimate occupation, calling or profession or with the intention of causing such person to abandon such premises, or precinct or county in which such person may reside, shall be confined in the penitentiary not less than two nor more than five years. [Acts 1899, p. 215.]

TITLE 17
OFFENSES AGAINST PROPERTY.

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CHAPTER ONE.

ARSON.

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Art. 1304. [1200] [756] [651] **"Arson"**—"Arson" is the wilful burning of any house included within the meaning of the succeeding article of this chapter. [O. C. 679.]

Art. 1305. [1201] [757] [652] **"House"**.—A "house" is any building, edifice, or structure inclosed with walls and covered, whatever may be the material used for building. [O. C. 680.]

Art. 1306. [1202] [758] [653] **Offense complete, when.**—The burning is complete when the fire has actually communicated to a house, though it may be neither destroyed nor seriously injured. [O. C. 684.]

Art. 1307. [1203] [759] **"Design" the essence of the offense.**—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 communicated therewith, by an explosion, or by any other means. [O. C. 685.]

Art. 1308. [1204] [760] [655] **Intent presumed.**—When fire is communicated to a house by means of the burning of another house, or some combustible matter, it is presumed that the intent was to destroy every house actually burnt; provided there was any apparent danger of such construction. [O. C. 686.]

Art. 1309. [1205] [761] [656] **Explosions included.**—The explosion of a house by means of gunpowder or other explosive matter comes within the meaning of arson. [O. C. 687.]

Art. 1310. [1206] [762] [657] **House destroyed to save others.**—A house blown up or otherwise destroyed for the purpose of saving another house from fire is not within the meaning of arson. [O. C. 688.]

Art. 1311. [1207] [763] [658] **Owner may destroy.**—The owner of a house may destroy it by fire or explosion without in-

curing the penalty of arson, except in the cases mentioned in the succeeding article. [O. C. 689.]

Art. 1312. [1208] [764] [659] **Owner liable, when.**—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. [O. C. 690.]

Art. 1313. [1209] [765] [660] **Part owner can not burn.**—One of the part owners of a house is not permitted to burn it. [O. C. 691.]

Art. 1314. [1210] [766] [661] **Punishment.**—Whoever is guilty of arson shall be confined in the penitentiary not less than two nor more than twenty years. [O. C. 694, Acts 1917, p. 352.]

Art. 1315. [1211] [767] [662] **State Buildings.**—Whoever shall wilfully burn the capitol building of the State, the State Office Building, or the executive mansion, shall be confined in the penitentiary for life. [O. C. 694.]

Art. 1316. [1212] [768] [663] **Attempt at arson.**—Whoever, by any means calculated to effect the object, attempts to commit the offense of arson, shall be confined in the penitentiary not less than two nor more than seven years. [O. C. 708.]

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Art. 1317. [1213] [769] [664] **Rules of arson applicable.**—The rules and definitions contained in the preceding chapter with respect to arson apply, unless clearly inapplicable, to wilful burning under this chapter. [O. C. 597.]

Art. 1318. [1214] [770] [665] **Burning other buildings, hay, lumber, etc.**—Whoever shall wilfully burn any building not a house as defined in the preceding chapter, or shall wilfully 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, shall be confined in the penitentiary not less than two nor more than five years, or be fined not exceeding two thousand dollars. [O. C. 698.]

Art. 1319. [1215-16] **Ship, or other vessel.**—Whoever shall wilfully burn any ship or other vessel, or any boat of any kind whatsoever, shall be confined in the penitentiary not less than two nor more than seven years, or be fined not exceeding two thousand dollars. This offense is complete only when some person other than the offender has an interest in the property by

insurance or otherwise at the time the burning takes place. [O. C. 699, O. C. 700.]

Art. 1320. [1217] [773] [668] **Bridge burning.**—Whoever wilfully burns any bridge which by law or usage is a public highway shall be confined in the penitentiary not less than two nor more than seven years, or be fined not exceeding five thousand dollars. [O. C. 701, Acts 1858, p. 177.]

Art. 1321. [1218-19] **Burning woodland or prairie.**—Whoever wilfully or negligently sets fire to, or burns, or causes to be burned, any woodland or prairie not his own, shall be fined not less than fifty nor more than three hundred dollars. This offense is complete where the offender sets fire to his own woodland or prairie and the fire communicates to the woodland or prairie of another. [O. C. 701, 703, Acts 1883, p. 102.]

Art. 1322. [1220] [776] [671] **Burning insured personal property.**—Whoever with intent to defraud wilfully burns any personal property owned by himself which shall be at the time insured against loss or damage from fire shall be confined in the penitentiary not less than two nor more than five years. [O. C. 704, Acts 1858, p. 178.]

Art. 1323. [1221] [777] [672] **Burning another's personal property.**—Whoever wilfully burns any personal property belonging to another, the punishment for which is not otherwise provided for in this chapter, shall be fined not exceeding two thousand dollars. [O. C. 705.]

Art. 1324. [1222] [778] [673] **Punishment in case of personal injury.**—If any bodily injury less than death is suffered by any one by reason of the commission of any offense named in this and the preceding chapter, the punishment may be increased so as not to exceed double that which is prescribed in cases where no such injury is suffered. [O. C. 706.]

Art. 1325. [1223] [779] [674] **When death ensues, murder.**—Where death is occasioned by any offense described in this and the preceding chapter the offender is guilty of murder. [O. C. 707.]

Art. 1326. [1224] [780] [675] **Attempts at other wilful burning.**—Whoever by any means calculated to effect the object, attempts to commit any offense enumerated in this chapter, shall receive such punishment as may be assessed not to exceed one-half of the penalty which would have been affixed in case the offense attempted had been actually committed. When the punishment is confinement in the penitentiary, in no case shall the lowest term be less than two years. [O. C. 708, Acts 1858, p. 178.]

Art. 1327. [1225] [781] [675a] **Wilfully firing grass in inclosure of another.**—Whoever wilfully fires 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 whoever fires the grass outside of any inclosure with the intent to destroy the grass therein by the communication of said fire to the grass, shall be confined in the penitentiary not less than two nor more than five years. [Acts 1884, p. 66.]

Art. 1328. [1226] [782] [675b] **Wilfully firing grass with intent to injure.**—Whoever wilfully, and with intent to injure

the owner of the stock grazing thereon, sets fire to any grass upon land not his own, with intent to destroy the same, shall be confined in the penitentiary not less than one nor more than three years. [Id.]

Art. 1329. Preventing escape of sparks.—All logging and railroad locomotives, dinkey engines and other engines and boilers operated or used within two hundred feet of any forest, cut-over, brush or grass land, which do not use oil as fuel, shall be equipped with efficient appliances or devices to prevent the escape of fire and sparks from the smoke stacks, ash pans and fire boxes thereof. Such appliances and devices shall at all times be kept in proper adjustment and in good repair, and the State Forester or his designated agents may examine any locomotive or other engine to determine the condition of said appliances and devices. Any person operating any logging or railroad locomotive, dinkey engine or other engine or boiler in violation of any provision of this article shall be fined not less than ten nor more than one hundred dollars for each offense. [Acts 1923, p. 270.]

Art. 1330. Firing forest or cut-over land.—Whoever wilfully or negligently sets on fire or causes to be set on fire any forest, cut-over, brush or grass land not his own; or sets on fire or causes to be set on fire any forest, cut-over, brush or grass land, belonging to himself, and allows such fire to escape to any forest, cut-over, brush or grass land, not his own; or wilfully or negligently suffers any fire set by himself to damage any property of another, and any person setting fire or causing fire to be set for the purpose of burning debris on areas worked or cupped for turpentine and wilfully or negligently allowing such fire to spread to adjacent areas not then being so worked or cupped, shall be fined not less than ten nor more than two hundred dollars. [Id.]

CHAPTER THREE.

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Art. 1331. [1233] [789] [681] Tampering with buoy or

signal.—If any person shall wilfully 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 navigable water, with intent to mislead or deceive, he shall be confined in the penitentiary not less than two nor more than five years, or be fined not exceeding two thousand dollars; if death occurs by reason of such unlawful act the offender is guilty of murder. [Acts 1858, p. 179.]

Art. 1332. [1227] [783] [676] **Sinking or destroying vessel.**—If any person shall wilfully 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 confined in the penitentiary not less than two nor more than five years, or be fined not exceeding two thousand dollars. If the life of any person is lost by such act the offender is guilty of murder. [Acts 1858, p. 178.]

Art. 1333. **Using boat without consent.**—Whoever shall use in this State without the consent of the owner thereof any boat of any size or kind, which is capable of being used or operated on any bay, lake, river or body of water or any part thereof in this State, or who shall without such consent remove therefrom any motor or part thereof, oars, rowlocks, oarlocks, anchor, anchor chain or rope, paddles, seats, planks, poles, or any rigging whatever belonging to such boat, shall be fined not less than five nor more than one hundred dollars. [Acts 1921, p. 141.]

Art. 1334. [1228] [784] [677] **Telegraph or telephone.**—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 appurtenances to any such line, or in any way wilfully obstruct or interfere with the transmission of messages along such telegraph or telephone line, he shall be confined in the penitentiary not less than two nor more than five years or be fined not less than one hundred nor more than two thousand dollars. [Acts 1885, p. 10.]

Art. 1335. [1229] [785] [678] **Obstructing railroad track, etc.**—If any person shall wilfully 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 do any damage to any railroad, locomotive, tender or car whereby the life of any person might be endangered, he shall be confined in the penitentiary not less than two nor more than seven years. If the life of any person is lost by such act the offender is guilty of murder. [Acts 1887, p. 14.]

Art. 1336. [1259] [808] [691e] **Injuring railroad, etc.**—Whoever wilfully injures any railroad, locomotive engine or tender, or baggage, passenger or freight car of any railroad so as to prevent the use of the same shall be fined not less than one hundred dollars and imprisoned in jail not less than three nor more than twelve months. [Acts 1887, p. 72.]

Art. 1337. [1257] [806] [691c] **Preventing moving of train.**—Whoever shall by force, threats, or intimidation of any

kind against any railroad engineer or any conductor, brakeman, or other officer or employe employed or engaged in running any passenger, freight or construction train running upon any railroad in this State, prevent the moving or running of such train shall be fined not less than one hundred nor more than five hundred dollars and be imprisoned in jail not less than three nor more than twelve months. Each day such trains are prevented from moving on their road is a separate offense. [Acts 1887, p. 72.]

Art. 1338. [1238] [792] [683a] **Injuring baggage.**—Any baggage master, express agent, 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 handling the same, whether or not in the employ of any common carrier, who shall maliciously, carelessly or recklessly break, injure or destroy said baggage shall be fined not exceeding one hundred dollars. [Acts 1881, p. 17.]

Art. 1339. [1239] [793] [683b] **Throwing or firing into car, etc.**—Whoever shall wilfully 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, or any private residence, school house, church house, court house, store house, hotel or other public or private building, private or public tent, sailboat or steamboat, shall be fined not less than five nor more than one thousand dollars or be confined in jail not less than ten days nor more than two years. [Acts 1889, p. 36, Acts 1895, p. 161, Acts 1897, p. 41.]

Art. 1340. [1232] [788] [680a] **Using animal without consent.**—Any person who shall take and use or take up and use any horse, mule, ox, cow or any other dumb animal the property of another, without the consent of the owner thereof, shall be fined not less than ten nor more than one hundred dollars. This article shall not be held to interfere with the laws as to estrays, nor to prevent a prosecution for theft. [Acts 1879, p. 129, Acts 1889, p. 319.]

Art. 1341. **Driving vehicle without consent.**—Whoever wilfully and in the absence of the owner drives or operates or causes to be so driven or operated upon any public road or highway any automobile, motor cycle, or other motor vehicle, bicycle, buggy or other horse driven vehicle without the consent of the owner thereof, shall be fined not to exceed one thousand dollars, or be imprisoned in jail not to exceed one year, or both. [Acts 1913, p. 187, Acts 1915, p. 160, Acts 1917, p. 483.]

Art. 1342. **Unlawful use of State's vehicle.**—Whoever uses any automobile, truck or other motor vehicle owned by this State for any purpose except in the transaction of business for the State shall be fined not less than five nor more than five hundred dollars. [Acts 1921, p. 122.]

Art. 1343. **Manipulating starter or lever of vehicle.**—Any person who shall without the consent of the owner or person in charge of a motor vehicle climb upon or in such vehicle, whether the same be in motion or at rest, or shall while said vehicle is at rest and unattended attempt to manipulate any of the levers,

starting crank or other device or to set said vehicle in motion shall be fined not to exceed one hundred dollars or be imprisoned in the county jail for sixty days or both. [Sec. 34, p. 484, Acts 1917.]

Art. 1344. Tampering with motor vehicle.—Any person who shall individually or in association with one or more others wilfully break, injure or tamper with any part of any motor vehicle for the purpose of injuring, defacing or destroying such vehicle or temporarily or permanently preventing its useful operation or for any other purpose against the will and without the consent of the owner thereof, or in any other manner wilfully or maliciously interfere with or prevent the running or operation of such vehicle, shall be fined not to exceed one thousand dollars or be imprisoned in jail not to exceed twelve months or both, provided that when such offense comes within the definition of felony theft, this article shall not be applicable. [Sec. 33, p. 484, Acts 1917.]

Art. 1345. Mischief with motor vehicle.—Whoever shall wilfully cut, mark, scratch or damage the chassis, running gear, body, sides, top, robe, covering or upholstering of a motor vehicle, the property of another, or shall wilfully destroy any part thereof with any liquid or other substance, or shall wilfully cut, mash, mark or in any other way damage or destroy the cylinder, radiator, starter, battery, or any device, emblem or monogram, or any other attachment, fastening or appurtenance of a motor vehicle, without the permission of the owner thereof, or whoever wilfully shall drain or start the drainage of any radiator or oil tank upon a motor vehicle without permission of the owner thereof, or wilfully puts any metallic or other substance or liquid in the radiator, carburetor, oil-tank, grease cup, oilers, lamps or machinery of a motor vehicle with the intent to injure or damage the same or impede the working of the machinery, maliciously tighten or loosen any bracket, bolt, wire, nut, screw or other fastening on such vehicle, shall be imprisoned in jail not to exceed one year. [Acts 1913, p. 187.]

Art. 1346. Removing parts of motor vehicle.—Whoever shall maliciously or wilfully and without authority from the owner unlawfully remove from any motor vehicle or bicycle any portion of the running or steering gear, pump, or any tire, rim, robe, cover, tube, clock, casing, radiator, fire-extinguisher, tool, lamp, starter, battery, coil, spring, gas or oil tank, bell or any signal device, speedometer, license number, horn, box, basket, trunk or carrier, shield, hood, oiler, gauge, chain or any device, emblem or monogram thereon, or any attachment, fastenings or other appurtenances or any other part attached to such vehicle which is necessary in the use or operation thereof, or whoever knowingly buys, receives or has in his possession any of said articles or any part thereof so unlawfully removed, shall be fined not exceeding one hundred dollars, or be imprisoned in jail not less than six months nor more than one year. [Acts 1913, p. 187.]

Art. 1347. Throwing glass, etc. in road.—Whoever throws or deposits in or on any public road, street or alley, or any public highway any glass bottles, glass, nails, tacks, hoops, wire, cans

or any other substance likely to injure any person, animal, automobile or any vehicle upon such highway shall be fined not to exceed two hundred dollars. [Acts 1913, p. 131, Acts 1917, p. 483.]

Art. 1348. [1248] [801] [687] **Removing rock, etc. from premises.**—Whoever knowingly enters upon the land or premises of another and takes or removes therefrom any rock, earth, coal, slate or mineral of any kind, without the consent of the owner of such land or premises shall be fined not exceeding one thousand dollars. [Acts 1876, p. 28.]

Art. 1349. [1234] [790] [682] **Robbing orchards, etc.**—Whoever shall take or carry away from the farm, orchard, garden or vineyard of another without his consent, any fruit, melons or garden vegetables, shall be fined not to exceed one hundred dollars. [Acts 1874, p. 55.]

Art. 1350. [1235] [791] [683] **Injuring personal property.**—If any person shall wilfully and mischievously injure or destroy any growing fruit, corn, grain or other like agricultural product, or if any person shall wilfully 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 any of the offenses otherwise provided for by this Code, he shall be fined not exceeding one thousand dollars; provided that when the value of the property injured is fifty dollars or less, then he shall be fined not exceeding two hundred dollars. [Acts 1889, p. 35.]

Art. 1351. [854] **Fencing land of another.**—Whoever knowingly and without the consent of the owner makes any fence on or around the land of another shall be fined not to exceed two hundred dollars. [Acts 1884, p. 68.]

Art. 1352. [1240] [794] [684] **Injuring fence.**—If any person shall break, pull down or injure the fence of another without his consent, or shall wilfully and without the consent of the owner thereof open and leave open any gate leading into the enclosure 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 not less than ten nor more than one hundred dollars, and in addition thereto may be imprisoned in jail not exceeding one year. [Acts 1873, p. 41.]

Art. 1353. [1242] [795] [684a] **Wilfully cutting fence.**—Any person who shall wilfully and wantonly or with intent to injure the owner cut, injure or destroy any fence or part of a fence (unless such fence is the property of the person so cutting or destroying the same) shall be confined in the penitentiary not less than one nor more than five years. A fence within the meaning hereof 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 or residing upon land inclosed by the land of another who refuses permission to such person residing within such inclosure free

egress or ingress to their said land for said person to open a passage way through said inclosure. [Acts 1884, p. 34.]

Art. 1354. [1243-1244] **Removal of party fence.**—No 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 shall remove the same except by mutual consent or as hereinafter provided. Any person who is the owner or part owner of any fence connected with or adjoined to any fence owned in part or in whole by any other person shall have the right to withdraw or separate his fence or part of a fence from the fence of any other person; 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 not less than two nor more than fifty dollars. Every ten days shall constitute a separate offense [Acts 1889, p. 45.]

Art. 1355. [1245] [798] **Notice requiring removal.**—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 wilfully or negligently fail to disconnect his fence and remove the same back upon his own land after the expiration of said notice shall be fined not less than ten nor more than fifty dollars, and each ten days failure after such notice shall constitute a separate offense. [Id.]

Art. 1356. [1253] **Injuring drainage canal or ditch.**—Whoever shall wilfully fill up, cut, injure, destroy or in any manner impair the usefulness of any canal, drain, ditch or water course or other work constructed, repaired or improved under the provisions of the law providing for drainage districts for the purpose of drainage and protection from an overflow of water, shall be fined not exceeding one hundred dollars or be confined in jail not exceeding two months. [Acts 1907, p. 88, Acts 1911, p. 258.]

Art. 1357. **Injuring levee.**—Any person or persons who shall wrongfully or purposely cut, injure, destroy, or in any manner impair the usefulness of any levee or other reclamation improvement, 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 one thousand dollars, or by imprisonment in the county jail for a period not exceeding one year; or by both such fine and imprisonment.

Art. 1358. **Destroying line work.**—Any person or persons who shall wilfully destroy or deface any corner, line, mark, bench mark, or other object fixed or established in connection with the work herein authorized 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 one thousand dollars, or by imprisonment in the county jail for a period of not less than thirty days, or by both such fine and imprisonment.

Art. 1359. [1236] [791a] Introducing Johnson Grass.—Whoever shall wilfully 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 wilfully 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 shall be fined not less than twenty-five nor more than one thousand dollars. It shall not be necessary to allege or prove the name of the owner of the land but it shall be sufficient to allege and prove that the land was not defendant's. [Acts 1895, p. 160.]

Art. 1360. Johnson Grass and Russian Thistle.—No person, association of persons, corporation, water improvement or irrigation district owning, leasing or operating any ditch or canal or reservoir, or cultivating any lands abutting upon any reservoir, ditch, flume, canal, waste-way or lateral shall permit Johnson Grass or Russian Thistle to go to seed upon such reservoir, ditch, flume, canal, waste-way or lateral within ten feet of the high water line of any such reservoir, ditch, flume, canal, waste-way, or lateral, where the same crosses or lies upon land in the ownership or control of any such person, association of persons, corporation, water improvement or irrigation district. Any person violating any provision of this article shall be fined not less than twenty-five nor more than five hundred dollars, or be imprisoned in jail not less than thirty days nor more than six months, or both. This article shall not apply to Tom Green, Sterling, Irion, Schleicher, McCullough, Brewster, Menard, Maverick, Kinney, Val Verde and San Saba counties. [Acts 1913, p. 378, Acts 1917, p. 232.]

Art. 1361.—Injuring irrigation property.—Any person who shall wilfully cut, dig, break down, destroy or injure, or open any gate, bank, embankment or side of any ditch, canal, reservoir, flume, tunnel or feeder or pump or machinery, building, structure, or other work, which is the property of another or in which another owns an interest or which is in the lawful possession or use of another, and which is used for the purpose of irrigation, milling, mining, manufacturing, for the development of power, for domestic purposes or for stockraising, with intent maliciously to injure any person, association, corporation, water improvement or irrigation district, or for the gain of any person, association, water improvement or corporation, so cutting, digging, breaking injuring or opening any such work hereinbefore in this article named, or with the intent of taking or stealing or causing to run out or waste out of any such ditch, canal, or reservoir, feeder or flume, any water for his own profit, benefit or advantage, or to the injury of any person, association or corporation lawfully entitled to the use of such water or to the use or management of such ditch, canal, tunnel, reservoir, feeder, flume, machine, structure or other irrigation work, shall be

fined not less than ten nor more than one thousand dollars, and may be imprisoned in jail not exceeding two years, or be so fined and imprisoned. [Acts 1917, p. 228.]

Art. 1362. **Mischief with irrigation works.**—Whoever shall deposit in any canal, lateral, reservoir or lake, used for any of the purposes enumerated in the preceding article, the carcass of any dead animal, tin cans, discarded buckets or pails, garbage, ashes, baling or barbed wire, earth, offal or refuse of any character or any other article which might pollute the water or obstruct the flow in any such canal or other similar structure, shall be fined not less than ten nor more than one hundred dollars, or be imprisoned in jail not exceeding six months, or be so fined and imprisoned. [Acts 1917, p. 228.]

Art. 1363. **Unlawfully constructing levee.**—No person, corporation or levee improvement district, without first obtaining the approval of plans for the same by the State Reclamation Engineer shall construct, attempt to construct, cause to be constructed, maintain or caused to be maintained any levee or other such improvement on, along or near any stream of this State which is subject to floods, freshets or overflows so as to control, regulate or otherwise change the flood waters of said stream. Any person violating this article shall be fined not less than one hundred nor more than one thousand dollars or be imprisoned in jail not to exceed one year or both, and each day such structure is maintained or caused to be maintained shall be a separate offense. The provisions of this article shall not apply to dams, canals or other improvements made or to be made by irrigation, water improvements or irrigation improvements made by individuals or corporations. [Acts 1913, p. 248, Acts 4th C. S. 1918, p. 113.]

Art. 1364. [416] **Mischief with topographical survey.**—Whoever destroys or defaces any mark or object fixed as a line, corner or bearing of any survey or any permanent mark or any bench mark made or set by the topographical surveyors shall be fined not less than one hundred nor more than one thousand dollars. [Acts 1907, p. 286.]

Art. 1365. [415] [289] [270] **Mischief with surveys.**—Whoever without authority of law shall wilfully destroy, deface, alter or change any established line, corner, or line or bearing tree of any legal survey, or shall wilfully make any new line or corner on any established legal survey without authority of law shall be fined not less than one hundred nor more than five hundred dollars. [Acts 1874, p. 220.]

Art. 1366. **Injuring or defacing library property.**—Whoever wilfully injures or defaces any book, newspaper, magazine, pamphlet, manuscript, or other property belonging to any public library, reading room, museum, or other educational institution, by writing, marking, tearing, breaking, or otherwise mutilating, shall be fined not exceeding twenty-five dollars. [Acts 2nd C. S. 1919, p. 155.]

Art. 1367. **Detaining book, etc.**—Whoever wilfully detains any book, newspaper, magazine, pamphlet, manuscript, or other property belonging to any public or incorporated library, reading room, museum, or other educational institution for thirty

days after notice in writing to return the same, given after the expiration of the time which by the rules of such institution such property may be kept, shall be fined not less than one nor more than twenty-five dollars. [Acts 1913, p. 281.]

Art. 1368. [1250] [802] [690] **Unlawfully herding stock.**—Whoever 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 fails or refuses to remove such drove at once upon the request of such owner, lessee or legal representative; or whoever herds or causes to be herded any such drove upon the inclosed lands or pasture of another, without the consent of such owner, lessee or legal representative shall be fined not exceeding one hundred dollars. Each hour of delay after notice given or request made is a separate offense. This article shall not apply to droves which are driven through pastures by the usual route in the most direct and practicable route to any named destination traveling at the greatest practicable speed, and where there is no public road leading to the point of destination. No one shall be authorized under this article to drive any drove or herd of stock of any kind into any inclosure of another for the purpose of grazing or holding such drove or herd of stock for any length of time whatever, without the consent of the owner, lessee or person in charge of such inclosure. This article does not apply to stock while being held for shipment. [Acts 1873, p. 186; Acts 1885, p. 29; Acts 1897, p. 183.]

Art. 1369. [1241] **Local option "Hog Law."**—Whoever shall wilfully turn out or cause to be turned out on land not his own or under his control or wilfully fail or refuse to keep up any stock, prohibited by law from running at large in any county or subdivision of any county in which the stock law has been adopted, or wilfully allow such stock to trespass upon the land of another in such county or subdivision thereof, or wilfully permit to run at large any stock of his own, or of which he is the agent or of which he has the control, and not permitted to run at large in any county or subdivision of any county in which the stock law has been adopted, shall be fined not less than five nor more than fifty dollars. [Acts 1897, p. 112; Sec. 20a, Acts 1907, p. 124.]

Art. 1370. [1249] **Local option "Horse Law."**—Whoever shall knowingly permit any horses, mules, jacks, jennets, and cattle to run at large in any territory in this State where the provisions of the laws of this State have been adopted prohibiting any of such animals from running at large shall be fined not less than five nor more than two hundred dollars. [Sec. 20b, Act April 3, 1907, Acts 1907, p. 124.]

