

CHAP. 429.—An Act To define and punish crimes in the District of Alaska and to provide a code of criminal procedure for said district.

March 3, 1899.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the penal and criminal laws of the United States of America and the procedure thereunder relating to the District of Alaska shall be as follows:

Alaska.
Criminal code.

TITLE I.

CHAPTER ONE.

GENERAL PROVISIONS.

Sec.
1. Territorial area.

Sec.
2. Crimes and offenses, how punished.

SEC. 1. That the District of Alaska consists of that portion of the territory of the United States ceded by Russia by the treaty of March thirtieth, eighteen hundred and sixty-seven.

Territorial area.
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SEC. 2. That the crimes and offenses defined in this Act, committed within the District of Alaska, shall be punished as herein provided.

Crimes and offenses,
how punished.

CHAPTER TWO.

OFFENSES AGAINST THE PERSON.

- Sec.
3. Murder, first degree.
 4. Murder by obstructing or injuring a railroad.
 5. Murder in the second degree.
 6. Manslaughter.
 7. Procuring another to commit self-murder.
 8. Administering medicine, etc., to pregnant women.
 9. Physicians administering poison, etc., while in a state of intoxication.
 10. Negligent homicide.
 11. When killing of a human being justifiable.
 12. Same subject.
 13. When killing of a human being excusable.
 14. Rape.
 15. Punishment for rape.

- Sec.
16. Mayhem.
 17. Shooting, cutting, or stabbing with intent to kill, etc.
 18. Assault with intent to kill or commit rape or robbery.
 19. Dueling.
 20. Posting another for not engaging in duel.
 21. Assault, being armed with a cowhide.
 22. Pointing firearms at and discharging the same and injuring thereby.
 23. Administering poison.
 24. Assault with a dangerous weapon.
 25. Assault or assault and battery.
 26. Robbery, pocket picking.
 27. Kidnaping.
 28. Child stealing.
 29. Blackmailing.
 30. Libel.

SEC. 3. That whoever, being of sound memory and discretion, purposely, and either of deliberate and premeditated malice or by means of poison, or in perpetrating or in attempting to perpetrate, any rape, arson, robbery, or burglary, kills another, is guilty of murder in the first degree, and shall suffer death.

Murder, first degree.

SEC. 4. That whoever maliciously places an obstruction upon a railroad or street railroad, or displaces or injures anything appertaining thereto, or does any other act with intent to endanger the passage of any locomotive or car, and thereby occasions the death of another, is guilty of murder in the first degree, and shall suffer death. That in all cases where the accused is found guilty of the crime of murder under this and the next preceding section, the jury may qualify their verdict by adding thereto "without capital punishment;" and whenever the jury shall return a verdict qualified as aforesaid the person convicted shall be sentenced to imprisonment at hard labor for life.

Murder by obstructing or injuring a railroad.

SEC. 5. That whoever purposely and maliciously, except as provided in the last two sections, kills another, is guilty of murder in the second degree, and shall be imprisoned in the penitentiary not less than fifteen years.

Murder in the second degree.

Manslaughter.

SEC. 6. That whoever unlawfully kills another, except as provided in the last three sections, is guilty of manslaughter, and shall be imprisoned in the penitentiary not more than twenty nor less than one year.

Procuring another to commit self-murder.

SEC. 7. That if any person shall purposely and deliberately procure another to commit self-murder or assist another in the commission thereof, such person shall be deemed guilty of manslaughter, and shall be punished accordingly.

Administering medicine, etc., to pregnant women.

SEC. 8. That if any person shall administer to any woman pregnant with a child any medicine, drug, or substance whatever, or shall use any instrument or other means, with intent thereby to destroy such child, unless the same shall be necessary to preserve the life of such mother, such person shall, in case the death of such child or mother be thereby produced, be deemed guilty of manslaughter, and shall be punished accordingly.

Physicians administering poison, etc., while in a state of intoxication.