Art. 1371. **Permitting bad dog to run at large.**—Any owner, keeper, or person in control of any dog accustomed to run, worry or kill goats, sheep or poultry, knowing such dog to be so accustomed who shall permit such dog to run at large shall be fined not to exceed one hundred dollars. Each time such dog runs at large is a separate offense. [Acts 1923, p. 201.]

Art. 1372. [1246-7] **Dogging stock when fence insufficient.**—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. An “insufficient fence,” 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. [Act Oct. 18, 1871, p. 10.]

Art. 1373. [1230] [786] [679] **Killing animal to injure owner.**—Whoever shall wilfully 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, shall be fined not less than ten nor more than two hundred dollars. In prosecutions under this article the intent to injure may be presumed from the perpetration of the act. [Acts 1858, p. 178, amended in revising 1879.]

Art. 1374. [1231] [787] [680] **Cruelty to animals.**—Whoever overdrives, wilfully overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, unnecessarily or cruelly beats, or needlessly mutilates or kills any animal, or carries any animal in or upon any vehicle, or otherwise, in a cruel or inhumane manner, or causes or procures the same to be done, or who having the charge or custody of any animal unnecessarily fails to provide it with proper food, drink, or cruelly abandons it, shall be fined not exceeding two hundred dollars. As used in this article the word “animal” includes every living dumb creature, and the words “torture” and “cruelly” includes every act, omission or neglect whereby unnecessary or unjustifiable pain or suffering is caused, permitted or allowed to continue when there is a reasonable remedy or relief. [Acts 1913, p. 168; Acts 1919, p. 99.]

Art. 1375.—**Cruelty to impounded animal.**—Whoever under the laws of this State or any municipality shall impound or cause to be impounded any animal in any pound or corral, shall supply it during such confinement with sufficient quantity of wholesome food and water, and in default thereof shall be fined not less than five nor more than fifty dollars. [Acts 1913, p. 168.]

Art. 1376. **Cruelty to fowls and poultry.**—Whoever receives live fowls, poultry or other birds for transportation or to be confined on wagons or stands, or by the owners of grocery stores, commission houses or other market houses or by any other person when to be closely confined, shall place same immediately in coops, crates or cages made of open slats or wire on at least three sides and of such height that the fowls can stand upright without touching the top, have troughs or other receptacles easy of access at all times by the birds confined therein and so placed that their contents shall not be defiled by them, in which receptacles clean water and suitable food

shall be constantly kept; keep such coops, crates or cages in a clean and wholesome condition, place only such numbers in each coop, crate or cage as can stand without crowding one another but have room to move around; not expose same to undue heat or cold; remove immediately all injured, diseased or dead fowls or other birds, and in default thereof shall be fined not less than five nor more than two hundred dollars. [Id.]

Art. 1377. [1235] **Entering inclosed land to hunt or fish.**—Whoever shall enter upon the inclosed 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, tank or stream, or in any other manner depredate upon the same, shall be fined not less than ten nor more than one hundred dollars. This article shall not apply to inclosures including two thousand acres or more in one inclosure. [Acts 1885, p. 80; Acts 1893, p. 87; Acts 1903, p. 159.]

Art. 1378. **Hunting on posted lands.**—Whoever shall knowingly, without the consent of the owner or agent, enter the inclosed and posted lands of another and with fire-arms or dogs hunt on such lands, shall be fined not exceeding two hundred dollars. By inclosed lands is meant such lands as are in use as agricultural lands or for grazing purposes, having cattle, horses, sheep or goats herding or grazing thereon, and inclosed by any structure for fencing, either of wood or iron or combination thereof, or wood and wire, or partly inclosed by a fence of iron or wood, or wood and iron, or wood and wire, and partly by water or stream, canon, brush, or rock or bluffs or of any islands. Inclosed land is “posted” when the owner or proprietor of such enclosure at each entrance thereof keeps a notice with “posted” plainly marked thereon. The State shall prove, before a conviction shall be had, that all the land in said enclosure is owned or leased by the proprietor thereof, where such lands are subject to purchase or lease. Proof of ownership or lease may be made by oral testimony. Nothing herein authorizes any person to hunt without the consent of the owner or lessee, in any enclosure which is a farm or in which are growing crops; nor prohibits a bona fide traveler while traveling along a public road in an enclosure from killing game within four hundred yards on each side of the road. [Acts 1899, p. 173.]

CHAPTER FOUR.

TIMBER AND LOGS.

Article	Article
Cutting or destroying.....1379	Pecans and pecan timber.....1384
Procedure1380	Log brand.....1385
Road repairs, etc.....1381	Report of logs cut, etc.....1386
If the offense is theft.....1382	Evidence of ownership.....1387
Destroying walnut trees.....1383	Offenses and definitions.....1388

Art. 1379. [1289-90] **Cutting or destroying timber.**—Whoever, 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, shall be fined not less than ten nor more than five hundred dollars. The word “timber” as used herein 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. 1380. [1291-2] **Procedure.**—The indictment need not allege the name of the owner of the timber, but is sufficient if it alleges that the timber was not the property of the accused, and describes the land by the name of the owner or of the original grantee, or by any name by which it may be commonly known in the neighborhood in which the offense was committed. Upon a trial under the preceding article, the State may prove the ownership of the land to be in some person other than the accused by either of the following modes:

1. By a 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 certificate from the Comptroller’s office, or from the assessor and collector of the county, that some person other than the accused 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 accused; and such proof shall be held sufficient until contradicted by competent evidence on the part of the accused that he is the owner of the land. [Acts 1858, p. 179.]

Art. 1381. [1293] [829] **Road repairs, etc.**—It is no offense to cut or use 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 to use a reasonable amount of wood standing outside of an enclosure for the purpose of making fires while traveling upon the road.

Art. 1382. [1294] [830] **If the offense is theft.**—Nothing contained in the foregoing articles shall exempt a person from the penalty affixed to theft whenever timber is taken in such manner as to be theft.

Art. 1383. [1295] [831] **Destroying walnut tree.**—Whoever shall cut down or otherwise destroy or injure any walnut tree on land not his own without authority in writing from the owner of such tree, shall be fined not less than twenty-five nor more than fifty dollars. [Acts 1871, p. 42.]

Art. 1384. [1296] **Pecans and pecan timber.**—Whoever shall gather any pecan nuts upon inclosed land not owned, leased or controlled by him, unless it be made to appear in defense that it was done by consent of the owner, lessor, or person in control, or any person who shall cut, destroy or injure any pecan timber upon lands not his own, unless it be made to appear in defense that it was done with the consent of the owner thereof, shall be fined not less than five nor more than three hundred dollars, or be imprisoned in jail not more than three months or both. [Acts 1897, p. 53.]

Art. 1385. [1297-8] **Log brand.**—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, and 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. [Acts 1879, p. 81.]

Art. 1386. [1299] [834] **Shall make report of logs cut, etc.**—Any persons who float any logs or timber in this State shall on the first day of April, July, October, and 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 and index the same in a book kept for that purpose. This article shall not apply to pickets, posts, rails or firewood. [Id.]

Art. 1387. [1300] [835] **Evidence of ownership.**—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. [Id.]

Art. 1388. [1301-2] **Offenses and definitions.**—Whoever 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 fined not more than ten dollars for each log or piece of timber so purchased, sold or traded for. Whoever shall float any unbranded log or timber for market, or who shall fail to make the reports required under article 1386, or who shall brand any log or timber of another without his authority, or 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 fined not exceeding two hundred dollars for each offense. The accused may be prosecuted in any 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. 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. [Id.]

CHAPTER FIVE.

BURGLARY.

	Article		Article
"Burglary"	1389	Punishment for burglary	1397
Burglary by breaking	1390	Burglary with explosives	1398
Burglary of private residence	1391	Other offense committed after	
"Entry" defined	1392	entry	1399
"Entry" further defined	1393	Felony committed after entry	1400
"Breaking"	1394	In case of domestic servant	1401
"House"	1395	Attempt at burglary	1402
"Daytime"	1396		

Art. 1389. [1303] [838] [704] **"Burglary."**—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 at any time, either day or night, and remaining concealed therein, with the intent in either case of committing a felony or the crime of theft. [O. C. 724, Acts 1876, p. 231, Acts 1897, p. 65.]

Art. 1390. [1304] [839] [705] **"Burglary" by breaking.**—He is also guilty of burglary who, with intent to commit a felony or theft, by breaking, enters a house in the daytime. [O. C. 725, Acts 1876, p. 231.]

Art. 1391. [1305-12-13] **Burglary of private residence at night.**—The offense of burglary of a private residence at night is constituted by entering a private residence by force, threats or fraud, at night, or in any manner by entering a private residence at any time, either day or night, and remaining concealed therein until night, with the intent, in either case, of committing a felony, or the crime of theft. The term "private residence," as used herein, means any building or room occupied and actually used at the time of the offense by any person as a place of residence. One guilty of burglary of a private residence at night shall be confined in the penitentiary for any term not less than five years. Such burglary is a distinct offense, and nothing making it such shall alter or repeal the two preceding articles. [Act June 5, 1899; Acts 1899, p. 318.]

Art. 1392. [1306] [840] [706] **"Entry" defined.**—The "entry" into a house 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 burglary, except when the entry is made in the daytime.

Art. 1393. [1307] [841] [707] **"Entry" further defined.**—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 theft, 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 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. [O. C. 726.]

Art. 1394. [1308] [842] [708] **"Breaking".**—By "breaking", as used in this chapter, 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 a 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. [O. C. 727.]

Art. 1395. [1309] [843] [709] **"House".**—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, or this State, or of any public or private corporation or association, or of any individual, and of whatever material it may be constructed. [O. C. 728.]

Art. 1396. [1310] [844] [710] **"Daytime" defined.**—By "daytime" is meant any time of the twenty-four hours from

thirty minutes before sunrise until thirty minutes after sunset.

Art. 1397. [1311] [845] [711] **Punishment for burglary.**—One guilty of burglary shall be confined in the penitentiary not less than two nor more than twelve years.

Art. 1398. [1315-1316] **Burglary by explosives.**—Whoever shall commit burglary, as defined in this chapter, and in the commission thereof uses nitro-glycerine, dynamite, gunpowder or other high explosives, shall be confined in the penitentiary not less than twelve years. [Acts 1907, p. 210; Acts 1925, p. 331.]

Art. 1399. [1317] [846] [712] **Offenses committed after entry.**—If a house be entered in such manner as to be burglary, and the one guilty of such burglary shall after such entry commit any other offense, he shall be punished for burglary and also for whatever other offense is so committed. [O. C. 734, Acts 1858, p. 180.]

Art. 1400. [1318] [847] [713] **Felony committed after entry.**—If the burglary was effected for the purpose of committing one felony, and the one 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. [O. C. 735.]

Art. 1401. [1319] [848] [714] **In case of domestic servant.**—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. [O. C. 736.]

Art. 1402. [1320-21] **Attempt at burglary.**—An "attempt" 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. Whoever shall attempt to commit burglary shall be confined in the penitentiary not less than two nor more than four years. [Acts 1860, p. 100.]

CHAPTER SIX.

OFFENSES ON BOARD OF VESSELS, STEAMBOATS AND RAILROAD CARS.

	Article	Article
Nighttime burglary of railroad car, etc.....	1403	1405
Entry by breaking.....	1404	1406
		1407

Art. 1403. [1322] [851] [717] **Nighttime burglary of railroad car, etc.**—Whoever, by any of the means enumerated in article 1389, shall at night enter any vessel, steamboat or railroad car, with intent to commit a felony or theft, shall be confined in the penitentiary not less than two nor more than five years. [O. C. 738.]

Art. 1404. [1323] [852] [718] **Entry by breaking.**—Whoever shall, by breaking, enter a vessel, steamboat or railroad car in the daytime, with intent to commit a felony or theft, shall be punished as prescribed in the preceding article. [O. C. 739.]

Art. 1405. [1324] [853] [719] **Offenses committed after entry.**—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 the first article of this chapter, and also for whatever other offense he may so commit. [O. C. 740.]

Art. 1406. [1325] [854] [720] **Rules of burglary applicable.**—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 1389, 1390, 1392, 1393 and 1394 of the preceding chapter shall also apply to similar cases on board of a vessel, steamboat or railroad car. [O. C. 741.]

Art. 1407. [1326] [855] [721] **Theft on board by servant.**—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. [O. C. 742.]

CHAPTER SEVEN.

ROBBERY.

Robbery	Article 1408	Acquisition of property by threats.	Article 1409
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Art. 1408. [1327] [856] [722] **Robbery.**—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. [O. C. 743, Acts 1866, p. 202, Acts 1883, p. 80, Acts 1895, p. 89.]

Art. 1409. [1328] [857] [723] **Acquisition of property by threats.**—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 imprisoned in the penitentiary not less than two nor more than five years. [O. C. 744, Acts 1858, p. 180.]

CHAPTER EIGHT.

THEFT IN GENERAL.

"Theft" defined	Article 1410	Voluntary return	Article 1424
Property must have some value	1411	"Steal" and "Stolen"	1425
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The "Taking" must be wrongful	1413	Stealing record books or filed papers	1427
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Theft by part owner	1417	Motor vehicle without engine number	1431
"Property"	1418	Record of engine number	1432
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Particular penalties exclude general	1420	Second-hand motor vehicle	1434
Punishment for felony theft	1421	Second-hand motor vehicle, transferred	1435
Punishment for misdemeanor theft	1422	Records to be kept of motor vehicle	1436
General penalties not applicable, when	1423		

Art. 1410. [1329] [858] [724] **"Theft" defined.**—"Theft" is the fraudulent taking of corporeal personal property belong-

ing 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. [O. C. 745.]

Art. 1411. [1330] [859] [725] **Property must have some value.**—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. [O. C. 746.]

Art. 1412. [1331] [860] [726] **Asportation not necessary.**—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 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.

Art. 1413. [1332] [861] [727] **The “taking” must be wrongful.**—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. [O. C. 748.]

Art. 1414. [1333] [862] [728] **Possession and ownership.**—To constitute theft it is not necessary that the possession and ownership of the property be in the same person at the time of taking. [O. C. 749.]

Art. 1415. [1334] [863] [729] **Possession.**—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.

Art. 1416. [1335] [864] [730] **Theft of one’s own property.**—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. [O. C. 751.]

Art. 1417. [1336] [865] [731] **Theft by part owner.**—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. [O. C. 752.]

Art. 1418. [1337] [866] [732] **“Property.”**—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. [O. C. 753.]

Art. 1419. [1338] [867] [733] **Domesticated animals and birds.**—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. [O. C. 755.]

Art. 1420. [1339] [868] [734] **Particular penalties exclude general.**—Theft of certain particular kinds of property, as of a horse, 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. [O. C. 754.]

Art. 1421. [1340] [869] [735] **Punishment for felony theft.**—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. [O. C. 756, Acts 1895, p. 15.]

Art. 1422. [1341] [870] [736] **Punishment for misdemeanor theft.**—Theft of property under the value of fifty dollars shall be punished by imprisonment in jail not exceeding two years and by fine not exceeding five hundred dollars, or by such imprisonment without fine. [O. C. 757, Acts 1858, p. 181, Acts 1876, p. 242, Acts 1895, p. 15.]

Art. 1423. [1342] [871] [737] **General penalties not applicable when.**—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. [O. C. 758.]

Art. 1424. [1343] [872] [738] **Voluntary return.**—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 a fine not exceeding one thousand dollars. [O. C. 759, Acts 1858, p. 181.]

Art. 1425. [1344] [873] [739] **“Steal” and “Stolen.”**—The words “steal” or “stolen,” when used in this Code in reference to the acquisition of property, include property acquired by theft. [O. C. 760.]

Art. 1426. [1345] [874] [740] **Stealing agricultural products.**—Whoever shall fraudulently take or 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 be guilty of theft. [O. C. 761.]

Art. 1427. [1346] [875] [741] **Stealing record books or filed papers.**—Whoever 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, shall be confined in the penitentiary not less than three nor more than seven years. [Acts 1858, p. 181.]

Art. 1428. [1347] [876] [742] **Stealing from wreck.**—Whoever 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 shall be confined in the penitentiary not less than two nor more than five years. [O. C. 770.]

Art. 1429. [1348] [877] [742a] **Conversion by a bailee.**—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 for theft of like property. [Acts 1887, p. 14.]

Art. 1430. [1349] [878] [743] **Receiving stolen property.**—Whoever 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, shall be punished in the same manner as if he had stolen the property. [O. C. 745a, Acts 1858, p. 180, Acts 1897, p. 26.]

Art. 1431. **Motor vehicle without engine number.**—No person in this State shall have or retain in his possession, or sell or offer to sell any motor vehicle from which the engine number has been removed or obliterated. Every such owner of a motor vehicle from which the engine number has been removed, erased, or destroyed in any manner, before using the same upon the public highways of this State, or selling or offering for sale any such motor vehicle, shall make application to the Highway Commission for an engine number, and the number assigned by the Highway Commission shall be stamped with a steel die on the engine of such motor vehicle. Anyone violating any provision of this article shall be fined not less than ten nor more than one hundred dollars. [Acts 1919, p. 253.]

Art. 1432. **Record of engine number.**—The State Highway Commission shall cause to be kept in the State Highway Department a separate register in which shall be recorded the engine number assigned to owners of motor vehicles, from which the original engine number has been removed, erased or destroyed in any manner, and before assigning any such number the Com-

mission shall require the filing of an application for same, attested by oath of the applicant, that he is the owner of such motor vehicle, and such record shall disclose the name and address of the owner; the trade name and model of the motor vehicle; the year manufactured, and the engine number assigned. Anyone failing to comply with the requirements of this article shall be fined not less than ten nor more than one hundred dollars. [Id.]

Art. 1433. When engine number is removed.—Whoever makes an application to the county tax collector for the registration of any motor vehicle from which the original engine number has been removed, erased, or destroyed in any manner until it bears the new engine number designated by the State Highway Department under the provisions of this law shall be fined not less than fifty nor more than one hundred dollars; and it shall be the duty of any person who has applied to and received from the State Highway Department a new engine number as herein provided, to present the receipt received for the registration of such new engine number from the Department to the County Tax Collector when applying for the registration of such motor vehicle under the provisions of the law and failure to so present such receipt to the county tax collector shall subject the owner of said motor vehicle to a fine of not less than ten nor more than fifty dollars. Any tax collector who shall knowingly accept an application for the registration of a motor vehicle from which the original engine number has been removed, erased or destroyed in any manner, and which does not have on it the number designated by the Highway Department, shall be fined not less than ten nor more than fifty dollars. [Id.]

Art. 1434. Second-hand motor vehicle—License fee receipt.—Whoever acting for himself or another shall offer for trade or sale any second-hand motor vehicle in this State, without then and there having in his actual physical possession the Tax Collector's receipt for the license fee issued for the year that said vehicle is offered for sale or trade; or whoever shall sell or trade any such vehicle in this State without transferring by indorsement of the name of the person to whom said receipt was issued by the Tax Collector and by physical delivery of the Tax Collector's receipt for license fee for the year that the said sale or trade is made; or whoever acting for himself or another who shall buy or trade for any such vehicle in this State without demanding and receiving the Tax Collector's receipt for the license fee issued for said motor vehicle for the year that said vehicle is bought or traded for, shall be fined not less than ten nor more than two thousand dollars, or be imprisoned in jail not more than one year, or both. [Id.]

Art. 1435. Second-hand motor vehicle—Transfer.—It shall be unlawful for any person whether acting for himself or as an employe or agent to sell, trade, or otherwise transfer any second-hand motor vehicle without delivering to the purchaser a bill of sale in duplicate, the form of which is prescribed in this article, one copy of which shall be retained by the transferee as evi-

dence of title, and the other copy of which shall be filed by the transferee with the county tax collector as an application for transfer of license together with the lawful transfer fee of one dollar. The following form of transfer shall be subscribed before a Notary Public:

“State of Texas:

County of _____:

Know all men by these presents that the ownership of the following described motor vehicle is hereby transferred by the undersigned to _____ for and in consideration of _____ and other valuable consideration.

Seal No. _____ State License No. _____ Name and Model and Year made _____ Engine No. _____ Horse Power (A. L. A. M.) _____ Transferee's name in full _____

Transferree's correct address in full _____

Before me the undersigned authority personally appeared the vender of the vehicle described above, and being duly sworn, deposes and upon oath states that the vehicle described is hereby transferred to the transferee named above.

_____ VENDER.

Subscribed and sworn to before me this _____ day of _____ 19 _____.”

Anyone who shall fail to comply with any provision of this article shall be fined not less than ten nor more than one hundred dollars. [Id.]

Art. 1436. Records to be kept of motor vehicle.—Every person, firm or corporation engaged in the business of operating a repair shop or garage of every kind, within this State, where the repairing, rebuilding or repainting of automobiles is carried on, or electrical work in connection with the repair of automobiles is done and performed, and every person, firm or corporation engaged in the business of the purchase and sale of second hand or used automobiles within this State, shall keep a well bound book in the office or place of business where said work is carried on, or said business conducted, in which shall be kept, in a clear and intelligent manner, a register of each repair or change in any automobile of every description so repaired or dealt in by any party mentioned in this law. Repairs of a value not exceeding one dollar are hereby excepted.

Said register shall contain a substantially complete and accurate description of each car upon which there is performed said repairs, or upon which there is installed any new parts or accessories of any character, and where the said car is bought or sold as a used car, the said register shall particularly show in each of the cases mentioned, the make of the automobile, the number of cylinders, motor number, passenger capacity, model, and also the name, apparent age and sex and any special identifying physical characteristics of the party or parties claiming to be the owner or owners of the automobile, his or their usual place of address, and the State register number of such automobile. In case of the sale of a used or second-hand car by any dealer, or

the owner or proprietor of any garage, a like register shall be made as to the name and address and description of said purchaser, the character and description of said car and the state register thereof. Said registers shall be kept in a secure place and be subject at all times to the inspection of any peace officer desiring to examine the same or any party or parties interested in tracing or locating stolen automobiles.

Any owner of a motor vehicle registered in the State Highway Department, as provided by law, and of which motor vehicle the cylinder block has been so damaged as to make necessary the installation of a new cylinder block shall cause the original engine number of the motor vehicle to be stamped with a steel die on the new cylinder block, and the owner of the garage or repair shop so installing the new cylinder block and impressing the number thereon, as herein provided, shall enter a record in a substantially bound book showing the name of the owner of such vehicle, his address, the engine number, and the registration number of said vehicle. All records required to be kept by the requirements of this article shall be preserved for one year after the date recorded and shall be open to the inspection of the public at all reasonable hours. Whoever shall fail to comply with any provision of this article shall be fined not less than ten nor more than one hundred dollars. [Id.]

CHAPTER NINE.

THEFT FROM THE PERSON.

	Article		Article
Punishment	1437	Attempt to commit theft from the	1439
Ingredients of the offense	1438	person	1439

Art. 1437. [1350] [879] [744] **Punishment.**—Whoever shall commit theft by privately stealing from the person of another shall be confined in the penitentiary not less than two nor more than seven years. [O. C. 762.]

Art. 1438. [1351] [880] [745] **Ingredients of the offense.**—To constitute the offense each following circumstance must concur:

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. [O. C. 763.]

Art. 1439. [1352] **Attempt to commit theft from the person.**—Whoever attempts to commit theft from the person as defined in the two preceding articles shall be confined in the penitentiary not less than one nor more than three years. [Acts 1909, p. 70.]

CHAPTER TEN.

THEFT OF ANIMALS.

	Article		Article
Theft of horse, ass or mule.....	1440	Wilfully driving stock from range.....	1443
Theft of cattle or hog.....	1441	May drive stock in range.....	1444
Theft of sheep or goat.....	1442		

Art. 1440. [1353] [881] [746] **Theft of horse, ass or mule.**—Whoever shall steal any horse, ass or mule shall be confined in the penitentiary not less than two nor more than ten years. [O. C. 765, Acts 1858, p. 181; Acts 1897, p. 83.]

Art. 1441. [1354] [882] [747] **Theft of cattle or hog.**—Whoever shall steal any cattle or hog shall be confined in the penitentiary not less than two nor more than four years. [O. C. 766, Acts 1873, p. 80, Acts 1893, p. 25.]

Art. 1442. [1355] [883] [748] **Theft of sheep or goat.**—Whoever shall steal any sheep or goat shall be confined in the penitentiary not less than two nor more than four years. [O. C. 766, Acts 1873, p. 80; Acts 1905, p. 16.]

Art. 1443. [1356-58] **Wilfully driving stock from range.**—If any person shall wilfully 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 confined in the penitentiary not less than two nor more than five years or be fined not to exceed one thousand dollars, or both. 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. It shall devolve upon the accused to show any fact under which he can justify or mitigate the act. [Act Nov. 12, 1866; Acts 1866, p. 187.]

Art. 1444. [1357] [885] [750] **May drive stock in range.**—Nothing in the preceding article shall 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. [Id.]

CHAPTER ELEVEN.

RELATING TO THE RECOVERY OF STOLEN ANIMALS AND THEFT THEREOF.

	Article		Article
Want of bill of sale.....	1445	Failure to make bond.....	1451
Driving stock to market without bill of sale.....	1446	Butcher to keep record.....	1452
Butchering unmarked or unbranded animals.....	1447	Purchasing slaughtered cattle without hide and ears.....	1453
Preceding article not applicable.....	1448	Record open for inspection.....	1454
Failing to report animals slaughtered.....	1449	Inspector to keep record.....	1455
Butchers to register.....	1450	Counties exempt.....	1456
		Auctioneer selling animal.....	1457

Art. 1445. [1359] [887] [752] **Want of bill of sale.**—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. [Acts 1866, p. 223, Acts 1899, p. 87.]

Art. 1446. [1360] [888] [753] **Driving stock to market without bill of sale.**—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 of 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 said animals have been driven, shall be fined not exceeding two thousand dollars. [Acts 1866, p. 223.]

Art. 1447. [1361] [889] [754] **Butchering unmarked or unbranded animals.**—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 written transfer from the party selling the same, he shall be fined not less than fifty nor more than three hundred dollars. [Acts 1866, p. 224, Acts 1899, p. 87.]