SEC. 9. That if any physician, or any person acting as or pretending to be a physician, while in a state of intoxication, shall, without a design to effect death, administer any poison, drug, or medicine, or do any other act to another person which shall produce the death of such other, such physician shall be deemed guilty of manslaughter, and shall be punished accordingly.

Negligent homicide.

SEC. 10. That every killing of a human being by the culpable negligence of another, when such killing is not murder in the first or second degree, or is not justifiable or excusable, shall be deemed manslaughter, and shall be punished accordingly.

When killing of a human being justifiable.

SEC. 11. That the killing of a human being is justifiable, when committed by public officers or those acting in their aid and assistance and by their command, either—

First. In obedience to the judgment of a competent court;

Second. When necessarily committed in overcoming resistance to the execution of legal process or to the discharge of a legal duty;

Third. When necessarily committed in retaking persons charged with or convicted of crime who have escaped or been rescued; or

Fourth. When necessarily committed in arresting a person fleeing from justice who has committed a felony.

Same subject.

SEC. 12. That the killing of a human being is also justifiable when committed by any person as follows:

First. To prevent the commission of a felony upon such person or upon his or her husband, wife, parent, child, master, mistress, or servant;

Second. To prevent the commission of a felony upon the property of such person, or upon property in his possession, or upon or in any dwelling house where such person may be;

Third. In the attempt, by lawful ways and means, to arrest a person who has committed a felony, or in the lawful attempt to suppress a riot or preserve the peace.

When killing of a human being excusable.

SEC. 13. That the killing of a human being is excusable when committed:

First. By accident or misfortune in lawfully correcting a child, or in doing any other lawful act, by lawful means, with usual and ordinary caution and without any unlawful intent; or,

Second. By accident or misfortune in the heat of passion, upon a sudden and sufficient provocation, or upon a sudden combat, without premeditation or undue advantage being taken, and without any dangerous weapon or thing being used, and not done in a cruel or unusual manner.

Rape.

SEC. 14. That whoever has carnal knowledge of a female person, forcibly and against her will, or, being sixteen years of age, carnally knows and abuses a female person under sixteen years of age, with her consent, is guilty of rape.

Punishment for rape.

SEC. 15. That a person convicted of rape upon his daughter, or sister, or a female person under twelve years of age, shall be imprisoned in the penitentiary during life; and a person convicted of rape upon any

other female person shall be imprisoned in the penitentiary not more than twenty years nor less than three years.

SEC. 16. That whoever, with malicious intent to maim or disfigure, cuts, bites, or slits the nose, ear, or lip, cuts out or disables the tongue, puts out or destroys an eye, cuts off or disables a limb or any member of another person, or whoever, with like intent, throws or pours upon or throws at another person, any scalding hot water, vitriol, or other corrosive acid or caustic substance, or whoever, with like intent, assaults another person with any dangerous instrument whatever, shall be imprisoned in the penitentiary not more than twenty years nor less than one year.

Mayhem.

SEC. 17. That whoever maliciously shoots, stabs, cuts, or shoots at another person, with intent to kill, wound, or maim such person, shall be imprisoned in the penitentiary not more than twenty years nor less than one year.

Shooting, cutting, or stabbing with intent to kill, etc.

SEC. 18. That whoever assaults another with intent to kill, or to commit rape or robbery upon the person so assaulted, shall be imprisoned in the penitentiary not more than fifteen years nor less than one year.

Assault with intent to kill or commit rape or robbery.

SEC. 19. That whoever fights a duel, or is second to a person who fights a duel, or challenges another to fight a duel, or accepts a challenge to fight a duel, or is knowingly the bearer of such challenge, or shall be present at the fighting of such duel as aid or surgeon, or shall advise, encourage, or promote such duel, shall be imprisoned in the penitentiary not more than ten years nor less than one year.

Dueling.

SEC. 20. That whoever shall in any manner post another, or in writing or print use any reproachful or contemptuous language to or concerning another for not fighting a duel, or for not sending or accepting a challenge to fight a duel, shall be imprisoned in the penitentiary not more than two years nor less than one year.

Posting another for not engaging in duel.