Art. 1448. [1362] [890] [755] **Preceding article not applicable.**—The preceding article shall not apply to the slaughter of any animal raised by the person slaughtering the same. [Acts 1866, p. 224, Acts 1899, p. 87.]

Art. 1449. [1363] [891] [756] **Failing to report animals slaughtered.**—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 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 of every animal slaughtered, save such as were raised by himself, which shall be specified, he shall be fined not less than fifty nor more than three hundred dollars. [Acts 1866, p. 224, Acts 1899, p. 87.]

Art. 1450. [1364] **Butchers to register.**—Before engaging in the business of slaughter and sale of animals for market, every person so desiring must first register his name with the county clerk indicating his purpose to engage in such business. Upon failure to so first register his name, he shall be fined not less than five nor more than twenty-five dollars. Nothing here-in applies to slaughter houses in this State slaughtering as many as three hundred cattle per day. [Acts 1907, p. 239.]

Art. 1451. [1366] [893] **Failure to make bond.**—Whoever 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 by law, shall be fined not less than five nor more than two hundred dollars. [Sec. 2, Act April 6, 1889, Acts 1893, p. 38, Acts 1899, p. 87.]

Art. 1452. [1367] [894] **Butcher to keep record.**—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 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 not less than twenty nor more than two hundred dollars. [Sec. 3, Act April 6, 1889, Acts 1893, p. 38, Acts 1899, p. 87.]

Art. 1453. [1368] [895] **Purchasing slaughtered cattle without hide and ears.**—Any person engaged in butchering or slaughtering 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, has been changed, mutilated or destroyed, shall be fined not less than fifty nor more than two hundred dollars. [Sec. 4, Act April 6, 1889, Acts 1893, p. 38, Acts 1899, p. 87.]

Art. 1454. [1369] [896] **Record open for inspection.**—The record provided for in article 1452 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 not exceeding twenty-five dollars. [Sec. 5, Act April 6, 1889; Acts 1893, p. 38; Acts 1899, p. 87.]

Art. 1455. [1371] [898] **Inspector to keep record.**—The inspector or magistrate shall keep a record of the marks, brands, color and general description of such hides, and for whom and when inspected, and return a copy of the same to the clerk of the county court of the county in which it was inspected within thirty days after said inspection. Any inspector or magistrate failing to keep such book or to make such report as above provided for, shall be fined not less than one nor more than twenty-five dollars. [Acts 1893, p. 38; Acts 1899, p. 87.]

Art. 1456. [1372] [899] **Counties exempt.**—The counties exempt from the provisions of the five preceding articles shall be the counties now or hereafter exempted by the statutes of this State. [Acts 1917, p. 358.]

Art. 1457. [1373-4] **Auctioneer selling animal.**—Whoever sells 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, or fails within ten days after such sale to file with the clerk of the county court such written statement, 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 name and residence of the seller and purchaser, shall be fined not less than fifty nor more than one hundred dollars. [Acts 1874, p. 98; Acts 1899, p. 89.]

CHAPTER TWELVE.

OTHER OFFENSES RELATING TO STOCK.

Article	Article
Illegal marking and branding....1458	Having hide without owner's consent1464
Altering or defacing mark or brand1459	Having hide with brand cut out or disfigured.1465
Using mark or brand not on record1460	Milking another's cow.1466
Altering mark or brand to one unrecorded1461	Driving live stock from range.1467
Killing unmarked or unbranded cattle1462	Preceding article qualified.1468
Skinning cattle1463	Use of false pedigree or certificate of sale.1469
	Estrays1470

Art. 1458. [1376] [903] [759] **Illegal marking and branding.**—Whoever shall mark or brand any horse, mule, ass or cattle, or who shall mark any sheep, goat or hog, not his own, without the consent of the owner and with intent to defraud, shall be punished as if he had stolen such animal. [O. C. 767.]

Art. 1459. [1377] [904] [760] **Altering or defacing mark or brand.**—Whoever 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 his own, without the consent of the owner and with intent to defraud, shall be punished as if he had stolen such animal. [O. C. 768, Acts 1858, p. 181.]

Art. 1460. [1378] [905] [761] **Using mark or brand not on record.**—Whoever shall mark or brand any unmarked or unbranded stock with a mark or brand not upon record shall be fined not exceeding five hundred dollars. [Acts 1866, p. 188.]

Art. 1461. [1379] [906] [762] **Altering mark or brand to one unrecorded.**—Whoever shall alter or change any mark or brand upon any stock of his own, or under his control, without first having such changed mark or brand recorded, shall be fined not exceeding five hundred dollars. [Acts 1866, p. 188.]

Art. 1462. [1380-81] **Killing unmarked or unbranded cattle.**—Whoever knowingly kills any unmarked or unbranded animal of the cattle species, or any unmarked hog, sheep or goat, not his own, shall be fined not less than twenty-five nor more than one hundred dollars. It shall only be necessary to allege and prove that the animal killed was not the property of the accused, without stating or proving the true owner. [Id.]

Art. 1463. [1382] [909] [765] **Skinning cattle.**—Whoever removes the hide or any part thereof from any cattle not his own, without the consent of the owner, shall be fined not less than twenty nor more than one hundred dollars. Each hide so removed is a separate offense. [Acts 1887, p. 105.]

Art. 1464. [1383] [910] **Having hide without owner's consent.**—Whoever is found in possession of any hide of any cattle not his own, obtained without the consent of the owner or his legal representative, shall be fined not less than twenty nor more than one hundred dollars. [Id.]

Art. 1465. [1384] [911] [765b] **Having hide with brand disfigured.**—Whoever is found in possession of any hide of any cattle with brand cut out or disfigured, and shall offer the same for sale, shall be fined not less than twenty nor more than one

hundred dollars. The possession and offer of sale of each hide with the brand cut out or disfigured is a separate offense; nothing in this article shall prevent anyone guilty of theft of such hide from being convicted for theft. [Id.]

Art. 1466. [1385] [912] [766] **Milking another's cow.**—Whoever without the consent of the owner shall take up, use or milk any cow, not his own, shall be fined not exceeding ten dollars. [Acts 1866, p. 188.]

Art. 1467. [1386-8] **Driving live stock from range.**—Whoever shall wilfully kill, destroy, drive, or remove any live stock not his own from its accustomed range, without the consent of the owner, under such circumstances as not to constitute theft, shall be fined not exceeding one thousand dollars. In any prosecution under this article, after proof of the act of killing, destroying, driving, using or removing from the range of any stock not belonging to or under the control of the accused, it shall devolve upon the accused to show any fact under which he can justify or mitigate his act. [Id.]

Art. 1468. [1387] [914] **Preceding article qualified.**—The preceding article shall not be construed to prevent one from driving his own and other stock which may be mixed therewith until the same can be conveniently separated, nor to authorize anyone under any circumstances to remove any live stock not his own from their usual range. [Id.]

Art. 1469. [1389] [916] **Use of false pedigree or certificate of sale.**—Whoever shall wilfully furnish or give to a purchaser of any animal any false pedigree or false certificate of sale of such animal, or shall wilfully use, for the purpose of deceiving, any false pedigree or false certificate of sale of any animal, whether such false pedigree or false certificate was furnished, given or procured in this State or elsewhere, shall be fined not less than twenty-five nor more than five hundred dollars, or be imprisoned in jail not exceeding six months, or both. [Acts 1891, p. 84.]

Art. 1470. [1390-91] **Estrays.**—Whoever shall unlawfully remove, sell, or in any other manner dispose of any animal which has been taken up by him as an estray, or, without complying with the law regulating estrays, shall take up and use or otherwise dispose of any animal coming within the meaning of estray, shall be fined not exceeding two hundred and fifty dollars. If such taking or disposition be effected so as to be theft, the offender shall be punished for that offense. [Acts 1858, p. 184.]

CHAPTER THIRTEEN.

PROTECTION OF STOCK RAISERS.

Article	Article
Inspector giving fraudulent certificate	Clerk improperly recording brand.
Inspector failing to examine hides, etc.	Receiving uninspected animals for shipment
Inspector failing to keep record.	Counties exempted.
Certificate by inspector.	Tag and certificate.
Return of certified copies, etc.	"Feeding stuff"
Counterbranding	To file what, and deposit samples.
Driving cattle into Mexico.	To pay inspection tax and affix tag
Shipping imported hides.	Failure to affix tag or label.
Selling hides without inspection.	"Counterfeiting tag"
Driving cattle without road-branding	"Importer"
Driving stock out of county without owner's consent.	"Adulterated"
Purchasing animal without bill of sale	Wholesome mixture.
Agent selling without power of attorney	Manufacture or sale of adulterated feed stuffs.
More than one brand or mark.	Live stock commission merchant.
Branding or marking outside a pen	Failure to give bond.
	Failure to remit promptly.
	Appropriating proceeds
	To post copy of bond.

Art. 1471. [1397] [919] [772] **Inspector giving fraudulent certificate.**—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. [Sec. 31, Act Aug. 23, 1876, Acts 1876, p. 302.]

Art. 1472. [1398] [920] [772a] **Inspector failing to examine hides, etc.**—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, he shall be fined not less than twenty-five nor more than two hundred dollars. [Act April 4, 1889, Acts 1889, p. 36.]

Art. 1473. [1399] [921] [772b] **Inspector failing to keep record.**—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, and the number and all the marks and brands of all hides inspected by him or by his deputy, and whether the hides are dry or green, and the names of the vendors and purchasers of said animals or hides, shall be fined not less than fifty nor more than three hundred dollars. [Id.]

Art. 1474. [1400] [922] [772c] **Certificate by inspector.**—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 nor more than three hundred dollars. [Acts 1889, p. 36.]

Art. 1475. [1401] [923] [772d] **Return of certified copies,**

etc.—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 county clerk of his county on the last day of each month shall be fined not less than fifty nor more than three hundred dollars. [Acts 1889, p. 36.]

Art. 1476. [1402] [924] [773] **Unlawful counterbranding.**—Whoever counterbrands 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. [Sec. 32, Act Aug. 23, 1876, Acts 1876, p. 302.]

Art. 1477. [1403] [925] [774] **Driving cattle into Mexico.**—Whoever drives 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. [Sec. 35, Id.]

Art. 1478 [1404] [926] [775] **Shipping imported hides.**—Whoever ships 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. [Sec. 35, Id.]

Art. 1479. [1405] [927] [776] **Selling hides without inspection.**—Whoever sells any hides of cattle without the same having been inspected shall be punished as prescribed in the preceding article. [Sec. 36, Id.]

Art. 1480. [1406] [928] [777] **Driving cattle without road-branding.**—Whoever drives 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. [Sec. 37, Id.]

Art. 1481. [1407] [929] [778] **Driving stock out of county without owner's consent.**—Whoever drives 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. [Sec. 39, Id.]

Art. 1482. [1408] [930] [779] **Purchasing animal without bill of sale.**—Whoever purchases any animal 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. [Sec. 39, Id.]

Art. 1483. [1409] [931] [780] **Agent selling without power of attorney.**—Whoever 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. [Sec. 40, Id.]

Art. 1484 [1410] [932] [781] **More than one brand or**

mark.—Whoever in originally branding or marking cattle uses 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. [Sec. 41, Id.]

Art. 1485. [1411] [933] [782] **Branding or marking outside a pen.**—Whoever 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. [Sec. 42, Id.]

Art. 1486. [1412] [934] [783] **Clerk improperly recording brand.**—Any county clerk 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. [Sec. 43, Id.]

Art. 1487. [1413] [935] [784] **Receiving uninspected animals for shipment.**—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 such animal. [Acts 1883, p. 71.]

Art. 1488. [1414] [936] [785] **Counties exempted.**—The counties exempted from the laws regulating the inspection of hides and animals are those as are or may be exempted by statute. [Acts 1921, p. 43.]

FEEDING STUFF.

Art. 1489. [730] **Tag and certificate.**—Every lot or parcel of feeding stuff, used for feeding farm live stock, sold, offered or exposed for sale in this State, for use within the State, shall have attached a tag described in article 1492, carrying a plainly printed statement clearly and truly certifying the number of net pounds of feeding stuff in the package, stating the name or names of material of which such weight is composed where the contents are of a mixed nature, the name, brand or trade mark under which the article is sold, the name and address of the manufacturer or importer, the place of manufacture, such information as is required by article 1497, if any, and a chemical analysis stating the minimum percentages it contains of crude protein, allowing one per cent of nitrogen to equal six and one-quarter per cent of protein, of crude fat, of nitrogen-free extract, and the maximum percentage it contains of crude fiber; these constituents to be determined by the methods adopted at the time by the Association of Official Agricultural Chemists of North America. [Acts 1905, p. 207.]

Art. 1490. [731] [732] **“Feeding stuff”.**—The term “feeding stuff,” as used in this chapter, is defined to mean and include wheat bran, wheat shorts, linseed meal, cotton seed meals, pea meals, cocoanut meals, gluten meals, gluten feeds, maize feeds, starch feed, sugar feeds, dried brewer’s grains, malt sprouts, hominy feeds, cerealine feeds, rice meals, rice bran, rice polish; oat feeds, corn and oat chops, corn chops, ground beef or mixed fish feeds, and all other materials of similar nature, but

shall not include hay or straw, the whole seed or grains of wheat, rye, barley, oats, Indian corn, rice, buckwheat or broomcorn, or any other whole or unground grains or seed. [Acts 1905, p. 208.]

Art. 1491. [733] **To file statement and deposit samples.**—Before any feeding stuff is so offered or exposed for sale, the importer, manufacturer or party who causes it to be sold, or offered for sale within this State for use within the State, shall, for each feeding stuff bearing a distinguishing name and trade mark, file with the director of the Texas Agricultural Experiment Station a certified copy of the statement named in article 1489, and shall also deposit with said director a sealed glass jar or bottle containing not less than one pound of the feeding stuff to be sold or offered for sale, accompanied by an affidavit that it is a fair average sample thereof, and corresponds within reasonable limits to the feeding stuff which it represents in the percentage of protein, fat and crude fiber, and nitrogen-free extract which it contains. This does not apply to farmers who grind their own feeding stuff, and who do not adulterate same. [Acts 1907, p. 243.]

Art. 1492. [734] **To pay inspection tax and affix tag.**—The manufacturer, importer, agent or seller of each feeding stuff, shall before the article is offered for sale, pay to the director of the Texas Agricultural Experiment Station, an inspection tax of ten cents for each ton of such feeding stuff sold or offered for sale in this State, for use within the State, and shall affix to each lot shipped in bulk, and to each bag, barrel, or other package of such feeding stuff a tag to be furnished by said director, stating that all charges specified in this article have been paid. The director of said Experiment Station is hereby empowered to prescribe the form of such tags, and adopt such regulations as may be necessary for the enforcement of this law. Whenever the manufacturer or importer or shipper of a feeding stuff shall have filed a statement made as provided for in article 1489, and paid the inspection tax, no agent or seller of said manufacturer, importer, or shipper shall be required to file such statement or pay such tax. [Id.]

Art. 1493. [735] **Failure to affix tag or label.**—Any manufacturer, importer, or agent, selling, offering or exposing for sale, any feeding stuff, without the statement required by article 1489, and the tax tag required by the preceding article, or with a label stating that said feeding stuff contains a larger percentage of protein, fat or nitrogen-free extract, or a smaller percentage of crude fiber, than is contained therein, shall be fined not less than one hundred nor more than five hundred dollars.

Art. 1494. [736] **Counterfeiting tag.**—Whoever shall counterfeit or knowingly use a counterfeit of the tag or tags mentioned in the two preceding articles, or shall use them a second time after the said tags shall have been once attached, shall be fined not exceeding five hundred dollars, one-half of which shall be paid to the informer. [Acts 1905, p. 207.]

Art. 1495. [739] **“Importer”.**—The term “importer” means

all persons as shall bring into or offer for sale within this State feeding stuff manufactured without this State. [Id.]

Art. 1496. [740] **“Adulterated”**.—A feeding stuff shall be deemed to be adulterated if it contains any sawdust, dirt, damaged feed, or any foreign matter whatever, or if it is in any respect not what it is represented to be, or if any rice hulls or chaff, peanut shells, corn cobs, oat hulls, or other similar substances of little or no feeding value are admixed therewith. [Acts 1907, p. 243.]

Art. 1497. [740] **Wholesome mixture**.—No wholesome mixture of feeding stuff shall be deemed to be adulterated if the true percentage of constituents thereof is plainly and clearly stated on the package and made known to the buyer at the time of the sale. [Id.]

Art. 1498. [740] **Manufacture or sale of adulterated feeding stuff**.—Every person who shall directly or for another or for any corporation, association of persons, or for a firm, or through or by any agent, manufacture, sell or offer for sale any adulterated feeding stuff within this State shall be fined not less than twenty-five nor more than two hundred dollars, or be imprisoned in jail not less than thirty nor more than sixty days, or both. [Id.]

LIVE STOCK COMMISSION MERCHANT.

Art. 1499. **Live stock commission merchant**.—Any person, firm or corporation who pursues the business of selling live stock, cattle, cows, calves, bulls, steers, hogs, sheep, goats, mules, horses, jacks and jennets, or any of them, upon consignment for a commission or other charges, or who solicits consignment of live stock as a commission merchant or agent, or who advertises or holds himself out to be such shall be held to be a live stock commission merchant within the meaning of this chapter. [Acts 1921, p. 175.]

Art. 1500. **Failure to give bond**.—Whoever advertises or solicits business as a live stock commission merchant or in any way pursues the occupation of a live stock commission merchant without first having made the bond required by the laws of this State, or fails to keep and maintain said bond in full force and effect as required by such laws, shall be confined in the penitentiary not less than one nor more than two years, or be fined not less than five hundred nor more than five thousand dollars or be both so fined and imprisoned. [Id.]

Art. 1501. **Failure to remit promptly**.—Any person engaged in the business of a live stock commission merchant, as defined by this chapter, who shall intentionally fail and refuse, within forty-eight hours after the sale of any live stock consigned to him to remit the net proceeds thereof to the person rightfully entitled to receive the same, or to such person, firm or corporation as said party rightfully entitled thereto shall direct, shall be fined not less than one hundred nor more than one thousand dollars, or be imprisoned in jail for not less than one nor more than twelve months, or both. [Id.]

Art. 1502. **Appropriating proceeds.**—Any person engaged in the business of live stock commission merchant who shall appropriate or use for any purpose other than remitting to such person, firm or corporation entitled to receive the same, any portion of the net proceeds of live stock so sold by such live stock commission merchant, shall be confined in the penitentiary not less than two nor more than four years. [Id.]

Art. 1503. **To post copy of bond.**—Any live stock commission merchant who shall fail at any time to keep conspicuously posted in the main office of his principal place of business a certified copy of the bond furnished to him by the county clerk under the law shall be fined not to exceed one hundred dollars. Each day said copy shall not be so posted is a separate offense. [Id.]

CHAPTER FOURTEEN.

DISEASES OF ANIMALS AND BEES.

Article	Article
To burn or bury animal dead of disease.....	Disobeying charbon quarantine...1520
Live Stock Sanitary Commission.....	Permitting animals to run at large.....
Drifting, etc.....	Refusing examination by Commissioner.....
Failure to dip stock.....	Failing to confine animal with glanders.....
Direction to dip stock.....	Sale or trade of animal with glanders.....
Particulars of direction.....	Using or permitting animal with glanders to run at large.....
Time of notice.....	Practicing without registering.....
Removing stock from quarantine.....	Exceptions.....
Failure to dip for scabies.....	Who are veterinarians.....
Disinfecting shearing plant and apparel.....	Offenses by Board.....
Disinfecting premises quarantined.....	License to be recorded.....
Moving stock with scabies.....	To record license on removal.....
Importing sheep.....	Unlawfully practicing.....
Failure to maintain dip.....	Honey bees.....
Failing to report charbon or anthrax.....	
Failing to destroy carcass.....	

Art. 1504. **To burn or bury animal dead of disease.**—Any person who is the owner or caretaker of any premises who shall fail or refuse to burn to ashes or to bury at a depth of not less than two and one-half feet and cover with quicklime the carcass of any domestic animal dying from infections, contagious or communicable disease of a malignant character found on said premises within twenty-four hours after the notice of such death shall be fined not less than ten nor more than two hundred dollars. Each day of said failure or refusal is a separate offense. [Acts 1917, p. 111.]

Art. 1505. **Live Stock Sanitary Commission.**—The word "Commission" as used in this chapter shall mean The Live Stock Sanitary Commission of the State of Texas.

Art. 1506. **Drifting, etc.**—Any owner or caretaker of any cattle, horses, mules or asses located in any quarantined territory who shall ship, drive or permit the same to be shipped, driven or drifted into any county, which has been quarantined as provided by law without the written permit of an inspector of the Commission or the United States Bureau of Animal Industry shall be fined not less than one nor more than five dollars per head for all live stock so shipped, driven or drifted or permitted to be so shipped, driven or drifted. [Acts 1st C. S. 1917, p. 16.]

Art. 1507. Failure to dip stock.—Any person owning, controlling or caring for any cattle, horses, mules, or asses which have the fever-carrying tick (*margaropus annulatus*, Say,) upon them or upon any one of them, or that are exposed to the said fever-carrying tick or that are on any premises or other places on which the fever-carrying tick is known to exist, or that have some time within nine months next preceding the issuance of the written direction to dip hereinafter provided, been exposed to the said fever-carrying tick or been on said premises or other place on which the fever-carrying tick is known to exist, who shall fail or refuse to dip any of said cattle, horses, mules or asses at such time and in such manner as directed in writing by the Commission, or its chairman, as provided for by law, shall be fined not less than twenty-five nor more than one hundred dollars, and each day of such failure or refusal shall be a separate offense. [Acts 3rd C. S. 1920, p. 65.]

Art. 1508. Direction to dip stock.—The Commission, or its chairman, is hereby authorized and empowered to direct in writing any person, or persons, company, or corporation, owning, controlling, or caring for any cattle, horses, mules or asses, which are subject to being dipped under the provisions of law, to dip all or any of said cattle, horses, mules or asses, under the supervision of an authorized inspector of such Commission, in an arsenical solution of a strength not less than seven and one-half pounds and not more than eight and one-half pounds of arsenic to each five hundred gallons of water in the said solution for the purpose of destroying, eradicating and removing said fever-carrying tick or exposure, subject to the provisions of law. Said dippings shall be administered at regular intervals but the Commission shall not require the dipping of cattle at more frequent intervals than every fourteen days. [Id.]

Art. 1509. Particulars of Direction.—The written direction issued by the Commission, or its chairman, requiring the dipping of cattle, as provided for in this law, shall be dated, showing the date of its issuance, the name of the person, company, or corporation to whom the said directions are given, the approximate location of the premises on which the said live stock are located, the name of the county in which said premises are located, and it shall state in clear and intelligible language that the said cattle, horses, mules or asses, which the said person is therein directed to dip, have the fever-carrying tick upon them, or that they are exposed to the said fever-carrying tick, or are on a premise or other place on which the fever-carrying tick is known to exist, or that they have some time during the nine months next preceding the date of the issuance of said written direction hereinbefore provided been exposed to the said fever-carrying tick, or been on a premise or other place on which the fever-carrying tick is known to exist; and it shall direct the said person, company or corporation to dip the said live stock under the supervision of an authorized inspector of the Commission, in an arsenical solution of a strength of not less than seven and one-half pounds, nor more than eight and one-half pounds of

arsenic to each five hundred gallons of water in the dipping solution in which the said live stock are to be dipped, and it shall designate the place, date and time that said dipping is to be done, and it shall be signed by the Commission or its chairman. [Id.]

Art. 1510. **Time of notice.**—The said dipping direction, provided for by law shall be delivered to the person, company or corporation, owning, controlling or caring for said cattle, horses, mules, or asses, required to be dipped, at least fourteen full days before the date and time said dipping is to be administered. [Acts 3rd C. S. 1920, p. 66.]

Art. 1511. **Removing stock from quarantine.**—Any person owning, controlling or caring for any domestic animal or animals which have theretofore been quarantined through the provision of law or by order of the Commission, and written notice of such quarantine has been given as directed by law, who shall remove said domestic animal or animals from said premises where situated when said written notice is given, without the written permit of an inspector of the Commission, shall be fined not less than one nor more than five dollars for each animal so moved. [Acts 1917, p. 114.]

Art. 1512. **Failure to dip for scabies.**—Any person owning, controlling or caring for any cattle which are infected with cattle scabies, or sheep which are infected with sheep scabies, or that are exposed to the said cattle scabies or sheep scabies, or that are on premises or other places on which cattle or sheep scabies are known to exist, or that have at some time within three months next preceding the issuance of the written direction to dip as provided by law, been exposed to the said cattle or sheep scabies, or been on premises or other place on which the cattle or sheep scabies is known to exist, who shall fail or refuse to dip any of said cattle or sheep at such time and in such manner as directed in writing by the Commission, or its chairman, as provided for by law, shall be fined not less than fifty nor more than five hundred dollars and each day of such failure or refusal shall constitute a separate offense. [Acts 1923, p. 303.]

Art. 1513. **Disinfecting shearing plant and apparel.**—Any person owning, controlling or having charge of any itinerant shearing plant or crew, or any person shearing sheep, or handling or packing the wool therefrom, which are infected with scabies, or located upon premises under quarantine for sheep scabies, who fails or refuses to disinfect the said shearing plant or any portion thereof, or his wearing apparel as required by law, shall be fined in any sum not less than one nor more than one hundred dollars. [Acts 1923, p. 306.]

Art. 1514. **Disinfecting premises quarantined.**—When any premises are placed under quarantine for sheep scabies infection it shall be the duty of the owner, lessee or person in charge of such premises to cleanse and disinfect all corrals, water lots, pens, sheds, or other places where sheep are closely confined in the following manner: All manure and litter shall first be

removed and burned or buried, then the surface of such corrals, water lots, pens, sheds or other places where sheep are closely confined, with which sheep confined therein may come in contact shall be sprayed with a solution made of 6 oz. of 95 per cent carbolic acid to each gallon of water or a solution containing 4 oz. of cresol compound U. S. P. to each gallon of water, under the supervision of an authorized inspector of the Commission before any sheep which are not infected with scabies, or which have been dipped therefor, shall be permitted in such corrals, water lots, pens, sheds or other places where sheep are closely confined. Whoever violates the provisions of this article shall be fined not less than twenty-five nor more than fifty dollars. [Id.]