SEC. 21. That whoever shall assault, or assault and beat another with a cowhide, whip, stick, or like thing, having at the time in his possession a pistol, dirk, or other deadly weapon, with intent to intimidate and prevent such other from resisting or defending himself, shall be punished by imprisonment in the penitentiary not more than ten years nor less than one year.

Assault, being armed with a cowhide.

SEC. 22. That whoever intentionally, and without malice, points or aims any firearm at or toward any person, or discharges any firearm so pointed or aimed, or maims or injures any person by the discharge of any firearm so pointed or aimed, shall be fined not more than one hundred dollars, or imprisoned not more than one year, or both. This section shall not extend to any case where firearms are used in self-defense or in the discharge of official duty, or in case of justifiable homicide.

Pointing firearms at and discharging the same and injuring thereby.

SEC. 23. That whoever administers poison to a person, with intent to kill or injure such person, or mingles poison with food, drink, or medicine, with intent to kill or injure any human being, or willfully poisons any well, spring, cistern, or reservoir of water, shall be imprisoned in the penitentiary not more than fifteen years nor less than two years.

Administering poison.

SEC. 24. That whoever, being armed with a dangerous weapon, shall assault another with such weapon, shall be punished by imprisonment in the penitentiary not more than ten years nor less than six months, or by imprisonment in the county jail not more than one year nor less than one month, or by fine not less than one hundred dollars nor more than one thousand dollars.

Assault with a dangerous weapon.

SEC. 25. That whoever, not being armed with a dangerous weapon, unlawfully assaults or threatens another in a menacing manner, or unlawfully strikes or wounds another, shall be fined not more than five hundred dollars or imprisoned in the county jail not more than six months, or both.

Assault or assault and battery.

SEC. 26. That whoever, by force or violence, or by putting in fear, steals and takes from the person of another anything of value, is guilty

Robbery, pocket picking.

of robbery, and shall be imprisoned in the penitentiary not more than fifteen years nor less than one year; and whoever, otherwise than by force and violence or by putting in fear, shall steal and take from the person of another anything of value, shall be imprisoned in the penitentiary not exceeding five years nor less than one year.

Kidnaping.

SEC. 27. That every person who, without lawful authority, forcefully seizes and confines another or inveigles or kidnaps another, with intent either—

First. To cause such other person to be secretly confined or imprisoned in said district against his will; or

Second. To cause such other person to be sent out of said district against his will, shall be punished by imprisonment in the penitentiary not less than one nor more than ten years.

Child stealing.

SEC. 28. That every person who maliciously, forcibly, or fraudulently takes or entices away any child under the age of twelve years, with intent to detain and conceal such child from its parent, guardian or other person having the lawful charge of such child, shall be punished by imprisonment in the penitentiary not less than six months nor more than ten years, or by imprisonment in the county jail not exceeding one year, or by fine not exceeding five hundred dollars, or by both such fine and imprisonment.

Blackmailing.

SEC. 29. That whoever, either verbally or by written or printed communication, shall threaten any injury to the person or property of another, or that of any person standing in the relation of parent or child, husband or wife, or sister or brother to such other, or shall in like manner threaten to accuse another of any crime, or of any immoral conduct which, if true, would tend to degrade and disgrace such person, or to expose or publish any of his infirmities or failings, or in any way to subject him to the ridicule or contempt of society, with intent thereby to extort any pecuniary advantage or property from such other, or with intent to compel such other to do any act against his will, shall be imprisoned in the penitentiary not more than five years nor less than six months, or imprisoned in the county jail not more than one year nor less than three months.

Libel.

SEC. 30. That if any person shall willfully, by any means other than words orally spoken, publish or cause to be published of or concerning another any false and scandalous matter, with intent to injure or defame such other person, upon conviction thereof he shall be punished by imprisonment in the county jail not less than three months nor more than one year, or by a fine not less than one hundred dollars nor more than five hundred dollars. Any allusion to any person or family, with intent to injure, defame, or maliciously annoy such family, shall be deemed to come within the provisions of this section.

CHAPTER THREE.

OFFENSES AGAINST PROPERTY.

Sec.	Sec.
31. Arson by burning dwelling house in nighttime.	42. Larceny in house, boat, or public building.
32. Arson by burning other building or boat in nighttime.	43. Larceny by stealing horse, etc.
33. Maliciously burning other buildings.	44. Driving domestic animals from their range, etc.
34. Preceding sections of this chapter to extend to married women.	45. Larceny by altering marks or brands upon animals.
35. Malicious burning of lumber or vegetable products.	46. Embezzlement by servant.
36. Burning with intent to injure insurer.	47. Embezzlement by bailee.
37. Burglary in dwelling house in nighttime.	48. Embezzlement of public money.
38. Burglary not in dwelling house.	49. Same subject.
39. Burglary in dwelling house by attempting to get out.	50. Trustees converting property.
40. Breaking and entering, what constitutes.	51. Banker, attorney, etc., converting property.
41. Larceny.	52. Buying, receiving, or concealing stolen property.
	53. Larceny by falsely personating another.

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| <p>Sec.
54. Obtaining goods or writing by false pretenses.
55. Malicious or wanton injury to animals or other personal property.
56. Destroying boat or vessel with intent to defraud owner or owner of goods laden thereon.
57. Fitting out vessel with intent to be destroyed.
58. Making or exhibiting false bill of lading.
59. Making conveyance without title with intent to defraud.
60. Boom, bridge, road, wharf, etc.
61. Setting fire to prairie.
62. Injury to fruit trees, fences, etc.</p> | <p>Sec.
63. Injury to monuments, etc.
64. Trespassing on improved lands.
65. Fast driving over public bridge.
66. Trespassing on lands of another.
67. Trespassing on inclosed lands.
68. Evidence of notice.
69. Using false weight, etc.
70. Opening or publishing contents of sealed letter.
71. Fraudulently producing heir.
72. Substituting another child for infant.
73. Officer, etc., of corporation falsifying records.
74. Officer, etc., of corporation publishing false reports.
75. Trespass on mining claims.</p> |
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SEC. 31. That if any person shall willfully and maliciously burn any dwelling house of another, or shall willfully or maliciously set fire to any building owned by himself or another, by the burning whereof any dwelling house of another shall be burned such person shall be deemed guilty of arson, and upon conviction thereof shall be punished by imprisonment in the penitentiary not less than ten nor more than twenty years.

Arson by burning dwelling house in nighttime.

SEC. 32. That if any person shall willfully and maliciously burn any church, court-house, townhouse, meetinghouse, asylum, college, academy, schoolhouse, prison, jail, or other public building erected or used for public uses, or any steamboat, ship, or other vessel, or any banking house, warehouse, express office, storehouse, manufactory, mill, barn, stable, shop, or office of another, or shall willfully and maliciously set fire to any building or boat owned by himself or another, by the burning whereof any edifice, building, boat, or vessel mentioned in this section shall be burned such person shall be deemed guilty of arson, and upon conviction thereof shall be punished by imprisonment in the penitentiary not less than five nor more than fifteen years.

Arson by burning other building or boat in nighttime.

SEC. 33. That if any person shall willfully and maliciously burn any building whatsoever of another other than those specified in sections thirty-one and thirty-two, or shall willfully and maliciously burn any bridge, lock, dam, or flume of another, or erected or used for public uses, such person, upon conviction thereof, shall be punished by imprisonment in the penitentiary not less than one nor more than ten years.

Maliciously burning other buildings.

SEC. 34. That the preceding sections of this chapter shall each extend to and include a married woman who may commit either of the crimes therein specified, though the property burned or set on fire may belong wholly or in part to her husband.

Preceding sections of this chapter to extend to married women.

SEC. 35. That if any person shall willfully and maliciously burn any pile or parcel of boards or other lumber, timber, or wood; or any stack of hay, grain, or other vegetable product; or any hay, grain, or other vegetable product severed from the soil, but not stacked; or any growing grass or grain, or other growing vegetable product of the soil, such person, upon conviction thereof, shall be punished by imprisonment in the penitentiary not less than six months nor more than three years.