Art. 1515. [1267] Moving stock with scabies.—No person, company or corporation shall drive, drift, haul by common carrier or private conveyance, or in any other manner transport along or across any public road or railroad, or on or across the lands or premises of another, any cattle or sheep which are infected with cattle or sheep scabies. Any person violating any provision of this article shall be fined not less than one hundred nor more than one thousand dollars. [Acts 1923, p. 307.]

Art. 1516. Importing sheep.—Importations of sheep into this State by rail or any other mode of movement shall not be made except under the following requirements:

1. The importer must apply to and receive from the Live Stock Sanitary Commission of this State permission to import such sheep into this State.

2. Such importation shall be accompanied by a certificate of a regularly employed and duly authorized sheep scab inspector of the state of origin, or a duly appointed and acting sheep scab inspector of the United States Bureau of Animal Industry certifying that said sheep are free from scabies or exposure thereto, or that said sheep have been dipped in a dipping fluid recognized by the United States Bureau of Animal Industry for the eradication of sheep scabies within ten days next preceding the date of such importation; provided, however, that sheep dipped for infection at point of origin shall be held under quarantine at the point of destination for a period of ninety days. By "point of destination" as used herein is meant the range upon which said sheep are placed in this State.

All importations of sheep by rail shall be billed to a recognized sheep dipping center where the Commission maintains an inspector to supervise the dipping of sheep, except sheep imported for show purposes only, or for immediate slaughter, and upon arrival thereat shall be dipped in accordance with the provisions of law unless the same are accompanied by a certificate of dipping at place of origin as provided in paragraph "2" of these requirements. Whoever imports any sheep into this State in violation of this article shall be fined not less than one nor more than two dollars for each head of sheep so unlawfully imported, and the venue shall be in any county through, or into which such importation is carried. [Acts 1923, p. 307.]

Art. 1517. **Failure to maintain dip.**—Any person owning or controlling any animal which shall be required to be dipped under the provisions of law who shall wilfully fail or refuse to maintain the dip used in the treatment of cattle for ticks, or the dip used in the treatment of sheep scab, at the strength officially specified, shall be fined not less than ten nor more than two hundred dollars. [Acts 1917, p. 116.]

Art. 1518. **Failing to report charbon or anthrax.**—Each person residing in a district where charbon or anthrax is prevalent or where the same is supposed to be prevalent shall report in writing to the county health officer, who in turn shall report in writing to the president of the State Board of Health all cases where an animal or animals are suffering with charbon or anthrax or supposed to have such disease, and each physician practicing in the State of Texas shall report in writing to the president of the State Board of Health all persons suffering from charbon or anthrax or supposed to be suffering from same and in case of failure to do so any person so failing shall be fined not less than ten nor more than twenty-five dollars. Each case of which no report is made shall constitute a separate offense. [Sec. 10b, Act March 31, 1913, Acts 1913, p. 147.]

Art. 1519. **Failing to destroy carcass.**—Carcasses of stock which have died from charbon or anthrax shall be destroyed by burning by the owner or person in charge within twenty-four hours after death and any owner or person having charge of said animals who should fail to destroy said carcasses as herein provided shall be fined not less than twenty-five nor more than one hundred dollars and each twenty-four hours after the first twenty-four hours that said carcass is permitted to remain undestroyed shall be a separate offense. [Sec. 10e, Id.]

Art. 1520. **Disobeying charbon quarantine.**—The county health officer shall be the exclusive judge of the necessity of isolation or quarantine of all animals infected with charbon or anthrax and when in the judgment of said county health officer there exists a necessity therefor said county health officer shall issue a proclamation directing that all animals of certain classes which he may specify in the infected district, in either the entire county or any political subdivision thereof, shall be placed and kept in an enclosure by the owners or keeper thereof, and any owner or keeper of such animals for the owners who shall fail or refuse to obey the requirements of such proclamation shall be fined not less than ten nor more than fifty dollars and where any owner or keeper for the owner shall have more than ten animals subject to the quarantine regulations herein provided the fine shall be doubled and each day that any owner or keeper for such owner shall fail to comply with the proclamation of said county health officer shall constitute a separate offense and such quarantine shall continue and be in effect as long as in the judgment of such county health officer it may be necessary to prevent the spread of charbon or anthrax. [Sec. 10f, Id.]

Art. 1521. **Permitting animals to run at large.**—From and after the issuance and posting according to law of the proclamation declaring the result of the election held in a charbon district to be against the running at large of domestic animals therein it shall be unlawful for any owner or keeper of cattle, horses, sheep, goats and hogs, or any of them, to permit such animals as have been voted upon to run at large within such county or subdivision thereof at any time within which the same has been prohibited; and in case of failure or refusal of any owner or keeper of such stock or any of them to comply with such proclamation he shall be fined not less than five nor more than fifty dollars. Each day that any owner or keeper for such owner shall fail to comply with the law as herein provided for, shall constitute a separate offense. [Acts 1913, p. 150.]

Art. 1522. [1282] [824b] **Refusing examination by commissioner.**—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 fined not less than one hundred nor more than five hundred dollars. [Acts 1893, p. 72.]

Art. 1523. [1260] [809] [692] **Failing to confine animal with glanders.**—Whoever wilfully fails or refuses to place in secure confinement apart from all other stock any animal of the horse or ass species belonging to him or subject to his control diseased with glanders or farcy shall be fined not less than twenty-five nor more than two hundred dollars or imprisoned in jail not less than ten nor more than ninety days. [Acts 1876, p. 211.]

Art. 1524. [1261] **Sale or trade of animal with glanders.**—Whoever shall trade or sell or offer to trade or sell any animal of the horse or ass species known or suspected to be affected with glanders shall be fined not less than five nor more than one hundred dollars or imprisoned in jail not less than ten nor more than ninety days. [Acts 1897, p. 216.]

Art. 1525. [1264] [811] **Using or permitting animal with glanders to run at large.**—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, or allow any such animal so diseased to run at large on the open range of any county shall be fined not less than ten nor more than two hundred dollars. [Acts 1892, p. 11.]

VETERINARIANS.

Art. 1526. **Practicing without registering.**—No person shall practice veterinary medicine in any of its branches upon animals within the limits of this State, who has not registered in the district clerk's office of the county in which he resides, his authority for so practicing, together with his age, post-office ad-

dress, place of birth and name of school of veterinary medicine from which he graduated. [Acts 2nd C. S. 1919, p. 144.]

Art. 1527. **Exceptions.**—Nothing in this law shall prohibit any person, who has heretofore registered as a veterinary surgeon in the county of his residence according to the provisions of Chapter 76 of the Acts of the regular session of the Thirty-second Legislature who had previous to the year 1911 practiced veterinary medicine or veterinary surgery as his principal occupation for five years in the State of Texas prior to the year 1911, from practicing in the county of his residence only, by securing a license from the State Board of Veterinary Medical Examiners by filing satisfactory evidence of his former compliance with the requirements of said Act of the regular session of the Thirty-second Legislature, together with an affidavit that he has practiced veterinary medicine or veterinary surgery continuously for five years prior to 1911, in which affidavit he shall state the place where he has practiced veterinary medicine or veterinary surgery for five consecutive years immediately prior to 1911, together with his place of residence during said period. Upon the face of such license shall be printed the words, non-graduate. Hereafter it shall be unlawful for any person to register under the five year practicing clause of this article. The fact of such oath shall be endorsed upon the certificate or license as the case may be, but if such person shall remove from such county of residence, he shall comply with all the requirements of this law before he shall be allowed to practice. Nothing in this law shall apply to commission or contract veterinarians in the employ of the United States or the Bureau of Animal Industry of the United States Department of Agriculture in the performance of their duties as such, but shall not engage in private practice, nor to legally qualified veterinarians of other states called in consultation but who do not open offices. Nothing in this law shall prohibit the sale by licensed druggists of remedies which they recommend for the cure of diseases of animals. [Id.]

Art. 1528. **Who are veterinarians.**—Any person shall be deemed as practicing veterinary medicine or veterinary surgery or dentistry who professes publicly to be a veterinary physician, surgeon or dentist, or who appends to his name any initials or title implying qualifications to practice veterinary medicine or who shall treat, operate or prescribe for any physical ailment or deformity of any domestic animal for which he shall receive compensation, either direct or indirect, or any county demonstration agent or farm demonstration agent while in the employment of any county, state or Federal government on a salary for treating or attempting to treat any animal for any disease, ailment or deformity. Nothing in this law shall apply to persons not so employed gratuitously treating animals. The operations known as "Dehorning," "Castrating," or "Spraying" shall not be construed as the practice of veterinary medicine or surgery nor the vaccination of cattle for blackleg as the practice of veterinary medicine. The terms veterinarians, veterinary medicine, veterinary

surgery, veterinary physician and veterinary dentist as used in this chapter shall be construed as synonymous. [Id.]

Art. 1529. Offenses by Board.—Any member of the State Board of Veterinary Medical Examiners who shall issue any certificate under the law providing for such board other than as therein provided, or who shall give any applicant for license to practice veterinary medicine or veterinary surgery prior to examination a list of questions to be propounded at any examination shall be fined not less than twenty-five nor more than two hundred dollars. [Id.]

Art. 1530. License to be recorded.—Any person receiving a certificate of license from the Board of Veterinary Medical Examiners shall forthwith have it recorded in the office of the District Clerk of the County in which he makes his residence, and shall display it in his regular place of business. The date of recording shall be recorded thereon, and until the license is recorded the holder shall not exercise any of its rights or privileges therein conferred; and in case said license is not recorded within ninety days from its date of issuance, it shall become invalid. [Id.]

Art. 1531. To record license on removal.—Any veterinarian or veterinary surgeon who has successfully passed examination and who has been granted license by said Board to practice veterinary medicine, veterinary surgery or veterinary dentistry in this State, and has recorded his license as provided for by law, may go from one county to another county in this State on professional business and may practice veterinary medicine, veterinary surgery or veterinary dentistry in any county in this State to which he may go, without recording or registering said license in any county to which he may go or in which he may practice. Provided that any veterinarian or veterinary surgeon who has successfully passed the said examination and duly recorded his license, and who removes his residence from the county in which his license is recorded, shall again record his license in the county to which he removes his residence, in the same manner as the same was recorded in the county from which he removed his residence. Such veterinarian or veterinary surgeon shall have no authority to practice in any county to which he removes his residence until he has recorded said license as herein provided. [Id.]

Art. 1532. Unlawfully practicing.—Any person who practices or attempts to practice veterinary medicine, surgery or dentistry in this State, without first having complied with the provisions of the six preceding articles shall be fined not less than twenty-five nor more than two hundred dollars. Each day of such practice or attempt to practice is a separate offense. [Id.]

Art. 1533. Honey bees.—

1. Common carriers accepting shipment.—No common carrier shall accept for intrastate shipment any honey bees, used honeycombs, used beehives or fixtures, except under such regulations as the State Entomologist shall prescribe.

2. Protective quarantine.—Said Entomologist shall have authority to declare a protective quarantine in any district, county, precinct or other defined area wherein foul brood or other contagious disease of bees is not known to exist, or wherein any disease of bees is being eradicated in accordance with the provisions of this law, said quarantine to prohibit the movement or shipment into said area, of any bees, honey, appliances or other things capable of transmitting the infection, except under such regulations as he shall prescribe.

3. Restrictive quarantine.—Said Entomologist may, when in his opinion public welfare and necessity require it, place a restrictive quarantine upon any district, county, precinct or other defined area wherein are located any honey bees infected with contagious or infectious disease, said quarantine to prohibit the movement or shipment therefrom of any bees, honey, appliances or other things capable of transmitting the infection, except under such rules and regulations as he shall prescribe.

4. Sale and shipment.—Queen bees and their attendant bees shall not be sold or offered for sale in this State unless accompanied by a copy of a certificate from a State or Government entomologist or apiary inspector to the effect that the apiary from which said queen bees are shipped has been inspected within the preceding twelve months and found apparently free from contagious and infectious diseases, or by an affidavit made by the beekeeper that the bees are not diseased to the best belief of affiant and that the honey used in making the candy contained in the queen cage has been diluted and boiled for at least thirty minutes in a closed vessel.

5. To report diseased bees.—If any owner of, or any person having control or possession of, any honey bees in this State, knows that such bees are affected with American foul brood, or any other contagious or infectious disease, or knows of any other bees so diseased, it shall be his duty to at once report such fact to said Entomologist at College Station, setting out in said report all the facts known with reference to said infection.

6. Sale, etc. of infected bees, etc.—No owner or keeper of any diseased colonies of bees shall barter, give away, sell, ship or move any infected bees, honey or appliances, or shall expose any other bees to the danger of infection of the disease.

7. Exposing infected honey, etc.—No person, firm or corporation shall expose, on their own premises or elsewhere, any honey, hives, frames, combs, brood or appliances known to be infected by foul brood or other dangerous disease of bees, in such a manner that honey bees may have access to same; nor sell, offer for sale, barter, give away, ship or distribute any honey taken from a colony or colonies of bees infected with foul brood or other infectious or contagious disease.

8. Interfering with inspection.—No person shall seek to prevent any inspection of bees, honey or appliances under the direction of the State Entomologist in accordance with this law, or shall seek or attempt to prevent the discovery or treatment of diseased honey bees, or shall attempt to intimidate the State

Entomologist, his assistants or inspectors, or otherwise interfere with them in the lawful discharge of their duties as herein defined.

Whoever violates any provision of this article, or violates any rule, quarantine, order or regulation of the State Entomologist issued in accordance with the provisions of this law shall be fined not less than twenty-five nor more than two hundred dollars. All fines collected under this article shall be paid into the State Treasury. [Acts 1913, p. 97.]

CHAPTER FIFTEEN.

EMBEZZLEMENT AND CONVERSION.

	Article		Article
Embezzlement	1534	Appropriation of trust funds	1540
By factor or commission merchant	1535	Misapplication of money of prisoners	1541
Embezzlement by carrier	1536	Conversion of prison property	1542
Secreting or concealing property from assignee	1537	Receiving or concealing embezzled property	1543
Conversion of estate	1538	"Money" and "Property" defined	1544
Conversion by sheriff	1539		

Art. 1534. [1416] [938] [786] **Embezzlement.**—If any officer, agent, clerk, employe, 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. [Acts 1858, p. 182, Acts 1876, p. 9.]

Art. 1535. [1417] [939] [787] **By factor or commission merchant.**—If any factor or commission merchant shall embezzle or fraudulently misapply or convert to his own use any money or other property, which shall have come into his possession or shall be under his care by virtue of his agency or employment, he shall be punished as if he had stolen such property. [Acts 1858, p. 182.]

Art. 1536. [1418] [940] [788] **Embezzlement by carrier.**—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 shall be punished as prescribed for theft. [Acts 1858, p. 182.]

Art. 1537. [1576] [1011] **Secreting or concealing property from assignee.**—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 imprisoned in the penitentiary for not less than two nor more than five years. [Acts 1879, p. 59.]

Art. 1538. [1426] [948] [795] **Conversion of estate.**—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 distributee interested in such estate, convert the same or any part thereof to his own use, he shall be punished as is provided in cases of theft. [Acts 1858, p. 184; Act April 10, 1883, p. 66.]

Art. 1539 [366] [258] [242] **Conversion by sheriff, etc.**—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 stolen such money. [Acts 1858, p. 164.]

Art. 1540. [367] [259] [243] **Appropriation of trust funds.**—If any officer of any court who has the legal custody of any money, evidence of debt, script, 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 stolen the same. [Acts 1876, p. 7.]

Art. 1541. [1611] **Misapplication of money of prisoners.**—Prisoners when received into the penitentiary shall be carefully searched. If money be found on the person of the prisoner, or received by him at any time, it shall be taken in charge by the Prison Commissioner and placed to the prisoner's credit, and expended for the prisoner's benefit on his written order, and under such restrictions as may be prescribed by law or the rules. Any officer or employe of the prison system having charge of a prisoner's money who misappropriates the same or any part thereof, shall be confined in the penitentiary not more than five years. [Act Sept. 17, 1910, Sec. 47.]

Art. 1542. [1615] **Conversion of prison property.**—Any officer or employe of the prison system who shall fraudulently convert to his own use and benefit any food, clothing, or other property, belonging to or under control of the prison system, shall be punished as if he had stolen the same. [Id. Sec. 55.]

Art. 1543. [1420] [942] [789a] **Receiving or concealing embezzled property.**—If any person shall fraudulently receive or conceal any property which has been converted by another in such manner as that the conversion comes within the meaning of embezzlement, knowing the same to have been so converted, he shall be punished in the same manner as the person embezzling the same would be liable to be punished. [Acts 1883, p. 24.]

Art. 1544. [1419] [941] [789] **"Money" and "Property" defined.**—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 article commonly known as personal property, and all writings of every description that possess any ascertainable value.

CHAPTER SIXTEEN.

SWINDLING AND CHEATING.

	Article		Article
"Swindling" defined.....	1545	Obtaining board or lodging by	
Certain wrongful acts included...	1546	trick, etc.....	1551
"Money" defined.....	1547	To post price in hotel rooms.....	1552
No benefit need accrue to defend-		Hotel to furnish rate card.....	1553
ant.....	1548	Untrue advertisement.....	1554
If the act constitutes any other		Unlawfully using or wearing em-	
defense.....	1549	blem.....	1555
Punishment for swindling.....	1550		

Art. 1545. [1421] [943] [790] "Swindling" defined.— "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 right of the party justly entitled to the same. [Acts 1858, p. 183.]

Art. 1546. **Specific acts; certain wrongful acts included.**— Within the meaning of the term "swindling" are included the following wrongful acts:

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 has given the accused the right to use his name 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 property owner shall be defeated of a valuable right in such lands.

4. The obtaining by any person of any money or other thing of value with intent to defraud by the giving or drawing of any check, draft or order upon any bank, person, firm or corporation with which or with whom such person giving or drawing said check, draft or order has not at the time of the giving or drawing said check, draft or order, or at the time when in the ordinary course of business such check, draft or order would be presented to the drawee for payment, sufficient funds to pay same, and no good reason to believe that such check, draft or order will be paid; provided, that if said check, draft or order is not paid on presentation the return of same shall be prima facie evidence of the fraudulent intent of said person drawing or giving said check; and provided further, that if such check, draft or order is not paid within fifteen days after the same is returned unpaid, it shall be prima facie evidence that no good reason existed for believing that said check, draft or order would be paid, and it shall also be prima facie evidence of intent to defraud and knowledge of insufficient funds with the drawee.

5. The special enumeration of cases of swindling above set forth shall not be understood to exclude any case which by fair construction of language comes within the meaning of the preceding article.

6. This Act shall be cumulative of all other laws on this subject and should any section or provision be declared unconstitutional such decision shall not effect any of the remaining provisions of this Act. [Act 1925, p. 38.]

Art. 1547. [1423] [945] [792] **“Money” defined.**—Within the meaning of “money”, as used in this chapter, are included also bank bills or other circulating medium current as money.

Art. 1548. [1424] [946] [793] **No benefit need accrue to defendant.**—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 person intended to be defrauded, if it is sufficiently apparent that there was a wilful design to receive benefit or cause an injury. [Acts 1858, p. 183.]

Art. 1549. [1425] [947] [794] **If the act constitutes any other offense.**—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 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. [Acts 1858, p. 184.]

Art. 1550. [1427] [948] [796] **Punishment for swindling.**—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.

Art. 1551. [1428] **Obtaining board or lodging by trick, etc.**—Every person who shall obtain board or lodging in any hotel or boarding house by means of any trick or deception or false or fraudulent representations, or statement or pretense, and shall fail or refuse to pay therefor, shall be held to have obtained the same with the intent to cheat and defraud such hotel or boarding house keeper, and shall be fined not exceeding one hundred dollars, or be imprisoned in jail not exceeding one month or both. [Act May 10, 1899, Acts 1899, p. 173.]

Art. 1552. **To post price in hotel rooms.**—The owner or keeper of each hotel within this State shall post in a conspicuous place in each room thereof a card or sign, stating the price per day of each room and bearing date when posted; and no advance in the price list so posted shall be made within thirty days from the time said card or sign was last posted.

Any hotel owner or keeper who shall fail or refuse to post the rates of his rooms as above required, or any hotel owner, keeper or employe who shall knowingly charge any guest a rate in excess of the rate posted shall be fined not less than twenty-five nor more than one hundred dollars, or be imprisoned in jail not exceeding thirty days or both, and each day that such excessive rate is charged is a separate offense. [Acts 1923, p. 95.]

Art. 1553. **Hotel to furnish rate card.**—When a room is assigned to a guest by any hotel having twenty rooms or more, such hotel shall give said guest a ticket showing the rate per

day he is being charged for such room, which shall conform with the rates posted, and any owner, keeper or employe of said hotel who shall neglect to furnish said guest with such ticket shall be fined not exceeding one hundred dollars. [Id.]

Art. 1554. **Untrue advertisement.**—Whoever with intent to sell or in any way dispose of merchandise, securities, service, or anything offered by such person, or by any firm, corporation or association which he owns or of which he has control directly or indirectly, to the public for sale or distribution, or with intent to increase the consumption thereof, or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title thereto, or any interest therein, makes, publishes, disseminates, circulates or places before the public or causes to be made, published, disseminated, circulated or placed before the public in a newspaper, or other publication, or in the form of a book, notice, handbill, window display card or price tag, poster, bill, circular, pamphlet or letter, or in any other way, an advertisement of any sort regarding merchandise, as to its character or cost, securities, service, or anything so offered to the public, which advertisement contains any assertion, representation or statement of fact which is known by said person or could have been known by use of reasonable diligence or inquiry to be untrue, deceptive or misleading in any material particular as to such matters or things so advertised, shall be fined not less than ten nor more than two hundred dollars. In prosecutions under this article such statement, trade name or trade mark, with the name, signature, mark or identification of the person, firm, corporation, partnership, association, shall be considered prima facie evidence of the publication of such statement, trade name or trade mark by the person, firm, corporation, partnership, association, referred to therein. [Acts 1921, p. 86.]

Art. 1555. [425] **Unlawfully using or wearing emblem.**—Whoever shall wilfully and without due authority use or wear the badge, label or button or other emblem of the United Confederate Veterans, United Sons of Confederate Veterans, United Daughters of the Confederacy, Grand Army of the Republic, Woman's Relief Corps, the Benevolent and Protective Order of Elks of the United States of America, the Ancient, Free and Accepted Masons, the Independent Order of Odd Fellows, the Knights of Pythias, the Woodmen of the World, any labor organization, or any order, society or organization in this State, or who shall use or wear the same to obtain aid, assistance or patronage thereby, unless he shall be entitled to use or wear the same under the rules and regulations of any such order, society or organization whose badge, label or button or other emblem was so used or worn, shall be fined not exceeding fifty dollars, or imprisoned in jail not exceeding sixty days. [Acts 1909, p. 134.]

CHAPTER SEVENTEEN.

PROPERTY UNDER LIEN.

Art. 1556. **Removing property under lien.**—If any person shall remove any personal property or any part thereof covered

by the lien created by chapter 17, Acts of the 35th Legislature, Regular Session, from the place where it was located when the lien therein provided for shall have been filed of record, without the written consent of the owner and holder of said lien, with intent to defraud the person having such lien, either originally or by transfer, he shall be fined not less than five nor more than five hundred dollars. [Acts 1917, p. 28.]

Art. 1557. **Concealing location of motor vehicle.**—Whoever shall wilfully, upon demand, fail or refuse to notify the mortgagee or holder of a mortgage given upon any motor vehicle or accessories therefor purchased by him to secure the purchase price therefor or any portion of same, of the location of such motor vehicle, shall be fined not less than ten nor more than one hundred dollars, or be confined in jail for not more than sixty days or both. [Acts 1919, p. 320.]

Art. 1558. [1430] [950] [797] **Fraudulent disposition of mortgaged property.**—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 confined in the penitentiary for not less than two nor more than five years. [Acts 1885, p. 85.]

CHAPTER EIGHTEEN.

OFFENSES COMMITTED IN ANOTHER COUNTY OR STATE .

Art. 1559. [1431] [951] [798] **Bringing stolen property into this State.**—If any person having committed an offense in any foreign country, State or territory, which if committed in this State would have been swindling, robbery, theft, embezzlement or receiving of stolen 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 by another, shall bring into this State any property so acquired or received he shall be deemed guilty of swindling, robbery, theft, embezzlement, or receiving of goods or property stolen or embezzled, and shall be punished as if the offense had been committed in this State. 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. [O. C. 774, Acts 1895, p. 116.]

Art. 1560. [1432] [952] [799] **Requisites of guilt.**—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 swindling, robbery, embezzlement, theft or receiving stolen goods or property embezzled. [O. C. 775, Id.]

TITLE 18

LABOR.

	Chapter		Chapter
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Sanitary and Health Condi- tions	2	Workmen and Firemen.....	6
Female Employees.....	3	Employment Agents	7
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CHAPTER ONE.

LABOR COMMISSIONER.

	Article		Article
Commissioner of Labor Statistics.....	1561	Disclosing name of informant.....	1564
Failure to testify before commis- sioner	1562	Commissioner may enter factory, etc.	1565
Duty of owner of factory, etc.....	1563	Interfering with Labor Bureau.....	1566

Art. 1561. [1585] **Commissioner of Labor Statistics.**—The Commissioner of Labor Statistics shall collect, systematize and present in biennial reports to the Governor, statistical details relating to all departments of labor in Texas, and especially as bearing upon the commercial, social, educational and sanitary conditions of the employees and their families, the means of escape from dangers incident to their employment, the protection of life and health in factories and other places of employment, the labor of women and children and the hours of labor exacted of them, and in general all matters which tend to affect the prosperity of the mechanical, manufacturing and productive industries of this State, and of the persons employed therein. [Sec. 3, Act Feb. 26, 1909, Acts 1909, p. 59.]

Art. 1562. [1586] **Failure to testify before Commissioner.**—The Commissioner of the Bureau of Labor Statistics shall have power to issue subpoenas, and take testimony in all matters related to the duties required of the said bureau, but said testimony must be taken in the vicinity of the residence or office of the person testifying. Any person duly subpoenaed under any provision of this chapter who shall wilfully neglect or fail to attend or testify at the time and place mentioned in the subpoena shall be fined not exceeding fifty dollars or be imprisoned in jail not to exceed thirty days. No witness shall be compelled to go outside of the county in which he resides in order to testify. [Sec. 5, Id.]

Art. 1563. [1587] **Duty of owner of factory, etc.**—Every owner, manager and superintendent of every factory, mill, workshop, mine, store, business house, public or private work, or any other establishment or place, where five or more persons are employed at work, shall make to the Bureau of Labor Statistics upon blanks to be furnished by such bureau, such reports and returns as said bureau may require for the purpose of securing such labor statistics as are contemplated by this chapter. Such reports and returns shall be made under oath within not to exceed sixty days from the receipt of the blanks furnished by the Commissioner or bureau. Any owner, manager,

superintendent or other person in charge or control of any factory, mill, workshop, mine, store, business house, public or private work, or other establishment or place, where five or more persons are employed at work, who shall neglect or refuse to make such reports and returns as are required by any provision of this chapter shall be fined not to exceed one hundred dollars, or be imprisoned in jail not to exceed thirty days. [Sec. 6, Id.]

Art. 1564. [1588] **Disclosing name of informant.**—In the reports made by the Commissioner to the Governor the names of persons, firms or corporations supplying information under any provision of this chapter shall not be disclosed, nor shall any such name be communicated to any person not employed in the Bureau of Labor Statistics. Any officer or employe of such bureau violating any provision of this article, shall be fined not to exceed five hundred dollars, or be imprisoned in jail not to exceed ninety days. [Sec. 7, Id.]

Art. 1565. [1589] **Commissioner may enter factory, etc.**—Upon the written complaint of two or more persons, or upon his failure otherwise to obtain information in accordance with any provision of this chapter, the Commissioner of Labor Statistics shall have the power to enter any factory, mill, workshop, mine, store, business house, public or private work, or other establishment, or place where five or more persons are employed at work, when the same is open and in operation, for the purpose of gathering facts and statistics, such as are contemplated by this chapter, and for the purpose of examining into the methods of protecting employes from danger and the sanitary conditions in and around such building or place. [Sec. 9, Id.]

Art. 1566. [1591] **Interfering with Labor Bureau.**—Any owner, manager, superintendent or other person in charge or control of any factory, mill, workshop, mine, store, business house, public or private work, or other establishment or place, where five or more persons are employed at work, who shall refuse to allow any officer or employe of the said Bureau of Labor Statistics to enter the same or to remain therein for such time as is reasonably necessary, or who shall hinder any such officer or employe, or in any way prevent or deter him from collecting information, as to any matter consistent with any duty imposed on him by law, shall be fined not to exceed one hundred dollars, or imprisoned in jail not to exceed sixty days. [Sec. 11, Id.]

CHAPTER TWO.

SANITARY AND HEALTH CONDITIONS.

Art. 1567. **Permitting immoral conditions.**—Any person in control of any factory, mill, workshop, laundry, mercantile establishment or other establishment where five or more persons are employed, all or part of whom are females, who shall permit in such place of employment any influence, practices or conditions calculated to injuriously affect the morals of such female employes, shall be find not less than twenty-five nor

more than two hundred dollars, or be imprisoned in jail not exceeding sixty days, or both. [Acts 4th C. S. 1918, p. 134.]

Art. 1568. **Refusal to correct condition.**—Any person in control or management of any establishment included in the preceding article who shall fail or refuse to comply with any written order issued to such person by the Commissioner of Labor Statistics, or any of his deputies or inspectors, for the correction of any condition caused or permitted therein which endangers the health of the employes therein or which do not comply with the law governing such establishments, shall be punished as provided in the preceding article. [Id.]

CHAPTER THREE.

FEMALE EMPLOYES.

	Article		Article
Hours of work.....	1569	Exceptions	1571
Seats	1570	Punishment	1572

Art. 1569. **Hours of work.**—No female shall be employed:
 1. In any factory, mine, mill, workshop, mechanical or mercantile establishment, hotel, restaurant, rooming house, theater, moving picture show, barber shop, telegraph, telephone or other office, express or transportation company, or any State institution, or any other establishment, institution or enterprise where females are employed, for more than nine hours in any one calendar day nor more than fifty-four hours in any one calendar week.

2. In any laundry for more than fifty-four hours in one calendar week; the hours of work to be so arranged as to permit the employment of such female at any time so that she shall not work more than a maximum of eleven hours during the twenty-four-hour period of one day.

3. In any factory engaged in the manufacture of cotton, woolen or worsted goods or articles of merchandise manufactured out of cotton goods, for more than ten hours in any one calendar day nor more than sixty hours in any one calendar week. [Acts 1915, p. 105.]

Art. 1570. **Seats.**—Every employer owning or operating any factory, mine, mill, workshop, mechanical or mercantile establishment, laundry, hotel, restaurant or rooming house, theater or moving picture show, barber shop, telegraph, telephone or other office, express or transportation company; the superintendent of any State institution or any other establishment, institution or enterprise where females are employed as provided in the preceding article, shall provide and furnish suitable seats to be used by such employes when not engaged in the active duties of their employment, and shall give notice to all such employes by posting in a conspicuous place on the premises of such employment, in letters not less than one inch in height, that all such employes will be permitted to use such seats when not so engaged. [Id.]

Art. 1571. **Exceptions.**—The two preceding articles shall not

apply to stenographers and pharmacists, nor to mercantile establishments or telegraph or telephone companies in rural districts and in cities or towns or villages of less than three thousand inhabitants, as shown by the preceding Federal census. In cases of extraordinary emergencies, such as great public calamities or where it becomes necessary for the protection of human life or property, longer hours may be worked. [Id.]

Art. 1572. **Punishment.**—Any employer, overseer, superintendent, foreman or other agent of any such employer who shall permit any female to work in any place mentioned in the first two articles of this chapter more than the number of hours provided for during any day of the twenty-four hours, or who shall fail or refuse to so arrange the work of such employes in said place so that they shall not work more than the number of hours so provided for, or who shall fail or refuse to provide suitable seats as provided in the second preceding article, shall be fined not less than fifty, nor more than two hundred dollars. Each day of such violation and each such employe permitted to work more than the time so specified shall be a separate offense. [Id.]

CHAPTER FOUR.

EMPLOYMENT OF CHILDREN.

	Article		Article
Of children under 15.....	1573	Exemptions	1577
Child under 17.....	1574	Inspectors to have access.....	1578
Messenger or delivery service.....	1575	Exceptions	1578a
Hours of child under 15.....	1576		

Art. 1573. **Children under fifteen.**—Any person, or any agent or employe of any person, firm or corporation who shall hereafter employ any child under the age of fifteen (15) years to labor in or about any factory, mill, workshop, laundry, or in messenger service in towns and cities of more than fifteen thousand population, according to the Federal census, except as hereinafter provided, shall be deemed guilty of a misdemeanor, and upon conviction in a court of competent jurisdiction, shall be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than two hundred dollars (\$200.00) or by imprisonment in the county jail for not more than sixty days, or by both such fine and imprisonment; provided that nothing in this Act shall be construed as affecting the employment of children on farms, ranches, dairies or other agricultural or stock raising pursuits.

Art. 1574. **Under age of seventeen.**—Any person, or agent, or employe of any person, firm or corporation who shall hereafter employ any child under the age of seventeen (17) years to labor in any mine, quarry or place where explosives are used, or who, having control or employment of such child, shall send or cause to be sent, or who shall permit any person, firm or corporation, their agents or employes to send any such child under the age of seventeen (17) years to any disorderly house, bawdy house, assignation house or place of amusement conducted for immoral purposes, the character or reputation of which could have been ascertained upon reasonable inquiry on the part of

such person, firm or corporation having the control of such child shall be deemed guilty of a misdemeanor, and upon conviction in any court of competent jurisdiction shall be punished by a fine of not less than fifty (\$50.00) dollars nor more than five hundred (\$500.00) dollars, or by imprisonment in the county jail not to exceed sixty (60) days, or by both such fine and imprisonment.

Art. 1575. Messengers.—It shall be the duty of every person, firm or corporation, their agents or employees, having in their employ or under their control, any child under the age of seventeen (17) years, doing a messenger or deliver business, or whose employees may be required to deliver any message, package, merchandise or other thing, before sending any such child on such errand, to first ascertain if such child is being sent or is to be sent to any place prohibited in Art. 1574. Failure or refusal to comply with this article shall subject any person, firm or corporation, their agents or employees, having the control of such child or children to the penalties provided in Art. 1574.

Art. 1576. Limitation of Hours.—Any person, firm or corporation, their agents or employees, having in their employ or under their control any child under the age of fifteen (15) years who shall require or permit any such child to work or be on duty for more than eight (8) hours in any one calendar day, or for more than forty-eight hours in any one week, or who shall cause or permit such child to work between the hours of ten (10) P. M., and five (5) A. M., shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than twenty-five (\$25.00) dollars nor more than two hundred (\$200.00) dollars, or by imprisonment in the county jail not to exceed sixty (60) days, or by both such fine and imprisonment; provided that nothing herein or in any other section of this Act shall apply to employment of children for farm labor, or to hours which children may work on farms.

Art. 1577. Exemptions.—Upon application being made to the county judge of any county in which any child over the age of twelve (12) years shall reside, the earnings of which child are necessary for the support of itself, its mother when widowed, or in needy circumstances, or invalid father, or of other children younger than the child for whom the permit is sought, the said county judge may upon the sworn statement of such child or its parents or guardian, that the child for whom the permit is sought is over twelve (12) years of age, that the said child has completed the fifth grade in a public school or its equivalent, and that it shall not be employed in or around any mill, factory, workshop, or other place where dangerous machinery is used, nor in any mine, quarry or other place where explosives are used, or where the moral or physical condition of the child is liable to be injured, and that the earnings of such child are necessary for the support of such invalid parent, widowed mother or mother in needy circumstances, or of younger children, and that such support cannot be obtained in any other manner, and that suitable

employment has been obtained for such child, which sworn state-
 ment shall be accompanied by the certificate of a licensed phy-
 sician showing that such child is physically able to perform the
 work or labor for which the permit is sought, issue a permit for
 such child to enter such employment. Every person, firm or cor-
 poration employing any such child between the ages of twelve
 (12) years and fifteen (15) years shall post in a conspicuous
 place where such child is employed, the permit issued by the
 county judge; provided that no permit shall be issued for a
 longer period than twelve (12) months, but may be renewed from
 time to time upon satisfactory evidence being produced that the
 conditions under which the former permit was issued still exists,
 and that no physical or moral injury has resulted to such child
 by reason of its employment. In every case where a permit
 is sought for any child between the ages of twelve (12) years
 and fifteen (15) years, the parent, guardian or other person in
 charge or control of such child shall appear before the county
 judge in person with such child for whom a permit is sought
 before such permit shall be issued. There shall be nothing in
 this chapter to prevent the working of school children of any age
 from June 1 to September 1 of each year except that they shall
 not be permitted to work in factory, mill, workshop, and the
 places mentioned in Article 1574 and Article 1577; nor shall their
 hours of labor conflict with Article 1576 of this chapter.

Art. 1578. **Inspectors to have access.**—The Commissioner of
 Labor Statistics, or any of his deputies or inspectors shall have
 free access during working hours to all places where children or
 minors are employed, and any owner, manager, superintendent,
 foreman or other person in authority, who shall refuse to admit,
 or in any way hinder or defer the said commissioner or any of
 his deputies or inspectors from entering or remaining in such
 place, or from collecting information with respect to the employ-
 ment of children as provided in this chapter, shall be deemed
 guilty of a misdemeanor and upon conviction in any court of
 competent jurisdiction shall be punished by a fine of not less
 than twenty-five (\$25.00) dollars, nor more than one hundred
 (\$100.00) dollars; provided that nothing herein shall apply to
 those engaged in agricultural pursuits.

Art. 1578a. **Exceptions.**—Nothing in this chapter shall be
 construed as prohibiting the employment by any person of
 nurses, maids, yard-servants, or others for private homes and
 families, regardless of their ages. [Acts 1925, p. 175.]

CHAPTER FIVE.

HOURS OF LABOR ON PUBLIC WORKS.

	Article		Article
Eight hours a day work.....	1579	Punishment	1581
Violation of eight hour law.....	1580		

Art. 1579. **Eight hours a day work.**—Eight hours shall con-
 stitute a day's work for all laborers, workmen or mechanics who
 may be employed by or on behalf of the State of Texas, or by or
 on behalf of any county, municipality, or political subdivision

of the State, county or municipality in any one calendar day, where such employment, contract or work is for the purpose of constructing, repairing or improving buildings, bridges, roads, highways, streams, levees, or other work of a similar character, requiring the service of laborers, workmen or mechanics. [Acts 1913, p. 127.]

Art. 1580. Violating eight hour law.—All contracts made by or on behalf of the State of Texas, or by or on behalf of any county, municipality or other legal or political subdivision of the State, with any corporation, persons or association of persons for performance of any work, shall be deemed and considered as made upon the basis of eight hours constituting a day's work. The time consumed by the laborer in going to and returning from the place of work shall not be considered as part of the hours of work. No corporation, person, or association of persons having a contract with the State or any political subdivision thereof, shall require any such laborers, workmen or mechanics or other persons to work more than eight hours per calendar day in doing such work, except in case of emergency, which may arise in times of war, or in cases where it may become necessary to work more than eight hours per calendar day for the protection of property, human life or the necessity of housing inmates of public institutions in case of fire or destruction by the elements. In such emergencies the laborers, workmen, mechanics or other persons so employed and working to exceed eight hours per calendar day shall be paid on the basis of eight hours constituting a day's work. Not less than the current rate of per hour wages for like work in the locality where the work is being performed shall be paid to the laborers, workmen, mechanics or other persons so employed or on behalf of the State, or for any county, municipality or other legal or political subdivision of the State, county or municipality, and every contract hereafter made for the performance of work for the State, or for any county, municipality, or other legal or political subdivision of the State, county or municipality, must comply with the requirements of this chapter. Nothing in the foregoing article shall prevent any person, or any officer, agent, or employe of any person or corporation, or association of persons from making mutually satisfactory contracts as to the hours of labor, at the rates of pay as herein provided. [Acts 1913, p. 127; Acts 1921, p. 229.]

Art. 1581. Punishment.—Any person, or any officer, agent or employe of any person, corporation or association of persons, or any officer, agent or employe of the State, county, municipality, or any legal or political subdivision of the State, county or municipality, who shall fail or refuse to comply with any provision of this chapter or who shall violate any of its provisions shall be fined not less than fifty nor more than one thousand dollars, or be imprisoned in jail not to exceed six months or both. Each day of such violation shall be a separate offense. [Acts 1913, p. 127.]

CHAPTER SIX.

WORKMEN AND FIREMEN.

Art. 1582. Protection of workmen on buildings.—

1. To prevent workmen from falling.—Any building three or more stories in height, in the course of construction or repairs, shall have the joists, beams or girders of each and every floor below the floor level where any work is being done, or about to be done, covered with planking laid close together, said planking to be of not less than one and one-half inches of thickness in buildings that have steel framework, and what is commonly known as one-inch plank in all others where joists are set on two feet centers or less, to protect the workmen engaged in the erection or construction of such buildings from falling through joists, girders, and from falling planks, bricks, rivets, tools or other substances, whereby life and limb are endangered. Where any scaffolding is placed on the outside of any of said buildings, over any public street or alley where persons are in the habit of passing, then said scaffolding shall be so constructed as to prevent any material, tools or other things from falling off and endangering the life of passersby. Such flooring shall not be removed until the same is replaced by a permanent flooring in such building.

2. To inclose elevators and shafts.—If elevators, elevating machines or hod hoisting apparatus are used within a building in the course of construction, for the purpose of lifting materials to be used in such construction, the contractor or owners, or the agents of the owners, shall cause the shafts or openings in each floor to be inclosed or fenced in on all sides, two sides of which must be at least six feet, and two sides where material is to be taken off or on shall be protected by automatic safety gates.

3. Duty of general contractors.—The general contractor having charge of the erection and construction of such building shall provide for the flooring as herein required, and make such arrangements as may be necessary with the sub-contractor in order that the provisions of this article may be carried out.

4. Duty of owner.—The owner, or the agent of the owner of such building, shall see that the general contractor or sub-contractors carry out the provisions of this article.

5. Owner to see to flooring.—If the general contractor or sub-contractor of such building fails to provide for the flooring of such building as herein provided, then the owner or the agent of the owner of such building shall see that the provisions of this article are carried out.

Any owner or agent of the owner, or any general contractor or sub-contractor, of any building described in the first subdivision of this article who shall fail to comply with any provision of this article shall be fined not less than fifty nor more than two hundred dollars. Each day of such violation is a separate offense. [Acts 1919, p. 281.]

Art. 1583. Work and vacation of firemen.—

1. No member of any paid fire department in any city of more than 25000 inhabitants shall be required to be on duty for more than six days in any one week.

2. The preceding subdivision shall not apply in cases of emergency.

3. Each member of any such department in any city of more than 30000 inhabitants shall be allowed fifteen days vacation in each year, with pay, not more than fourteen men to be on vacation at the same time.

4. Each preceding Federal census shall determine the population.

5. The city officials having supervision of the fire department shall designate the days of the week upon which each such member shall not be required to be on duty, and the days upon which each such member shall be allowed to be on vacation.

The city official having charge of the fire department in any such city who violates any provision of this article shall be fined not less than ten nor more than one hundred dollars. [Acts 1st C. S. 1915, p. 22, Acts 1st C. S. 1917, p. 19.]

CHAPTER SEVEN.

EMPLOYMENT AGENTS.

	Article		Article
Definitions	1584	Overcharging	1589
Exceptions	1585	Untruth by employer or applicant.	1590
Doing business without license.	1586	To display license and law.	1591
Agent to keep record.	1587	Punishment	1592
Certain acts prohibited.	1588	Inducing employe to quit.	1593

Art. 1584. **Definitions.**—As used in this chapter:

1. "Employment agent" means every person, firm, partnership or association of persons engaged in the business of assisting employers to secure employes, and persons to secure employment, or of collecting information regarding employers seeking employes, and persons seeking employment.

2. "Employment office" means every place or office where the business of giving intelligence or information where employment or help may be obtained, or where the business of an employment agent is carried on. [Acts 1923, p. 75.]

Art. 1585. **Exceptions.**—The provisions of this chapter shall not apply to agents who charge a fee of not more than two dollars for registration only for procuring employment for school teachers; nor to any department or bureau maintained by this State, the United States Government, or any municipal government of this State, nor to any person, firm, partnership, association of persons or corporation or any officer or employe thereof engaged in obtaining or soliciting help for him, them or it when no fees are charged, directly or indirectly, the applicant for help or the applicant for employment; nor to farmers and stockraisers acting jointly or severally in securing laborers for their own use where no fee is collected or charged directly or indirectly, nor to any association or corporation chartered under

the laws of Texas conducting a free employment bureau or agency. [Id.]

Art. 1586. Doing business without license.—Whoever engages in the business of an employment agent or conducts an employment office, without first procuring a license therefor, as required by law, shall be fined not less than fifty nor more than two hundred and fifty dollars, or be imprisoned in jail not to exceed one year, or both. Each day such person shall engage in such business or shall conduct an employment office without first procuring such license shall be a separate offense. [Id; Acts 2nd C. S. 1923, p. 94.]

Art. 1587. Agent to keep record.—Every licensed employment agent shall keep and maintain an office at which a complete record of the business transacted shall be kept; he shall keep a substantially bound book in the form prescribed by the Commissioner of the Bureau of Labor Statistics of this State in which shall be entered the age, sex, nativity, trade or occupation, name and address of each person who makes application for employment, or for help, to such employment agent, and where and to whom such person was directed to go by such agent for employment. Such employment agent shall also enter and keep in a well bound book the name and address of every person, firm, corporation or association of persons who shall make application to him for assistance in securing employes, together with the number and kind of employes desired, the amount of wages or salary to be paid and the place where such employes are to work, and the date of the application and when received. [Acts 1923, p. 79.]

Art. 1588. Certain acts prohibited.—No employment agent shall:

1. Knowingly admit, or allow to remain on the premises of such agent any prostitute, gambler, intoxicated person or any person of bad character.

2. Advertise his agency by means of cards, circulars, signs or in newspapers or other publications, unless all such advertisements shall set forth the name of the agent and the address of his employment office; nor shall any such licensed person use any letterheads or blanks not containing the name of such employment agent and the address of his employment office.

3. Publish or cause to be published any false or misleading advertisement or notice relating to his employment agency.

4. Give any false information or make any false representation concerning employment to any applicant for employment.

5. Send out an applicant for employment to any prospective employer without first having obtained a bona fide written order from such prospective employer.

6. Furnish any female for immoral purposes; or send, or cause to be sent any female to enter as servant, inmate, or for any purpose whatsoever, any place of bad repute, house of ill fame, or assignation house, or any house or place of amusement kept for immoral purposes, the character of which such employment agent could have ascertained by reasonable diligence.

7. Furnish employment to any child in violation of the Statutes regulating the employment of children or the compulsory attendance at school.

8. Divide or offer to divide, directly or indirectly, any fee charged or received with any person who secures help through such agent, or to whom help is referred by such agent. [Id.]

Art. 1589. **Overcharging.**—Where a fee is charged for obtaining employment, such fee in no event shall exceed the sum of three dollars, which may be collected from the applicant only after employment has been obtained and accepted by the applicant. Employment agents engaged exclusively in providing employment for skilled, professional or clerical positions may charge, with the written consent of the applicant, a fee, not to exceed 20% of the first month's salary. [Id.]

Art. 1590. **Untruth by employer or applicant.**—No employer seeking employes, and no person seeking employment, shall knowingly make any false statement or conceal any material facts for the purpose of obtaining employes, or employment, by or through any employment agent. [Id.]

Art. 1591. **To display license and law.**—Every employment agent shall keep conspicuously posted in his office the license issued to him under the law, two copies of this Act, one printed in English and the other in Spanish in type not smaller than ten points, which copies shall be conspicuously placed so that they may be easily read by the public. [Id.]

Art. 1592. **Punishment.**—Whoever violates any provision of the five preceding articles of this chapter shall be fined not less than twenty-five nor more than two hundred dollars. [Id.]

Art. 1593. **Inducing employe to quit.**—Any employment agent who shall induce or attempt to induce any person to leave his or her employer with a view to having said person obtain employment through his agency shall be fined not less than fifty nor more than two hundred and fifty dollars, or be imprisoned in jail not to exceed one year, or both. [Id.]

CHAPTER EIGHT.

MINES AND MINING.

Article	Article		
Escapement shaft.....	1594	Coal scales	1604
Shafts, cages and passways.....	1595	Check weighman.....	1605
Ventilation	1596	Oil used	1606
Notice of fire damp.....	1597	Penalty	1607
Mining cage.....	1598	Insulating live wires.....	1608
Powder	1599	Map of mine.....	1609
Cut-throughs	1600	Animals in mines.....	1610
Safety lamps	1601	Exceptions	1611
Endangering life or health.....	1602	Bath facilities.....	1612
Posting mine rules.....	1603		

Art. 1594. [1592] [1593] **Escapement shaft.**—No owner, agent, lessee, receiver or operator of any mine in this State shall employ any person or persons in said mine for the purpose of working therein unless there are in connection with every seam or stratum of coal or ore worked in such mine not less than two openings or outlets, separated by a stratum of not less than one hundred and fifty feet at surface and not less than

thirty feet at any place, at which openings or outlets safe and distinct means of ingress and egress shall at all times be available for the persons employed in such mine. The escapement shafts or slopes shall be fitted with safe and available appliances by which the employes of the mine may readily escape in case of accident. In slopes used as haulage roads where the dip or incline is ten degrees or more there must be provided a separate traveling way which shall be maintained in a safe condition for travel and kept free from dangerous gases. The time which shall be allowed for completing such escapement shaft or opening shall be two years for all shafts or slopes more than two hundred feet in depth, and one year for all shafts two hundred feet in depth or less; and the time shall be reckoned in all cases from the date on which coal or ore is first hoisted from the original shaft or slope for sale or use. Any person, owner, agent, lessee, receiver or operator of any mine who shall violate or suffer or permit the violation of any provision of this article shall be fined not less than two hundred nor more than five hundred dollars, and each day such violation continues shall be a separate offense. [Acts 1903, p. 103.]

Art. 1595. [1594] **Shafts, cages and passways.**—Any shaft in process of sinking, and any opening projected for the purpose of mining coal of all kinds shall be subjected to the provisions of this and the twelve succeeding articles. At the bottom of every shaft and every caging place therein, a safe, commodious passageway must be cut around said landing place, to serve as a traveling way by which employes shall pass from one side of the shaft to the other without passing under or on the cage. The upper and lower landings at the top of each shaft, and the openings of each intermediate seam from or to the shaft shall be clear and free from loose materials and shall be securely fenced with automatic or other gates or bars so as to prevent either men or materials from falling into the shaft. Every hoisting shaft must be equipped with substantial cages fitted to guide rails running from the top to the bottom. Said cages must be safely constructed, they must be furnished with suitable boiler iron covers to protect persons riding thereon from falling objects, and they must be equipped with safety catches. Every cage on which people are carried must be fitted with iron bars, rings, or chains in proper place and in sufficient number to furnish a secure handhold for every person permitted to ride thereon. At the top landing, cage supports, where necessary, must be carefully set and adjusted so as to work properly and securely hold the cages when at rest. In all cases where the human voice can not be distinctly heard there shall be provided a metal tube or telephone from the top to the bottom of the shaft or slope through which conversation may be held between persons at the bottom and top of such shaft or slope, and there shall also be maintained an efficient system of signaling to and from the top of the shaft or slope in each seam or opening. Every underground place on which persons travel, worked by self-acting engines, windlasses or machinery of any description

shall be provided with practical means of signaling between the stopping places and the ends of the plane, and shall further be provided, at intervals of not more than sixty feet, with sufficient manholes for places of refuge. Every mine shall be supplied with props and timbers of suitable length and size, and if from any cause the timbers are not supplied when required, the miners shall vacate any and all such working places until supplied with timber needed. All openings connected with worked out or abandoned portions of every operated mine likely to accumulate explosive gases or dangerous conditions shall be securely gobbed and blocked off from the operative portions thereof so as to protect every person working in such mines from all danger that may be caused or produced by such worked out portions of such mines. [Sec. 1, Act April 30, 1907, Acts 1907, p. 331.]

Art. 1596. [1595] **Ventilation.**—Throughout every mine there shall be maintained currents of fresh air sufficient for the health and safety of all men and animals employed therein; and such ventilation shall be produced by a fan or some other artificial means; provided, a furnace shall not be used for ventilating any mine in which explosive gases are generated.

The quantity of air required to be kept in circulation and passing a given point shall be not less than one hundred cubic feet per minute for each person, and not less than three hundred cubic feet per minute for each animal in the mine, measured at the foot of the downcast; and this quantity may be increased at the discretion of the inspector, whenever, in his judgment, unusual conditions make a stronger current necessary. Said current shall be forced into every working place throughout the mine, so that all parts of the same shall be reasonably free from standing powder smoke and deleterious air of any kind.

The measurement of the current of air shall be taken with an anemometer at the foot of the downcast, at the foot of the upcast, and at the working face of each division or split of the air current.

The main current of air shall be so split or subdivided as to provide a separate current of reasonably pure air to every one hundred men at work; and the inspector shall have authority to order separate currents for smaller groups of men, if in his judgment special conditions make it necessary.

The air current for ventilating the stable shall not pass into the intake air current for ventilating the working parts of the mine.

Whenever the inspector shall find men working without sufficient air, he shall at once give the mine manager or operator notice and a reasonable time in which to restore the current, and upon his or their refusal or neglect to act promptly the inspector may order the endangered men out of the mine. [Sec. 2, *Id.*]

Art. 1597. [1596] **Notice of fire damp.**—Immediate notice must be conveyed by the miner or mine owner to the inspector,

upon the appearance of any large body of fire damp in any mine, whether accompanied by any explosion or not, and upon the occurrence of any serious fire within the mine or on the surface. [Sec. 3, Id.]

Art. 1598. [1597] **Mining cage.**—Cages on which men are riding shall not be lifted or lowered at a rate greater than six hundred feet per minute, except with the written consent of the inspector. No person shall carry any tools or materials with him on a cage in motion, except for use in making repairs, and no one shall ride on a cage while the other cage contains a loaded car. No cage having an unstable or self-dumping platform shall be used for the carriage of men or materials unless the same is provided with some convenient device by which said platform can be securely locked, and unless it is so locked whenever men or material are being conveyed thereon. [Sec. 4, Id.]

Art. 1599. [1598] **Powder.**—No miner or other person shall carry powder into the mine except in the original keg or in a regulation powder can securely fastened, and the can in otherwise air tight condition. [Sec. 5, Id.]

Art. 1600. [1599] **Cut-throughs.**—The mine foreman shall see that proper cut-throughs are made in all the pillars at such distances as in the judgment of the mine inspector may be deemed requisite, not more than twenty yards nor less than ten yards apart, for the purpose of ventilation, and the ventilation shall be conducted through said cut-throughs into the rooms and entries by means of check doors made of canvas or other material, placed on the entries or in other suitable places, and he shall not permit any room to be opened in advance of the ventilating current. Should the mine inspector discover any room, entry, airway or other working place being driven in advance of the air current contrary to the requirements of this article he shall order the workmen in such places to cease work at once until the law is complied with. [Sec. 6, Id.]

Art. 1601. [1600] **Safety lamps.**—At any mine where the inspector shall find fire damp is being generated so as to require the use of a safety lamp in any part thereof, the operator of such mine, upon receiving notice from the inspector that one or more such lamps are necessary for the safety of the men in the mines, shall at once procure and keep for use such number of safety lamps as may be necessary. [Sec. 7, Id.]

Art. 1602. [1601] **Endangering life or health.**—No miner, workman or other person shall knowingly or carelessly injure any shaft, safety lamp, instrument, air-course or brattice, or obstruct or throw open an air-way, or carry any open lamp or lighted pipe or fire in any form into a place worked by the light of safety lamps or within three feet of any open powder, or handle or disturb any part of the hoisting machinery, or enter any part of the mine against caution, or do any wilful act whereby the lives or health of persons working in mines or the security of the mine machinery thereof is endangered. [Sec. 8, Id.]

Art. 1603. [1602] **Posting mine rules.**—Every operator shall post on the engine house and at the pit top of his mine, in

such manner that the employes of the mine can read them, rules not inconsistent with this chapter, plainly printed in the English language, which shall govern all persons working in the mine. [Sec. 9, Id.]

Art. 1604. [1603] **Coal scales.**—The owner or operator of every mine shall provide adequate and accurate scales for weighing coal. [Id.]

Art. 1605. [1604] **Check weighman.**—The employes in any mine shall have the right to employ a check weighman at their own option and their own expense. [Sec. 11, Id.]

Art. 1606. [1605] **Oil used.**—No miner or other person employed in a mine shall use any kind of oil other than a good quality of lard oil for lighting purposes, except when repairing downcast or upcast shafts. [Sec. 12, Id.]

Art. 1607. [1606] **Penalty.**—Any person who shall willfully violate any provision of the twelve preceding articles shall be fined not exceeding five hundred dollars, or imprisoned in jail not exceeding six months. [Sec. 13, Id.]

Art. 1608. **Insulating live wires.**—In all mines where electricity is or hereafter shall be used as a part of the system, power or means of mining and procuring the coal or other mineral from any of said mines, the owners or operators of every such mine shall cause all wires conducting electricity in and about said mine to be carefully and thoroughly insulated or protected in a safe manner, so that the person or animals coming in contact therewith shall not be injured thereby; all wires as aforesaid shall either be thoroughly insulated or placed where persons employed in and about the mines cannot come in contact therewith, or shall be covered, protected or shielded in a safe manner, so as to prevent any injuries or accidents therefrom to those in or about the mines. It shall not be necessary to insulate or cover trolley wires, but they shall all be hung and kept not less than five feet and six inches above the rail, and shall be securely fastened, and not permitted to sag less than said height, where there is sufficient height in existing entries to permit this. But where sufficient height is not available in existing entries, then the trolley wires shall be placed to one side of the entry, six inches outside the rail; and in all such cases the trolley wire shall be placed on the side of the entry opposite from the working rooms, except where there are rooms on both sides of the entry, in which event, the trolley wires may be placed over the opening of said rooms, said trolley wires to be safely shielded. Where it is impracticable in existing entries to place trolley wires six inches outside of the rail, or five feet six inches high, and where separate travel way is not provided, then the trolley wire shall be safely shielded. This article shall not apply to entries that are not used as travel ways for workmen or work animals, nor to mines in operation on January 1, 1902, and prior thereto, and which have developed until there is at least two thousand feet distance from the shaft to the face of the coal being operated, except as to extensions of trolley wires made in such mines. Any person who shall violate any

provision of this article shall be fined not exceeding five hundred dollars, or imprisoned in jail not exceeding six months. [Act March 23, 1911, Acts 1911, p. 197.]

Art. 1609. **Map of mine.**—Any operator of a coal mine in this State who shall fail to make a map of the underground workings of any such mine in his charge in the manner and at the times required by the laws of this State governing such mines, or who shall fail to keep the original of such map on file at his office at or near such mine, shall be fined not less than twenty-five nor more than fifty dollars for each offense. [Id.]

Art. 1610. **Animals in mines.**—Any person owning, operating or managing any mine who shall permit any work animal under his control to remain in any mine longer than ten consecutive hours, or who shall feed or permit to be fed any work animal in said mine, or who shall store or keep any feed for such animals in said mine, shall be imprisoned in jail for not less than one month nor more than one year. [Acts 1911, p. 205.]

Art. 1611. **Exceptions.**—The preceding article shall not apply when the stables in which work animals are kept are equipped with fireproof doors at each opening, with door-frames of concrete, stone or brick, laid in mortar, which door is kept closed during working hours, and where not more than twenty-four hours' supply of grass, cane, hay or other like inflammable feed, except corn, corn chops, bran and shelled oats, is taken down in any mine in any one day, and where no such feed except corn, corn chops, bran and shelled oats is taken down in the mine until after the regular day shift is out of the mine, and where no open light is taken into any underground stable in any mine. [Id.]

Art. 1612. **Bath facilities.**—The operator, owner, lessee or superintendent of any coal mine employing ten or more men shall provide a suitable building convenient to the principal entrance of such mine, for the use of persons employed in and about said mine, for the purpose of washing themselves and changing their clothing when entering or leaving the mine. Such building shall be provided with proper light and heat, with a supply of hot and cold water and shower baths, and with properly constructed individual lockers for the use of such employes. The baths and lockers for negroes shall be separate from those for whites, but may be in the same building. Any operator, owner, lessee or superintendent of any coal mine violating any provision of this article shall be fined not less than twenty-five nor more than two hundred dollars, or be imprisoned in jail for not more than sixty days, or both. Every two weeks of such violation shall be a separate offense. [Acts 1915, p. 100.]

CHAPTER NINE.

BLACKLISTING.

Article	Article
Discrimination against persons seeking employment	Blacklisting prohibited
Penalty for violating preceding article	Penalty
What is prima facie proof	Exceptions
"Blacklisting" defined	Servants or employes not to be coerced
	Witness summoned and examined

Art. 1613. [1190] **Discrimination against persons seeking employment.**—The following shall constitute discrimination against persons seeking employment: Where any corporation, or receiver of same, doing business in this State, or any officer or agent of such corporation or receiver shall discriminate against any person seeking employment on account of his having participated in a strike. [Acts 1909, p. 160. Acts 1907, p. 143.]

Art. 1614. [1191] **Penalty.**—Every person violating any provision of the preceding article shall be imprisoned in jail for not less than one month nor more than one year. [Id.]

Art. 1615. [1192] **What is prima facie proof.**—Evidence that any person has acted as the agent of a corporation in the transaction of its business in this State shall be received as prima facie proof that his act in the name, behalf or interest of the corporation of which he was acting as the agent, was the act of the corporation. [Id.]

Art. 1616. [1193] **"Blacklisting" defined.**—He is guilty of "blacklisting" who places, or causes to be placed, the name of any discharged employe, or any employe who has voluntarily left the service of any individual, firm, company or corporation on any book or list, or publishes it in any newspaper, periodical, letter or circular, with the intent to prevent said employes from securing employment of any kind with any other person, firm, company or corporation, either in a public or private capacity. [Act 1901, p. 264.]

Art. 1617. [1194] **Blacklisting prohibited.**—No corporation, company or individual shall blacklist or publish, or cause to be blacklisted or published, any employe, mechanic, or laborer discharged by such corporation, company, or individual, with the intent and for the purpose of preventing such employe, mechanic, or laborer discharged by such corporation, company, or individual, from engaging in or securing similar or other employment from any other corporation, company or individual. [Id.]

Art. 1618. [1195] **Penalty.**—If any officer or agent of any corporation, company or individual, or other person shall blacklist or publish, or cause to be blacklisted or published, any employe, mechanic or laborer, discharged by such corporation, company or individual, with the intent and for the purpose of preventing such employe, mechanic or laborer from engaging in or securing similar or other employment from any other corporation, company or individual, or shall in any manner conspire or contrive by correspondence or otherwise, to prevent such dis-

charged employe from procuring employment, as provided in the two preceding articles he shall be fined not less than fifty nor more than two hundred and fifty dollars, or be imprisoned in jail not less than thirty nor more than ninety days, or both. [Id.]

Art. 1619. [1196] **Exceptions.**—This law shall not be held to prohibit any corporation, company or individual from giving, on application from such discharged employe, or any corporation, company or individual who may desire to employ such discharged employe, a written truthful statement of the reason for such discharge. Said written cause of discharge, when so made by such person, agent, company or corporation, shall never be used as the cause for an action for libel either civil or criminal, against the person, agent, company or corporation so furnishing same. [Id.]

Art. 1620. [1197] **Servants or employes not to be coerced.**—No person, corporation or firm, or any agent, manager or board of managers, or servants of any corporation or firm shall coerce or require any servant or employe to deal with or purchase any article of food, clothing or merchandise of any kind whatever from any person, association, corporation or company, or at any place or store whatever. No such person, or agent, manager, or board of managers, or servants shall exclude from work, or punish or blacklist any of said employes for failure to deal with any such person or any firm, company or corporation, or for failure to purchase any article of food, clothing or merchandise at any store or any place whatever. Any person violating any provision of this article shall be fined not less than fifty nor more than two hundred dollars. [Acts 1903, p. 89.]

Art. 1621. [1199] **Witness must testify.**—No witness shall refuse to testify as to any violation of this chapter on the ground that his testimony may incriminate him, but any witness so examined shall not be liable to prosecution for any violation of any provision of this chapter about which he may testify fully and without reserve. [Acts 1907, p. 143.]

TITLE 19
MISCELLANEOUS OFFENSES.

	Chapter		Chapter
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Public Gas Utilities.....	2	and Franks	6
Trusts and Conspiracies		Operating Railroads	7
Against Trade	3	Bills of Lading.....	8
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CHAPTER ONE.

CONSPIRACY.

	Article		Article
Definition	1622	Conspiracy to commit murder de-	
When conspiracy complete.....	1623	fined	1627
Agreement must be positive.....	1624	Conspiracy to commit felony in	
Mere threat not sufficient.....	1625	another State.....	1628
Punishment of conspiracy.....	1626	Conspiracy in another State to	
		commit felony in this.....	1629

Art. 1622. [1433-1437] **Definition.**—A conspiracy is an agreement entered into between two or more persons to commit a felony. [O. C. 776, Acts 2nd C. S. 1871, p. 15.]

Art. 1623. [1434] [954] [801] **When conspiracy complete.**—The offense of conspiracy is complete, although the parties conspiring do not proceed to effect the object for which they have so unlawfully combined. [O. C. 777, Act Oct. 26, 1871.]

Art. 1624. [1435] [955] [802] **Agreement must be positive.**—Before a conviction can be had for the offense of conspiracy, it must appear that there was a positive agreement to commit a felony. It will not be sufficient that such agreement was contemplated by the parties charged. [O. C. 778; Id.]

Art. 1625. [1436] [956] [803] **Mere threat not sufficient.**—A threat made by two or more persons acting in concert will not be sufficient to constitute conspiracy. [O. C. 779; Id.]

Art. 1626. [1438] [958] [805] **Punishment for conspiracy.** 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 other felony shall be punished by confinement in the penitentiary not less than two nor more than five years. [O. C. 781, Act Oct. 26, 1871.]

Art. 1627. [1439] [959] [806] **Conspiracy to commit murder defined.**—A conspiracy to kill a human being is a conspiracy to commit murder. [O. C. 782; Id.]

Art. 1628. [1440] [960] [807] **Conspiracy to commit offense in another State.**—A conspiracy entered into in this State for the purpose of committing a felony 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. [O. C. 783; Id.]

Art. 1629. [1441] [961] [808] **Conspiracy in another State**

to commit felony in this.—A conspiracy entered into in another State or territory of the United States to commit a felony in this State, shall be punished in the same manner as if the conspiracy had been entered into in this State.

CHAPTER TWO.

PUBLIC GAS UTILITY.

Art. 1630. Discrimination.—No pipe line public utility, as such utility is defined in the laws of this State governing the production and delivery of natural gas, shall discriminate in favor of or against any person, place or corporation, either in apportioning the supply of natural gas or in its charges therefor; nor shall any such utility directly or indirectly charge, demand, collect or receive from any one a greater or less compensation for any service rendered than from another for a like and contemporaneous service; provided this shall not limit the right of the Railroad Commission to prescribe different rates and regulations for the use of natural gas for manufacturing and similar purposes or to prescribe rates and regulations for service from or to other or different places, as it may determine. [Acts 3rd C. S. 1920, p. 18.]

Art. 1631. Violating gas utility law.—Any owner, officer, director, agent or employe of any person, firm or corporation owning, operating or controlling gas pipe lines of such utility mentioned in the preceding article, who shall wilfully violate any provision of the statutes of this State governing such utility, including the preceding article, shall be fined not less than fifty nor more than one thousand dollars, and may in addition thereto be imprisoned in jail not less than ten days nor more than six months. [Id.]

CHAPTER THREE.

TRUSTS AND CONSPIRACIES AGAINST TRADE.

	Article		Article
Defining trusts.....	1632	Persons outside State liable.....	1639
"Monopoly"	1633	Forming trusts, etc.....	1640
"Conspiracy in restraint of trade".....	1634	Venue	1641
Punishment	1635	Agricultural products and live stock	1642
Persons required to testify.....	1636	Trade unions, etc.....	1643
Agreement to form trust, monopoly, etc.	1637	Not to apply to combination, etc.....	1644
Operation in violation of this law.....	1638		

Art. 1632. [1454] Defining trusts.—A "trust" is a combination of capital, skill or acts by two or more persons, firms, corporations or associations of persons, or either two or more of them for any or all of the following purposes:

1. To create, or which may tend to create or carry out, restrictions in trade or commerce or aids to commerce, or in the preparation of any product for market or transportation, or to create or carry out restrictions in the free pursuit of any business authorized or permitted by the laws of this State.

2. To fix, maintain, increase or reduce the price of merchan-

dise, produce, or commodities, or the cost of insurance, or of the preparation of any product for market or transportation.

3. To prevent or lessen competition in the manufacture, making, transportation, sale or purchase of merchandise, produce, or commodities, or the business of insurance, or to prevent or lessen competition in aids to commerce, or in the preparation of any product for market or transportation.

4. To fix or maintain any standard or figure whereby the price of any article or commodity of merchandise, produce or commerce, or the cost of transportation, or insurance, or the preparation of any product for market or transportation, shall be in any manner affected, controlled or established.

5. To make, enter into, maintain, execute or carry out any contract, obligation or agreement by which the parties thereto bind, or have bound, themselves not to sell, dispose of, transport or to prepare for market or transportation any article or commodity, or to make any contract of insurance at a price below a common standard or figure, or by which they shall agree, in any manner, to keep the price of such article or commodity, or charge for transportation or insurance, or the cost of the preparation of any product for market or transportation, at a fixed or graded figure, or by which they shall, in any manner, affect or maintain the price of any commodity or article, or the cost of transportation or insurance, or the cost of the preparation of any product for market 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 business of transportation or insurance, or the preparation of any product for market or transportation, or by which they shall agree to pool, combine or unite any interest they may have in connection with the sale or purchase of any article or commodity, or charge for transportation or insurance, or charge for the preparation of any product for market or transportation, whereby its price or such charge might be in any manner affected.

6. To regulate, fix or limit the output of any article or commodity which may be manufactured, mined, produced or sold, or the amount of insurance which may be undertaken, or the amount of work that may be done in the preparation of any product for market or transportation.

7. To abstain from engaging in or continuing business, or from the purchase or sale of merchandise, produce or commodities partially or entirely within this State, or any portion thereof. [Acts 1903, p. 119.]

Art. 1633. [1455] **“Monopoly”**.—A “monopoly” is a combination or consolidation of two or more corporations when effected in either of the following methods:

1. When the direction of the affairs of two or more corporations is in any manner brought under the same management or control for the purpose of producing, or where such common

management or control tends to create a trust as defined in the first article of this chapter.

2. Where any corporation acquires the shares or certificates of stock or bonds, franchise or other rights, or the physical properties, or any part thereof, of any other corporation or corporations, for the purpose of preventing or lessening, or where the effect of such acquisition tends to affect or lessen competition, whether such acquisition is accomplished directly or through the instrumentality of trustees or otherwise. [Id.]

Art. 1634. [1456] **"Conspiracy in restraint of trade".**— Either or any of the following acts shall constitute a conspiracy in restraint of trade:

1. Where any two or more persons, firms, corporations or associations of persons, who are engaged in buying or selling any article of merchandise, produce or any commodity, enter into an agreement or understanding to refuse to buy from or sell to any other person, firm, corporation or association of persons, any article of merchandise, produce or commodity.

2. Where any two or more persons, firms, corporations or associations of persons, shall agree to boycott or threaten to refuse to buy from or sell to any person, firm, corporation or association of persons for buying from or selling to any other person, firm, corporation or association of persons. [Id.]

Art. 1635. [1466] **Punishment.**— Whoever violates any provision of this chapter shall be confined in the penitentiary not less than two nor more than ten years. [Acts 1907, p. 194.]

Art. 1636. [1468] **Persons required to testify.**— Upon the application of the Attorney General or of any of his assistants, or of any district or county attorney, acting under the direction of the Attorney General, made to any county judge, or any justice of the peace, in this State, stating that he has reason to believe that a witness, who is to be found in the county in which such judge or justice is an officer, knows of a violation of any provision of this chapter, it shall be the duty of such judge, or justice, before whom such application is made, to have summoned and examined such witness in relation to violations of any provision of this chapter, said witness to be summoned as in criminal cases. The said witness shall be duly sworn; and the judge or justice shall cause the statements of the witness to be reduced to writing and signed and sworn to before him; such sworn statement shall be delivered to the attorney upon whose application the witness was summoned. Should the witness so summoned fail to appear or to make statements of the facts within his knowledge under oath, or to sign the same after it has been reduced to writing, he shall be guilty of contempt of court, and may be fined not exceeding one hundred dollars, and may be attached and imprisoned in jail until he makes a full statement of all the facts within his knowledge with reference to the matter inquired about. Any person who shall testify before any judge or justice as provided for in this chapter, or who shall testify as a witness for the State in the course of any statu-

tory proceeding to secure testimony for the enforcement of this law, or in the course of any judicial proceeding to enforce the provisions of this chapter, shall not be subject to indictment or prosecution for any transaction, matter or thing concerning which he shall so give evidence, documentary or otherwise. [Acts 1907, p. 221.]

Art. 1637. [1470] Agreement to form trust, monopoly, etc.—If any person shall enter into an agreement or understanding of any character to form a trust, or to form a monopoly, or to form a conspiracy in restraint of trade, as these offenses are defined in this chapter, or shall form a trust, monopoly or conspiracy in restraint of trade, or shall be a party to the formation of a trust or monopoly or conspiracy in restraint of trade, or shall become a party to a trust or monopoly or conspiracy in restraint of trade, or shall do any act in furtherance of or aid to such trust or monopoly or conspiracy in restraint of trade, he shall be confined in the penitentiary not less than two nor more than ten years. [Acts 1907, p. 457.]

Art. 1638. [1471] Operating in violation of this law.—If any person, shall, as a member, agent, employe, officer, director or stockholder of any business, firm, corporation or association of persons, form, in violation of the provisions of this chapter, or shall operate, in violation of such provisions, any such business, firm, corporation or association formed in violation of this chapter, or shall make any sale, or purchase, or any other contract, or do business for such business, firm, corporation or association, or shall do any other act which has the effect of violating or aiding in the violation of any provision of this chapter, or shall, with the intent or purpose of driving out competition or for the purpose of financially injuring competitors, sell within this State at less than cost of manufacture or production, or sell in such a way or give away within this State, products for the purpose of driving out competition or financially injuring competitors engaged in a similar business, or give secret rebates on such purchase for the purpose of the aforesaid, he shall be confined in the penitentiary not less than two nor more than ten years. [Id.]

Art. 1639. [1472] Persons outside State liable.—If any person, shall, outside of this State, do anything which, if done within this State, would constitute the formation of a trust or monopoly or conspiracy in the restraint of trade, as defined in this chapter, and shall cause or permit the trust or monopoly so formed by him to do business within this State, or shall cause or permit such trust, monopoly, or conspiracy in restraint of trade to have any operation or effect within this State, or, if such trust, monopoly or conspiracy in restraint of trade, having been formed outside of said State, any person shall give effect to such trust, monopoly or conspiracy in this State, or he shall do anything to help or aid it doing business in this State, or otherwise violate the anti-trust laws of this State, or if any person shall buy or sell or otherwise make contracts for or aid any business,

firm, corporation or association of persons, formed or operated in violation of any provision of this chapter, or so formed or operated as would be in violation of the laws of this State, if it had been formed within this State, shall be confined in the penitentiary not less than two nor more than ten years. [Id.]

Art. 1640. [1473] **Forming trusts, etc.**—If any person, employe, agent, stockholder, or officer of any person, firm, association of persons, or corporation, now doing business in this State, have formed a trust, or monopoly, as defined in this chapter, or have formed a conspiracy in restraint of trade, as defined in this chapter, or shall do or perform any act of any character to carry out such trust, monopoly or conspiracy in restraint of trade, such person, employe, agent, stockholder, or officer, shall be confined in the penitentiary not less than two nor more than ten years. [Acts 1907, p. 458.]

Art. 1641. [1474] **Venue.**—Prosecutions under this chapter may be conducted in Travis County, or in any county wherein a trust, monopoly or conspiracy in restraint of trade is being carried on. [Acts 1907, p. 458.]

Art. 1642. [1477] **Agricultural products and live stock exempt.**—No provision of this law shall apply to agricultural products or live stock while in the hands of the producer or raiser. It shall be lawful for any person engaged in any kind of work or labor, manual or mental, or both, to associate with other such persons to form trades unions and other organizations for the purpose of protecting themselves in their personal work, personal labor, and personal service, in their respective pursuits and employments. [Acts 1899, p. 262.]

Art. 1643. [1478] **Trade unions, etc.**—It shall be lawful for any members of such trades union or other organization or association, or any other person, to induce or attempt to induce, by peaceable and lawful means, any person to accept any particular employment, or quit any particular employment in which such person may then be engaged, or to enter any pursuit, or refuse to enter any pursuit, or quit any pursuit, in which such person may then be engaged. No such member shall have the right to trespass upon the premises of another without the consent of the owner thereof. [Id.]

Art. 1644. [1479] **Not to apply to combination, etc.**—The foregoing article shall not be held to apply to any combination or combinations, association or associations of capital, or capital and persons, natural or artificial, formed for the purpose of limiting the production or consumption of labor's products, or for any other purpose in restraint of trade. Nothing herein contained shall be held to interfere with the terms and conditions of private contract with regard to the time of service, or other stipulations between employers and employes. Nothing herein shall be construed to repeal, affect or diminish the force and effect of any statute now existing on the subject of trusts, conspiracies against trade, pools and monopolies. [Id.]

CHAPTER FOUR.

AMUSEMENTS—PUBLIC HOUSES OF.

	Article		Article
"Public house of amusement".....	1645	Exceptions	1647
Discrimination against reputable productions	1646	List of bookings.....	1648

Art. 1645. [1480] **"Public house of amusement".**—All buildings constructed, fitted and equipped for the purpose of theaters, commonly called theaters, opera houses, play houses, or by whatever name designated, which are and shall hereafter be used for public performances, the production and exhibition of plays, dramas, operas and other shows of whatever nature to which admission fees are charged, are declared to be public houses of amusement. [Acts 1907, p. 21.]

Art. 1646. [1481] **Discrimination against reputable productions.**—No owner or lessee, or any manager, agent, employe or representative of the owner or lessee who may be in charge and having the care and management of any house of public amusement, shall discriminate against reputable theaters, operas, shows or other productions by whatever name known. Any owner or lessee, or any manager, agent, employe, or representative of the owner or lessee in charge of such house who shall fail and refuse to rent, lease and let such house of public amusement for one or more performances upon such terms and conditions as shall not be deemed unreasonable, extortionate or prohibitive to the agent, manager, proprietor or representative, who may in good faith make application therefor, of any reputable theater, opera or show, by whatever name known, shall be fined not less than one hundred nor more than five hundred dollars, one-half of which fine shall be paid to the complainant, the balance to go to the jury fund of the county in which such prosecution is had; and in addition, such person so convicted may be committed to the county jail for not more than ten days. Each violation of any provision of this article is a separate offense. [Acts 1907, p. 21.]

Art. 1647. [1481] **Exceptions.**—If at the time of the application to lease or rent such house of public amusement for said purposes, it shall be shown by the owner, lessee or other person in charge thereof that said house of public amusement has in good faith been already leased, let or rented to other persons or parties, and that other bookings have in good faith been made for the date or dates so applied for, and not with the intention of evading the provisions of this chapter, then the penalties provided by the preceding article shall not be imposed. [Id.]

Art. 1648. [1482] **List of bookings.**—Owners, lessees, managers or other persons in charge of such houses of public amusement shall make and keep in convenient form a list of all bookings of shows for such houses, with the dates specifically set out therein, and said list of bookings shall be exhibited upon request, to all persons applying therefor who in good faith desire to lease or rent such house or houses for the purposes indicated in the

first article of this chapter. Each owner, lessee or other person in charge of such house who shall fail or refuse to keep and exhibit such list of bookings as required herein, shall be fined not less than ten nor more than twenty dollars. Each such failure or refusal is a separate offense. [Id.]

CHAPTER FIVE.

RAILROAD CONSOLIDATION.

Art. 1649. [646-7-8-9] **Consolidation of railroad corporations.**—Railroad corporation, or other corporation, as used in this article shall mean any corporation, company, person or association of persons, who own or control, manage or operate any line of railroad in this State. No railroad corporation, or other corporation, or the lessee, purchasers or managers of any railroad corporation shall consolidate the stocks, property, works or franchises of such corporation with, or lease or purchase the stocks, property, works or franchises of any 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. Any officer, director, manager, superintendent, agent, purchaser or lessee of any such railroad corporation, or other corporation, who violates or aids in violating any provision of this article shall be fined not less than one thousand dollars nor more than four thousand dollars. Indictments and prosecutions under this article may be found and made in any county through or into which the line of railroad may run. [Acts 1887, p. 137.]

Art. 1650. [647] **Exceptions.**—The preceding article shall not apply to one 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 such law. [Id.]

CHAPTER SIX.

FREE PASSES, TRANSPORTATION AND FRANKS.

Article	Article
Free pass law.....1651	May be compelled to testify.....1657
Exceptions.....1652	Reduced rate for officers.....1658
Using another's pass.....1653	Separate coaches.....1659
Discrimination by device.....1654	Exceptions.....1660
Unlawfully using free pass.....1655	Preference in transportation.....1661
Evading law.....1656	

Art. 1651. [1532] **Free pass law.**—Any president, director, officer, employe or agent of any steam or electric railway company, street railway company, interurban railway company, or other chartered transportation company, express company, sleeping car company, telegraph or telephone company, who shall sell any transportation for anything except money or knowingly give, grant, issue, or cause to be issued, a free pass, a frank, a

privilege, or any substitute for, or in lieu thereof, for the transportation of any person, article or thing, or the sending or transmitting any messages over wire or other means of transmitting messages in this State, shall be fined not less than five hundred nor more than two thousand dollars, and may, in addition thereto, in the discretion of the jury, be confined in the penitentiary not less than six months nor more than two years. [Acts 1907, p. 93.]

Art. 1652. [1533] **Exceptions.**—The preceding article shall not apply in cases where the laws of this State provide that such companies as are referred to in said article, or the receivers or lessees thereof, or persons operating the same, or the officers, agents or employes thereof, may grant free passes, franks, privileges, or substitutes for pay to or for the persons, articles or things referred to and mentioned in said laws and said article.

Art. 1653. [1534] **Using another's pass.**—If any person shall present, or offer to use, in his own behalf, any permit or frank whatever, to travel, pass or to convey any person or property or message which has been issued to any other person, or shall, knowing that he is not entitled under the law, apply to any railway, express, telegraph or telephone company, officer, agent, lessee or receiver thereof, for any free pass, frank, privilege or a substitute for pay given or to be used instead of the regular fare or rate for transportation, or for any other consideration, except money, he shall be confined in jail not less than thirty days and not more than twelve months, and be fined not less than one hundred nor more than one thousand dollars. [Acts 1907, p. 95.]

Art. 1654. [1535] **Discrimination by device.**—No steam or electric railway company, street railway company, interurban railway company, or other chartered transportation company, express company, sleeping car company, telegraph or telephone company, shall directly or indirectly, by any special rate, rebate, draw-back, or other device or exchange, demand, charge or collect or receive from any person, firm, association of persons or corporation a greater or less or different compensation for any service rendered, or to be rendered, in the transportation of passengers, property or messages, than it charges, demands, collects or receives from any other person, firm, association of persons or corporation for doing for him, them or it, a like service, if the transportation or transmission is a like kind of traffic or service under substantially similar circumstances and conditions. [Acts 1907, p. 96.]

Art. 1655. [1537] **Unlawfully using free pass.**—Any person, other than the persons excepted by law, who uses such free ticket, free pass or free transportation, frank or privilege over any railway or other transportation line or sleeping or express car, telegraph or telephone line mentioned in the preceding articles of this chapter, for any distance under the control and operation of either of said companies or under their authority,

or shall knowingly or wilfully by any means or device whatsoever obtain, use or enjoy from any such company a less fare or rate than is charged, demanded, collected or received by any such company from any other person, firm, association of persons or corporations for doing for him, them or it, a like service, if the transportation or service is of a like kind of traffic or service under substantially similar circumstances and conditions, such person or such officer or agent who acts for such corporation or company thus favored, shall be fined not less than one hundred nor more than one thousand dollars. [Id.]

Art. 1656. [1538] **Evading law.**—Any director, officer, agent or any receiver, trustee, lessee or person acting for, or employed by, any company subject to the provisions of the preceding articles of this chapter, who alone, or with any other corporation, company, persons or party, shall wilfully do, or cause to be done, or shall wilfully suffer, or permit to be done, any act, matter or thing in said articles prohibited, or who shall aid or abet therein, or shall wilfully omit or fail to do any act, matter or thing in this Act required to be done, or shall cause or wilfully suffer or permit any act, matter or thing so directed, required by said articles to be done, not to be done, or shall aid or abet any such omission or failure, or shall be guilty of any infraction of said articles, or shall aid or abet therein, shall be fined not less than one hundred nor more than one thousand dollars; and, if the offense for which any person shall be convicted under this article shall be unlawful discrimination in rates, fares or charges for the transportation of passengers or property, or the transmission of messages, such person may, in addition to the fines hereinbefore provided for, at the discretion of the jury, be imprisoned in the penitentiary for not less than six months nor more than two years. [Id.]

Art. 1657. [1539] **May be compelled to testify.**—In any investigation or prosecution under any provision of this chapter, the court or tribunal in which the same is pending may compel any person to attend and give testimony, and to produce such papers, books and documents as may be desired by the State. No person shall be exempt from giving testimony therein, but no criminal action or proceeding shall be brought or prosecuted against such witness on account of any testimony so given or furnished by him. [Act 1907, p. 97.]

Art. 1658. **Reduced rate for officers.**—Any steam railroad company or any electric interurban railroad company or any person or persons operating the same, or any receiver or receivers, or lessee or leasees thereof, shall be permitted to transport between points wholly within this State at the reduced rate of one cent per mile, while traveling on official business connected with their respective offices, the following named peace officers, to-wit: the Adjutant General; State Rangers; the sheriff of any county, his deputies to be designated by him;

constables; chiefs of police and assistant chiefs and captains; city marshals, chief of the detectives of any county or city, and assistant detectives. Any such peace officer who shall procure transportation over any such railroad between points in this State under the provisions of this article and shall use the same for any other than official business connected with the duties of his office, or any person not entitled to the benefits of this law who shall falsely represent himself as entitled to such privileges and shall purchase or offer to purchase transportation over any such railroad company at the rate provided for herein, shall be fined not less than one hundred nor more than five hundred dollars, or be imprisoned in jail not exceeding six months, or both. [Acts 1921, p. 171.]

SEPARATE COACH LAW.

Art. 1659. [1523] [1010] **Separate coaches.**—

1. Every railway company, street car company and interurban railway company, lessee, manager, or receiver thereof doing business in this State as a common carrier of passengers for hire shall provide separate coaches or compartments for the accommodation of white and negro passengers.

2. "Negro" defined.—The term negro as used herein includes every person of African descent as defined by the Statutes of this State.

3. "Separate coach" defined.—Each compartment of a railroad coach divided by good and substantial wooden partitions with a door therein shall be deemed a separate coach within the meaning of this law, and each separate coach shall bear in some conspicuous place appropriate words in plain letters indicating the race for which it is set apart; and each compartment of a street car or interurban car divided by board or marker placed in a conspicuous place, bearing appropriate words in plain letters indicating the race for which it is set apart, shall be sufficient as a separate compartment within the meaning of this law.

4. Violating separate coach law.—If any passenger upon a train or street car or interurban car provided with separate coaches or compartments as above provided shall ride in any coach or compartment not designated for his race after having been forbidden to do so by the conductor in charge of the train, he shall be fined not less than five nor more than twenty-five dollars.

5. Duty of conductor.—Conductors of passenger trains, street cars, or interurban lines provided with separate coaches shall have the authority to refuse any passenger admittance to any coach or compartment in which they are not entitled to ride under the provisions of this law, and the conductor in charge of the train or street car or interurban car shall have authority, and it shall be his duty, to remove from a coach or street car, or interurban car, any passenger not entitled to ride therein under the provisions of this law, and upon his refusal to do so

knowingly he shall be fined not less than five nor more than twenty-five dollars.

6. Fines to go to School Fund.—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 this law may be instituted in any county through or into which said railroad may be run or have an office.

Art. 1660. **Exceptions.**—The preceding article shall not apply to any excursion train or street car or interurban car as such for the benefit of either race, nor to such freight trains as carry passengers in cabocses, nor be so construed as to prevent railroad companies from hauling sleeping cars, dining or cafe cars or chair cars attached to their trains to be used exclusively by either race, separately but not jointly, or to prevent nurses from traveling in any coach or compartment with their employer, or employes upon the train or cars in the discharge of their duty.

Art. 1661. **Preference in transportation.**—By the word “preference” as used in this article is meant any advantage, privilege, right, opportunity, precedence, choice, favor, priority, or gain that is or may be, or is sought or purposed to be accorded, granted, given, allowed, permitted or extended to any person, place, or thing, as against any other person, place, or thing in the receipt, carriage, transportation, movement, placing, storing, handling, caring for or delivery of any freight, commodity or article, or any railroad car or by any common carrier in this State, or any agent or employe thereof. Any person who shall ask, solicit, demand, or receive, directly or indirectly, from any person, corporate or otherwise, any money, reward, favor, benefit, or other thing of value, or the promise of either, as a consideration for procuring or effecting, or with the intent of the person asking, soliciting, demanding, charging or receiving the same, or the promise thereof, that such person can or will, seek or undertake to procure or effect any preference in the receipt, carriage, transportation, storing, movement, placing, handling, caring for, or delivery of any freight, commodity or article, or any railroad car by any common carrier in this State or any agent or employe thereof, shall be fined not less than one hundred nor more than one thousand dollars and be imprisoned in jail not less than thirty days nor more than six months. [Acts 1921, p. 34.]

CHAPTER SEVEN.

OPERATING RAILROADS.

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To do repair work in Texas1664	Animals found dead along rail- road1671
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Art. 1662. [1567] **Station to bear name of post office.**—Any officer, agent or representative of any corporation or re-

ceiver operating any line of railroad in whole or in part within this State who shall retain, maintain or establish a name for any railway station or depot in any incorporated or unincorporated town or city within this State other than the name of the town or city which has and bears the name of its post office so given by the United States Government shall be fined not less than two hundred nor more than five hundred dollars, or be imprisoned in jail not less than thirty nor more than ninety days, or both. The venue shall be in the county where the station in question is located. [Acts 1909, p. 89.]

Art. 1663. [1568] **Exceptions.**—The preceding article shall not apply to two or more incorporated or unincorporated towns or cities which now are situated within five miles of each other, and which each have therein established a post office named and designated by the United States Government, nor to those cases where the post office name is so similar in sound or otherwise to that of some other station upon such railroad as that confusion in train orders and directions may arise therefrom. Where the name of such place is changed by the Federal postal department such railway shall not be required to again change the name of its station. [Id.]

Art. 1664. [1561-1562-1564] **To do repair work in Texas.**—All railroad corporations operating in, and having their repair shops within this State, are required to repair, renovate or rebuild in this State all defective or broken cars, coaches, locomotives or other equipment, owned or leased by said corporation in this State, when such rolling stock is within the State, and shall be prohibited from sending or removing any such rolling stock out of this State to be repaired, renovated or rebuilt, when the same is in a defective or broken condition, and within this State, when such railway shall have, or be under obligation to have proper facilities in this State to do such work. Any lessee, receiver, superintendent or agent of such railway corporation who violates any provision of this article shall be fined not less than one hundred nor more than five hundred dollars. [Acts 1909, p. 73.]

Art. 1665. [1563] **Exceptions.**—The preceding article does not apply to companies having less than sixty continuous miles of railroad in operation in this State, nor in case of strike, fire or other unforeseen casualties and emergencies; and is not to be construed to require a violation of the Federal safety appliance law; and no railway shall be required to haul such disabled equipment a greater distance for repairs at a point within this State than would be necessary to reach their repair shops in another State. [Id.]

Art. 1666. **Air brake inspection.**—The air brakes and air brake attachments on each train in this State must be inspected by a competent inspector before such train leaves its division terminal. Whoever operates or causes to be operated any such train without such inspection shall be fined not less than fifty nor more than one hundred dollars. [Acts 1911, p. 106.]

Art. 1667. **Exceptions to brake inspection.**—The preceding article shall not apply to tram roads engaged in hauling logs to a sawmill, nor to railroads under forty miles in length. [Id.]

Art. 1668. **Using tracks to repair cars.**—No person, firm, corporation or receiver operating any railroad, machine shop or other concern engaged in repairing or manufacturing cars within this State, shall use any tracks not equipped with derailing devices upon which to repair or manufacture cars; such derailing devices to be provided with private locks, to be kept locked at all times when tracks are in use. Nothing herein shall be construed to prohibit temporary repairs to cars on tracks other than where cars are regularly repaired or manufactured. Any person operating any railroad, machine shop or other concern engaged in the repairing or manufacture of cars in this State who shall violate this law shall be fined not less than fifty nor more than two hundred dollars. Each day such violation shall exist shall be a separate offense. [Acts 1913, p. 334.]

Art. 1669. **Duty of train dispatcher.**—The train dispatcher shall keep all agents at stations having telegraph offices in or near them informed of the movement of each passenger train one hour prior to the time such train is due, according to the published schedule, at such stations. If any such passenger train is delayed for more than one hour, according to said published schedule, then it shall be the duty of such train dispatcher to inform such local agent how late said train is and the last telegraph station passed. If such train dispatcher shall fail or refuse to furnish such information, he shall be fined not less than fifty nor more than two hundred dollars for each offense. [Acts 1st C. S. 1903, p. 21; Acts 1913, p. 318.]

Art. 1670. **Failing to bulletin passenger train.**—Every railroad agent at stations having telegraphic communication with the train dispatcher of the railroad, shall ascertain one hour before the schedule time of the arrival of passenger trains, if such train is on time, and if on time, bulletin that fact on a board provided by the company and placed in some conspicuous place at the passenger station. If the train is late, such agent shall bulletin how late, and the last telegraph station passed by such train. If later than one hour, said agent shall thereafter ascertain the latest news from such train dispatcher, or some other reliable source, every hour, and bulletin such information and the time of the probable arrival of such train. If such agent shall fail or refuse to perform any duty required of him by this article, he shall be fined not less than fifty nor more than one hundred dollars for each offense. [Acts 1903, p. 162; Acts 1913, p. 350.]

Art. 1671. **Animal found dead along railroad.**—Whenever any animal is killed or found dead upon the roadbed or right of way of any railroad company in this State, the section foreman of the railroad where said animal is killed or found dead, shall take and make a description of such animal, stating its kind, the marks and brands, color and apparent age, and any other description that may serve to identify said animal, which descrip-

tion must be taken and made before said animal be buried or otherwise disposed of, and shall transmit same to the County Clerk of the county in which said animal is found or killed, within ten days from the date of finding or killing, which description shall be by said County Clerk filed and kept of record in his office without exacting any fees from the section foreman for filing same, and any person violating any of these provisions shall be fined not less than five nor more than twenty-five dollars. [Acts 1915, p. 126.]

Art. 1672. [1524] **Failure to ring bell and blow whistle.**—Any engineer having charge of a locomotive engine while such engine is approaching a place where two lines of railway cross each other who shall before reaching such railway crossing fail to bring such engine to a full stop, or who shall fail to blow the whistle and ring the bell on such engine at the distance of at least eighty rods from the place where the railroad shall cross any public road or street, or who shall fail to keep said bell ringing until such engine shall have crossed said road or street or stopped, shall be fined not less than five nor more than one hundred dollars, provided 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 crossings. [Acts 1893, p. 87.]

Art. 1673. [1531] [1010h] **Unlawfully boarding a train.**—Whoever boards any passenger, freight or other railway train, whether moving or standing, for any purpose 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 fined not less than five nor more than one hundred dollars. [Acts 1895, p. 178.]

CHAPTER EIGHT.

BILLS OF LADING.

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Art. 1674. [1540] **Common carriers to issue bills of lading.**—All railroad companies, steamship companies and other common carriers, or receivers thereof, except express companies and pipe line companies, upon the receipt of freight for transportation shall issue bills of lading therefor, and authenticate, validate or certify such bills of lading, when the same shall be demanded by the shipper, in accordance with the provisions of this chapter. [Acts S. S. 1910, p. 138.]

Art. 1675. [1541] **What bills of lading may contain.**—Each bill of lading issued by a common carrier, to which the provisions

of this chapter apply, for an intrastate shipment, shall contain, and each bill of lading issued by such carrier for interstate or foreign shipment may contain, within the written or printed terms, in addition to the other requirements of this chapter, the following:

1. The date of its issuance;
2. The name of the person from whom the goods have been received;
3. The place where the goods have been received;
4. The place to which the goods are to be transported;
5. A statement of whether the goods will be delivered to a specific person or to the order of a specific person;
6. A description of the goods, or the packages containing them, which may, however, be in the terms such as may be approved by the Railroad Commission;
7. The signature of the carrier, or the duly authorized agent of the carrier; said bill of lading shall be so signed with pen and ink, and the person signing the same shall attach his signature below all written, printed or stamped matter contained in said bill of lading, except the words, "Authorized agent of _____" (stating the name of his principal), which shall appear below his signature;

8. The carrier may insert in a bill of lading issued by him any other terms and conditions, provided such terms and conditions shall not be contrary to law or public policy or the orders promulgated by the Railroad Commission; and provided further, that no language shall be inserted in any bill having the effect of limiting or avoiding any of the provisions of this chapter;

9. Provided, that when any form of bill of lading has been approved by the Interstate Commerce Commission, and has been adopted by any carrier and made a part of its tariff, then such bill of lading, as to interstate and foreign shipments, shall be a sufficient compliance with the provisions of this article. [Id.]

Art. 1676. [1542] **"Straight" and "order" bills of lading.**—A bill of lading in which it is stated that the goods are consigned or destined to a specific person is a "straight" bill of lading, and a bill of lading in which it is stated that the goods are consigned to the order of any person named in such bill of lading is an "order" bill of lading. Order bills of lading shall not be issued in sets or in duplicate, but copies thereof may be issued; provided such copies have written or printed across the face thereof: "Copy—Not Negotiable." [Id.]

Art. 1677. [1544] **Authority of agents of carriers to be posted.**—The carriers affected by this chapter shall keep posted for public inspection in some conspicuous place in the station or place where freight is received an instrument of writing, authorizing the agent of such carrier, or person authorized to act for such carrier, selected for such purpose, to execute, sign and issue bills of lading; and the agent, or person so authorized to act for said carrier, so selected, shall attach his signature to such

instrument in the same manner that he signs bills of lading. [Id.]

Art. 1678. [1545] **Failure or refusal to issue bill of lading.**—Any officer, agent or servant of any carrier, railroad or transportation company, or receiver thereof, affected by this chapter, who shall fail or refuse to issue a bill of lading in accordance with this chapter and the regulations and orders of the Railroad Commission, when the same is rightfully demanded, shall be fined not exceeding two hundred dollars or be imprisoned in jail not exceeding six months or both. [Id.]

Art. 1679. [1546] **Issuing fraudulent bill of lading.**—Any officer, agent, or servant of a carrier, railroad or other transportation company, or receiver thereof, affected by this chapter, who shall wrongfully issue a bill of lading, with the intent to defraud any person, or who shall, with intent to defraud, knowingly misdescribe any goods, articles or other property, or the quantity or amount thereof, described in any bill of lading, or who shall knowingly issue a bill of lading without authority so to do, with the intent to defraud any person, shall be confined in the penitentiary not less than two and not exceeding ten years. [Id.]

Art. 1680. [1547] **Forgery or uttering forgery of bill of lading.**—Whoever shall forge the name of any agent of a railroad company, or other common carrier, to a bill of lading, with the intent to defraud, or who shall forge the name of any person to any certificate attached to a bill of lading issued by such carrier, with the intent to defraud, or who shall knowingly utter or attempt to utter any such forged instrument with intent to defraud, shall be confined in the penitentiary not less than five nor more than fifteen years. [Id.]

Art. 1681. [1548] **Duplication of bill of lading.**—Any officer, agent or servant of a common carrier who knowingly issues, or aids in issuing, or knowingly permits to be issued in parts or sets, or in duplicate, an order bill of lading, shall be fined not exceeding five thousand dollars, and be confined in the penitentiary not exceeding five years. [Id.]

Art. 1682. [1549] **Transfer of bill of lading.**—Whoever knowingly, and with the intent to defraud, negotiates or transfers a bill of lading issued in violation of the provisions of this chapter, or who knowingly and with the intent to defraud, negotiates or transfers a bill of lading which contains any statement of fact that is untrue, and which statement relates to a material matter, shall be fined not exceeding five thousand dollars and be imprisoned in the penitentiary not exceeding ten years. [Id.]

Art. 1683. [1550] **Procuring false bill of lading.**—Whoever shall knowingly and fraudulently procure and cause the agent of any common carrier to make and set forth in any bill of lading issued by him on behalf of such carrier any statements or representations which are false and which materially misrepresent the number, amount or quantity of the goods, chattels or

other articles therein described, or who shall procure or cause any agent of a common carrier to issue to him a bill of lading with the intent to defraud, shall be confined in the penitentiary not less than two or more than five years. [Id.]

CHAPTER NINE.

RAILROAD COMMISSION.

	Article		Article
Refusal to permit inspection.....	1684	Not applicable, when.....	1688
Refusal to answer.....	1685	Persons compelled to testify.....	1689
False billing or classification.....	1686	False statement to secure bond	
"Unjust discrimination".....	1687	registration	1690

Art. 1684. [1514] [1007] **Refusal to permit inspection.**—Any officer, agent, or employe of any railroad company who shall, upon proper demand, fail or refuse to exhibit to any member of the Railroad Commission of Texas 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 fined not less than one hundred and twenty-five dollars nor more than five hundred dollars. [Acts 1891, p. 60.]

Art. 1685. [1515] [1008] **Refusal to answer.**—If any officer or employe of a railroad company shall fail or refuse to fill out and return any blanks to said Railroad Commission as provided by law, or fail or refuse to answer any question 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 fined five hundred dollars for each day he shall fail to perform such duty, after the expiration of the time allowed by law to so answer. [Id.]

Art. 1686. [1516] [1009] **False billing or classification.**—Any officer or agent of any railroad subject to the jurisdiction of the Railroad Commission, who by means of false billing, false classification, false weight, or by any other device, shall suffer or permit any 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 fined not less than one hundred nor more than one thousand dollars. [Id.]

Art. 1687. [1517] **"Unjust discrimination".**—If any officer, agent, clerk, servant or employe, or any receiver, or his servant, agent or employe, of any railroad company in this State shall, directly or indirectly, or by any special rate, rebate, drawback, or other device, for, and on behalf of such railroad company, knowingly charge, demand, contract for, collect or receive from any person, firm or corporation a greater or less compensation for any service rendered, or to be rendered, by any such railroad company than such railroad company, or its said officers,

agents, clerks, servants or employes, or receiver thereof, charges, demands, contracts for, collects or receives from any other person, firm or corporation for doing a like and contemporaneous service, or if any officer, agent, clerk, servant or employe, or receiver, or his agents, servants or employes, of any railroad company in this State, shall, on behalf of such railroad company, make or give any undue or unreasonable preference or any advantage to any particular person, company, firm, corporation or locality, as to any service rendered or to be rendered by such railroad company, or shall subject any particular description of traffic on such railroad company to any undue or unreasonable prejudice, delay or disadvantage in any respect whatever, such officer, clerk, servant or employe, or receiver, his agents, servants or employes, of such railroad company, shall be confined in the penitentiary not less than two nor more than five years. [Acts 1899, p. 203.]

Art. 1688. [1518] **Not applicable, when.**—Nothing herein shall prevent the carriage, storing or handling, by railroad companies in this State, or by their agents, officers, clerks, servants and employes, of freight free or at reduced rates, or to prevent railroads, their agents, employes and officers, from giving free transportation or freight rates to any railroad officers, agents, employes, attorneys, stockholders or directors, or to any other officer or person, when permitted by the laws of this State. [Id.]

Art. 1689. [1519] **Persons compelled to testify.**—Any court, officer or tribunal having jurisdiction of any offense mentioned in article 1687, or any district or county attorney may subpoena persons and compel their attendance as witnesses to testify as to any violation of said article; and any person so summoned and examined shall not be liable to prosecution for any offense by reason of violation of said article about which he may testify; and for any offense by reason of violation of said article, a conviction may be had upon the unsupported evidence of an accomplice or participant. [Id.]

Art. 1690. [1521] **False statement to secure bond registration.**—Each 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 the law regulating the issuance of stocks and bonds, 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 law, shall be confined in the penitentiary not less than two nor more than fifteen years. [Acts 1893, p. 59.]

CHAPTER TEN.

NURSERY STOCK.

	Article		Article
Diseased nursery stock.....	1691	False representations	1696
Examination	1692	Giving false certificate.....	1697
Shipment	1693	Definitions	1698
Carrier not to receive, when.....	1694	Unlawful delivery	1699
Hindering Commissioner.....	1695	Fraud in sales.....	1700

Art. 1691. [717] **Diseased nursery stock.**—No person in this State shall knowingly or wilfully keep any peach, almond, apricot, nectarine or other trees, affected with the contagious disease known as yellows; nor keep for sale any apple, peach, plum or other tree affected with nematode galls, crown galls, fire blight, or root rot. No person shall knowingly or wilfully keep any plum, cherry or other trees affected with the contagious disease or fungus known as black knot or plum canker; nor any tree, shrub or plant infested with or by the San Jose scale or other insect pest dangerously injurious to or destructive of trees, shrubs, or other plants; nor any grapefruit, orange, or lemon trees, citrus stocks, cape jasmines or other trees, plants or shrubs infested with “white fly,” Florida red scale, cottony cushion scale, wooly aphis, or other injurious insect pests, or citrus canker, or other contagious diseases of citrus fruits; nor subtropical plants, shrubs, evergreens or ornamentals; nor any china, forest or other trees, shrubs, or plants infested with injurious insect pests or contagious diseases. [Acts 1909, p. 316; Acts 1921, p. 100.]

Art. 1692. [718] **Examination.**—The Commissioner of Agriculture shall cause to be made at least once each year an examination of each nursery or other place where nursery stock is exposed for sale. If such stock so examined is apparently free in all respects from any contagious or infectious disease or dangerously injurious insect pests, the Commissioner shall issue to the owner or proprietor of such stock a certificate reciting that such stock so examined was at the time of such examination apparently free from any such disease or pest. No such certificate shall be negotiable or transferable, and shall be void if sold or transferred. Any such sale or transference shall be punishable as provided by the succeeding article. [Acts 1909, p. 316.]

Art. 1693. [719] **Shipment.**—All nursery stock consigned for shipment, or shipped by freight, express or other means of transportation shall be accompanied by a copy of said certificate attached to each car, box, bale, bundle or package. When such box, bale, bundle or package contains nursery stock to be delivered to more than one person, partnership or corporation, each portion of such nursery stock to be so delivered shall also bear a copy of such certificate of inspection. Whoever sends out or delivers within this State, trees, vines, shrubs, plants, buds or cuttings, commonly known as nursery stock, which are subject to the attacks of insects and diseases enumerated herein, unless he has in his possession a copy of said certificate, dated within a year thereof; or shall deface or destroy such certificate, or

wrongfully be in possession of such certificate, or fail to attach proper tags on each shipment, such tags bearing a copy of said certificate, shall be fined not less than one hundred nor more than two hundred dollars. [Id.]

Art. 1694. [721] **Carrier not to receive, when.**—No transportation company or common carrier shall receive, transport or deliver shipments of nursery stock originating either within or without this State which do not bear shipping tags or labels showing the certificate of inspection of the state in which it originates, together with the permit from this State if it be a shipment from without this State. Any person without this State, or any agent of any transportation company or common carrier, or any person who shall violate any provision of this article, shall be fined not less than fifty nor more than two hundred dollars. [Id.]

Art. 1695. [722] **Hindering Commissioner.**—Whoever refuses or prevents entrance upon any premises under his control to the Commissioner of Agriculture, or his representative, seeking such entrance on official duty, shall be fined not less than twenty-five nor more than two hundred dollars. [Id.]

Art. 1696. [722] **False representations.**—Whoever shall make false representations for the purpose of obtaining any such certificate of inspection from the Commissioner of Agriculture, shall be fined not less than twenty-five nor more than two hundred dollars. [Id.]

Art. 1697. [724] **Giving false certificate.**—If the Commissioner of Agriculture or any of his agents or employes gives a false certificate or a certificate without an actual examination of the nursery stock for which said certificate is given, to any owner, proprietor or lessee of any nursery, or owner of nursery stock, or to any other person, for use under the provisions of this law, he shall be fined not less than five hundred nor more than one thousand dollars. [Id.]

Art. 1698. [725-6-7] **Definitions.**—

1. "Nursery stock."—The term "Nursery stock" within the meaning of this law, shall include all fruit trees and vines, shade trees and forest trees, whether such shade or forest trees be especially grown for sale in a nursery, or taken from the forests and offered for sale; all scions, seedlings, roses, evergreens, shrubbery or ornamentals, also such greenhouse plants or propagation stock, all classes of berry plants, cut flowers taken from plants, bushes, shrubs or other trees growing in this State, which may be a medium for disseminating injurious insect pests and contagious diseases.

2. "Nursery."—The term "nursery" shall be construed to mean any grounds or premises on which nursery stock is grown, or exposed for sale. "Being in the nursery business" applies to any individual, partnership or corporation which may either sell or grow, or both grow and sell, nursery stock, regardless of the variety or quantity of nursery stock sold or grown.

3. "Dealer" and "agent."—The term "dealer" shall be construed to apply to any individual, partnership or corporation not growers of nursery stock, but who buy and sell nursery stock for the purpose of reselling and reshipping under their own name or title, independently of any control of those from whom they purchase. An "agent of a nursery or dealer" shall be construed to apply to any individual, partnership or corporation selling nursery stock, either as being entirely under the control of the nursery or dealer with whom the nursery stock offered for barter and traffic originates, or some cooperative basis for handling nursery stock with the grower or dealer, as specified in this article. Any such agent shall have proper credentials from the dealer he represents or cooperates with, and failing in that, any such agent shall be classed as a dealer, and subject to such rules and regulations as may be adopted relative to them, and shall be amenable to the same penalties for violations of any provisions of this law. [Id.]

Art. 1699. [727] **Unlawful delivery.**—Any agent of any dealer or nurseryman, who shall knowingly deliver to any individual, partnership or corporation, any tree, shrub, or plant infested or diseased, as specified in the provisions of this law, even though such trees, shrubs, or plants are received in a box, bale or package, bearing a certificate of inspection, as provided in this law, shall be fined not less than twenty-five nor more than five hundred dollars for each such delivery to each individual, partnership or corporation. [Id.]

Art. 1700. [728-9] **Fraud in sales.**—Whoever knowingly makes any false representation of the name, quality or nature of any nursery product for the purpose of inducing any vendee to buy the same, or who knowingly delivers to any vendee any such product other than that contracted for, shall be fined not less than one hundred nor more than five hundred dollars, or imprisoned in jail not less than thirty days nor more than six months, or both. The statute of limitation shall not begin to run against a prosecution under this article until such product shall have developed and disclosed the fraud. [Acts 1907, p. 304.]

CHAPTER ELEVEN.

AGRICULTURAL SEEDS.

	Article		Article
"Agricultural seeds".....	1701	Samples	1705
Label	1702	Penalty	1706
Mixture of	1703	Hindering Commissioner.....	1707
Exceptions	1704	Cotton seed	1708

Art. 1701. "Agricultural seeds".—Agricultural seeds are defined as the seeds of alfalfa, Irish potatoes, sweet potatoes, clovers, corn, cotton, saccharine sorghums, non-saccharine sorghums, broom corn, small grains, including rice, cowpeas, soybeans, velvet beans, peanuts, vetch, rape, millet, Johnson grass, Bermuda grass, Kentucky blue grass, orchard grass, sudan grass, onion and Rhodes grass, which are to be used for sowing or seeding purposes. [Acts 2nd. C. S. 1919, p. 158.]

Art. 1702. **Label.**—Agricultural seeds, except as herein otherwise provided, which are offered or exposed for sale within this State for seeding purposes, in lots of ten pounds or more, shall bear a plainly written or printed statement in the English language stating:

- (a) Commonly accepted name of agricultural seed.
- (b) Correct weight in pounds and ounces.
- (c) Name of State where seed was grown, and if unknown, a statement that the locality where grown is unknown.
- (d) Approximate percentage of germible seed as determined by germination test and date on which germination test was made.

Name and address of person, firm or party or agency making the germination test, provided however, that the statement shall not be a basis for prosecution under this chapter.

- (e) Name and address of vendor.
- (f) The approximate percentage, by weight, or purity, meaning freedom of such agricultural seed from foreign matter and from other seed distinguishable by their appearance.
- (g) The approximate total percentage, by weight, of weed seeds or other foreign matter.

(h) The name and the approximate number per pound of each kind of the seed of the following named noxious weeds which are present at the rate of, or in excess of, one such noxious weed seed in five grams of agricultural seed. Such noxious weed seed are defined as seeds of dodder (*cascuta*, various species), bind weed or wild morning glory (*convolvulus*, various species), blue weed, (*helianthus cilistus*), wire grass (*Pasplum distichum*). Bermuda grass, Johnson grass, and all other seeds or foreign matter known by science to be noxious are hereby defined as noxious weed seeds. [Id. p. 158.]

Art. 1703. **Mixture of.**—Mixtures of seeds offered or exposed for sale within the State for seeding purposes, in lots of ten pounds or more, containing one or more kinds of agricultural seeds defined in the preceding article in excess of five per centum, by weight, of the total mixture, shall bear a plainly written or printed statement in English language, stating:

- (a) That such seed is a mixture.
- (b) The approximate percentage, by weight of inert matter.
- (c) The requirements provided in paragraphs (c), (g) and (h) of the preceding article. [Id. p. 159.]

Art. 1704. **Exceptions.**—The provisions of this chapter shall not apply to agricultural seeds, or mixtures of seeds, when plainly labeled “not clean seed,” or “not tested seed” nor seeds sold to merchants to be re-cleaned before being sold or exposed for sale for seeding purposes, or when in storage for the purpose of re-cleaning. [Id. p. 159.]

Art. 1705. **Samples.**—The Commissioner of Agriculture is authorized in person or by his inspectors or assistants to take for analysis, paying the reasonable purchase price, a sample not ex-

ceeding four ounces in weight, from any lot of agricultural seeds or "mixtures" offered or exposed for sale. Said sample shall be drawn or taken in the presence of the vendor or parties interested, or his or their agents or representatives, and shall not be less than ten per cent of the whole lot inspected and shall be thoroughly mixed and then divided into two samples and placed in glass or metal vessels or containers, carefully sealed and a label placed on each vessel stating the name of the agricultural seed or mixture sampled, the name of the vendor from whose stock said samples were taken, and the date and place of taking such samples, and said label shall be signed by said Commissioner, or his authorized agent; or said sample may be taken in the presence of the disinterested witnesses if the vendor or party in interest fails or refuses to be present, when notified. One of said duplicate samples shall be left with or on the premises of the vendor or party in interest, and the other retained by the Commissioner for analysis and comparison with the labels required by law. [Id. p. 159.]

Art. 1706. **Penalty.**—Whoever offers or exposes for sale within this State any agricultural seed, defined in the first article of this chapter without complying with the requirements of the second and third articles of this chapter, or whoever falsely marks or labels any agricultural seeds under said second article, or mixture under said third article, shall be fined not more than one hundred dollars. [Id. p. 160.]

Art. 1707. **Preventing inspection or sampling.**—Whoever prevents the Commissioner of Agriculture or his duly authorized agent from inspecting the seeds described in the preceding articles of this chapter, or from collecting samples as provided in the preceding articles, shall be fined not more than one hundred dollars. [Id. p. 160.]

Art. 1708. **Cotton seed.**—Every person who falsely advertises or proclaims himself a "Registered Cotton Seed Breeder" or "Certified Cotton Seed Grower," and every person who sells or offers for sale cotton seed and falsely represents it to be "Registered Cotton Seed" or "Certified Cotton Seed," shall be fined not less than one hundred nor more than one thousand dollars. [Acts 2nd C. S. 1923, p. 130.]

CHAPTER TWELVE.

COMMERCIAL FERTILIZER.

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Art. 1709. **Branding or labeling.**—All corporations, firms or persons, before selling or offering for sale any commercial fertilizer for use within this State, shall brand or attach to each bag, barrel or package a plainly printed statement, showing the brand

or name of said fertilizer, the net weight of the contents of the package, the name and address of the corporation, firm or person registering said fertilizer and the minimum percentages guaranteed to be present of available phosphoric acid, of nitrogen and of potash soluble in distilled water. Only such potash shall be claimed to be present as sulphate, which is in excess of the quantity required to combine with the chlorine present, less one-half per cent. In bone meal, tankage, or other similar products, the phosphoric acid shall be claimed as total phosphoric acid, unless it be desired to claim available phosphoric acid only, in which latter case the guarantee must take the form above set forth. In the case of bone meal and tankage, information showing the fineness of the product may be branded or attached to the package; provided it takes a form approved by the State Chemist. All branding or labeling must be durable and legible, and so placed and arranged as to be easily read. [Acts 1911, p. 218.]

Art. 1710. **Statement furnished State Chemist.**—All firms, corporations or persons, before selling or offering for sale any commercial fertilizer for use within this State, shall annually file with the State Chemist a certified statement giving the information required by the preceding article and the true names and sources of all the ingredients used in the manufacture of said fertilizer. If the same fertilizer is sold under a different name or names, said fact shall be stated, and the different brands which are identical shall be named. If the source of any ingredient is changed, notification must be promptly furnished the State Chemist. A copy of the brand or stamp on the bag or other package or on the label attached thereto shall be filed with the State Chemist on or before delivery to the dealers, agents or consumers in this State, which brand or stamp shall be uniformly used during the fiscal year for which it is filed, but such brand or stamp shall truly set forth the data required in said preceding article, and be otherwise in accordance with the provisions of this chapter. On receipt of the certified statement above described, and the copy of the brand or stamp and after compliance with other requirements of this chapter, the State Chemist shall issue a certificate of registration for the commercial fertilizer, which shall be in force until the succeeding September 1st. A brand name previously registered shall not be allowed to be registered by another firm, corporation or individual, and no brand or name shall be allowed to be registered which is so nearly similar to another as to lead to uncertainty, confusion or fraud. The party whom the previous records of the State Chemist's office show to have first registered the name shall be permitted to retain it, subject, however, to appeal and hearing before the State Chemist to determine who is entitled to the brand; but the action of the State Chemist shall be without prejudice to the legal rights of the parties to the brand or trademark. No brand or name once registered shall be changed to a lower grade at any subsequent registration. [Id.]

Art. 1711. **Words prohibited on bag.**—The words “high grade” shall not appear upon any bag or other package of any complete fertilizer which complete fertilizer contains, by its guaranteed analysis, less than ten per cent available phosphoric acid, one and sixty-five one-hundredths per cent nitrogen and two per cent of potash, or a grade or analysis of equal total commercial value; the word “standard” shall not appear upon any bag or other package of any complete fertilizer which contains, by its guaranteed analysis, less than eight per cent available phosphoric acid, one and sixty-five one-hundredths per cent nitrogen and two per cent potash, or a grade or analysis of equal total commercial value; the words “high grade” shall not appear upon any bag or other package of any acid phosphate with potash, which shall contain, by its guaranteed analysis, less than thirteen per cent available phosphoric acid, and one per cent of potash, or a grade or analysis of equal total commercial value; the word “standard” shall not appear upon any bag or other package of any acid phosphate with potash which shall contain, by its guaranteed analysis, less than eleven per cent available phosphoric acid, and one per cent of potash, or a grade or analysis of equal total commercial value; the words “high grade” shall not appear upon any bag or other package of any plain acid phosphate which shall contain by its guaranteed analysis, less than fourteen per cent available phosphoric acid; and the word “standard” shall not appear upon any bag or other package of any plain acid phosphate which shall contain by its guaranteed analysis, less than twelve per cent available phosphoric acid. The word “standard” shall not appear upon any bag or other package of acid phosphate with nitrogen which shall contain, by its guaranteed analysis, less than nine per cent of available phosphoric acid and two per cent nitrogen, or a grade or analysis of equal total commercial value. No commercial fertilizer shall be sold, offered or exposed for sale for use within this State, upon which the use of the words “high grade” or “standard” is prohibited by this article, unless the words “low grade” is printed in two-inch letters in a conspicuous place upon the package of said fertilizer. No claim or guarantee for less than one per cent of phosphoric acid or of potash, or for less than a 0.82 per cent of nitrogen, shall be allowed in any commercial fertilizer. [Id. p. 219.]

Art. 1712. **Tax tags.**—All firms, corporations or persons engaged in the manufacture or sale of commercial fertilizers shall pay to the State Chemist an inspection tax of twenty-five cents per ton for such commercial fertilizers sold or exposed or offered for sale in this State in order to entitle the same to inspection and delivery, and shall attach a tag furnished by the State Chemist as evidence that said tax is paid, and goods so tagged shall not be liable to any further tax. Nothing in this article shall interfere with fertilizers passing through the State in transit; nor apply to the delivery of fertilizing materials in bulk

to fertilizing factories for manufacturing purposes. Firms, corporations or persons, or agents representing them, who have registered their brands in compliance with this law shall forward to the State Chemist a request for tax tags, stating that the said tags are to be used upon the brands of commercial fertilizers registered and sold in accordance with this chapter, and said request shall be accompanied with the inspection tax, whereupon the State Chemist shall issue tags to parties applying, who shall attach said tags to each bag, barrel or package thereof. All firms, corporations or persons are hereby forbidden to attach the tag prescribed by this article to any bag, barrel or package of any commercial fertilizer which has not been previously registered as required by this chapter and which is not in accordance with all other provisions of this chapter. No tags shall be used after the end of the fiscal year for which they are issued, and they shall not be redeemed by the State Chemist. [Id.]

Art. 1713. Interfering with chemist.—The State Chemist shall cause one analysis or more to be made annually of such commercial fertilizer sold or offered for sale under the provisions of this chapter as may be sampled under his direction. The State Chemist, in person, or by deputy, shall have power to enter into any car, warehouse, store, building, boat, vessel, steamboat, or place supposed to contain fertilizers, for the purpose of inspection or sampling, and shall have the power to take a sample for analysis, not exceeding two pounds, from any package or lot of fertilizer found within the State. Any person who opposes the entrance of said chemist or deputy, or in any way interferes with the discharge of his duty, shall be fined not less than fifty nor more than five hundred dollars. [Id.]

Art. 1714. Forbidden materials.—It shall be unlawful to sell or offer for sale, in this State, any fertilizer or fertilizing materials which contain an undue quantity of hair, or which contain leather scraps, peat or other substances of low availability as food for plants, but in which such forbidden materials aid in making up the required or guaranteed analysis. The presence of any forbidden material shall vitiate the whole. Manufacturers who desire to use any such material may do so under such regulations as the State Chemist may prescribe, if it be shown that it is available for a proper purpose. [Id.]

Art. 1715. Unlawful acts.—No person shall sell or offer for sale any commercial fertilizer without having attached thereto such labels, stamps and tags as are required by law, or use the required tag a second time to avoid the payment of the tonnage charge. No person shall knowingly sell or offer for sale any commercial fertilizer for use within this State which is materially below the guaranteed value in plant food. [Id.]

Art. 1716. Definitions.—These terms mean:

1. A commercial fertilizer is any material, substance or mixture which contains or is claimed to contain more than one per

cent of total phosphoric acid, or of potash, or of nitrogen, and which is used for application to the soil to promote the growth of crops, or any substance, material or mixture, which is claimed to exert a beneficial action upon the soil or to promote the growth of crops. Lime, limestone, marl, unground bones, stock-pen manure, barn-yard manure, or the excrement of any domestic animal shall be exempt from the provisions of this chapter, in case that said manure or excrement has not been dried or manipulated or otherwise treated or is not claimed to have a value of more than four dollars a ton.

2. A fertilizer is misbranded if it carries any false or misleading statement upon or attached to the package, or if false or misleading statements concerning its agricultural value are made on the package or in any printed advertising matter issued by the corporation, firm or individual that registered said fertilizer, or if the number of net pounds set forth upon the package is not substantially correct.

3. A fertilizer is adulterated if it contains any substance or substances injurious to the crop or to the soil, or if the guaranteed valuation exceeds the valuation of the plant food found on analysis ten per cent or more, or if any of the plant food constituents falls twenty per cent or more below the guaranteed composition. [Id.]

Art. 1717. **Selling adulterated or misbranded fertilizer.**—Whoever manufactures, sells or offers for sale any adulterated or misbranded commercial fertilizer for use within this State shall be fined not less than twenty-five nor more than two hundred dollars. [Id.]

Art. 1718. **Sale of bulk fertilizer.**—Manufacturers, jobbers, dealers or manipulators of commercial fertilizers may sell acid phosphate or other commercial fertilizer in bulk to persons, individuals or firms who desire to purchase the same for their own use on their own land but not for sale or distribution, under rules and regulations prescribed by the State Chemist which will not be inconsistent with the provisions of this chapter. Inspection tax shall be paid upon such fertilizer as provided herein. If such bulk fertilizer is offered for sale or distribution, it must be tagged and branded and otherwise accord with the provisions of this chapter. [Id.]

Art. 1719. **Unlawful tag, bag or label.**—Whoever uses the fertilizer tags, bags or labels of some other person, party or manufacturer, in such a way as to deceive or tend to deceive, or who counterfeits or uses a counterfeit of the tax tag prescribed in this chapter, shall be fined not less than one hundred nor more than five hundred dollars. [Id.]

Art. 1720. **General penalty.**—Whoever violates any provision of this chapter for which a penalty is not otherwise provided herein shall be fined not less than fifty nor more than two hundred dollars. [Id.]

ERRATA.

The following parts of the Penal Code should have been printed therein in the proper places, to-wit:

Art. 566. There should have been omitted on line 5 the words "and have been for two years next preceding said date," and on lines 14, 15 and 16 the words, "and that has been so engaged for a period of two years next immediately preceding the time this Act becomes effective"; and on line 22, the word "has" should be inserted between the words "who" and "for." [Acts 1925, p. 356.]

Art. 923k. [876] **Montgomery County squirrels.**—Whoever sells or offers for sale or ships for sale in Montgomery County any squirrels shall be fined not less than twenty-five nor more than one hundred dollars. [Act 1909, p. 117.]

Art. 923l. **Killing squirrels prohibited.**—Whoever kills any squirrels in the counties of Angelina, Cherokee, Hardin, Liberty, Nacogdoches, Dallas, Rockwall, Tyler, Jefferson, Orange, Jasper, or Newton during the months of January to July inclusive, or kills more than five squirrels in any one day during any other month in any of said counties shall be fined not to exceed fifty dollars. [Acts 1917, 3rd C. S., p. 69.]

Art. 1363, p. 306, should read, "shall be punished by fine of not exceeding \$100.00," in lieu of "not less than \$100.00 nor more than \$1000.00, or by imprisonment in jail not to exceed one year or both." [Acts 1925, p. 76.]

Note.—The Thirty-ninth Legislature passed a number of Criminal Statutes which are independent enactments and not amendments of any existing penal laws and for this reason are omitted from the Penal Code of 1925. I have no authority to insert such laws. Among the statutes referred to may be mentioned: The Protection of Fish in Lake Wichita, Chapter 37, p. 126, Acts 1925; Wearing Masks, Chapter 63, p. 213, Id.; Prohibiting Public Printers to do certain acts, Chapter 78, p. 241, Id.; Violations of the Tick Eradication Law, Chapter 122, p. 307, Id.; Relating to Headlights, Chapter 25, p. 135, Id.; False Financial Statements, Chapter 168, p. 383, Id.; Insane Asylums, Offenses by employees, Chapter 174, p. 407, Id.; For Protection of Rainbow Trout, Chapter 163, p. 374, Id.; Operating Passenger Elevators, Chapter 29, p. 147, Id.; Failure of Local Insurance Agents, Mutual, to Give Bond, Chapter 203, p. 672, Id.; Law Relating to Textbooks, Chapter 176, p. 417, Id.

There were former statutes relating to Tick Eradication and Textbooks in which there were criminal provisions, but these statutes were repealed by the Thirty-ninth Legislature and hence the criminal provision in the new statutes are not amendments of the criminal provisions in the old statutes which having been repealed are not longer laws.

C. H. JENKINS,
Supervisor of Publication of Revised Statutes, 1925.

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