Malicious burning of lumber or vegetable products.

SEC. 36. That if any person shall willfully burn or in any other manner injure or destroy any property whatever which is at the time insured against loss or damage by fire or other casualty, with intent to defraud or prejudice the insurer, whether the same be the property of such person or of any other, such person, upon conviction thereof, shall be punished by imprisonment in the penitentiary not less than three nor more than seven years.

Burning with intent to injure insurer.

SEC. 37. That if any person shall break and enter any dwelling house in which there is at the time some human being, with intent to commit a crime therein, or, having entered with such intent, shall break any such dwelling house or be armed with a dangerous weapon therein, or assault any person lawfully therein, such person shall be deemed guilty of burglary, and upon conviction thereof shall be punished by imprisonment in the penitentiary not less than one nor more than fifteen years.

Burglary in dwelling house in nighttime.

Burglary not in dwelling house.

SEC. 38. That if any person shall break and enter any building within the curtilage of any dwelling house, but not forming a part thereof, or shall break and enter any building or part thereof, booth, tent, railway car, vessel, boat, or other structure or erection in which any property is kept, with intent to steal therein or to commit any felony therein, such person shall be deemed guilty of burglary, and upon conviction thereof shall be punished by imprisonment in the penitentiary not less than two nor more than five years.

Burglary in dwelling house by attempting to get out.

SEC. 39. That if any person, having committed or attempted to commit a crime in the dwelling house of another, shall break any outer door, window shutter, or other part of such house, to get out of the same, such person shall be deemed guilty of burglary, and upon conviction thereof shall be punished by imprisonment in the penitentiary not less than one nor more than three years.

Breaking and entering, what constitutes.

SEC. 40. That every unlawful entry of a dwelling house with intent to commit a crime therein shall be deemed a breaking and entering of such dwelling house within the meaning of section thirty-seven; and every unlawful entry of any building, booth, tent, railway car, vessel, boat, or other structure or erection mentioned in section thirty-eight, with intent to steal or commit any felony therein, shall be deemed a breaking and entering of the same within the meaning of such section thirty-eight.

Larceny.

SEC. 41. That if any person shall steal any goods or chattels, or any Government note, or bank note, promissory note, or bill of exchange, bond, or other thing in action, or any book of accounts, order, or certificate, concerning money or goods, due or to become due or to be delivered, or any deed or writing containing a conveyance of land or any interest therein, or any bill of sale, or writing containing a conveyance of goods or chattels or any interest therein, or any other valuable contract in force, or any receipt, release, or defeasance, or any writ, process, or public record, the property of another, such person shall be deemed guilty of larceny, and upon conviction thereof, if the property stolen shall exceed in value thirty-five dollars, shall be punished by imprisonment in the penitentiary not less than one nor more than ten years; but if the property stolen shall not exceed the value of thirty-five dollars, such person, upon conviction thereof, shall be punished by imprisonment in the county jail not less than one month nor more than one year, or by fine not less than twenty-five nor more than one hundred dollars.

Larceny in house, boat, or public building.

SEC. 42. That if any person shall commit the crime of larceny in any dwelling house, banking house, office, store, shop, or warehouse, or in any ship, steamboat, or other vessel, or shall break and enter in the night or day time any church, court-house, meetinghouse, townhouse, college, academy, or other building erected or used for public uses, and commit the crime of larceny therein, such person, upon conviction thereof, shall be punished by imprisonment in the penitentiary not less than one nor more than seven years.

Larceny by stealing horse, etc.

SEC. 43. That if any person shall commit the crime of larceny by stealing any horse, gelding, mare, colt, mule, ass, jenny, bull, steer, cow, calf, reindeer, such person, upon conviction thereof, shall be punished by imprisonment in the penitentiary not less than one nor more than fifteen years.

Driving domestic animals from their range, etc.

SEC. 44. That any person, not the owner or owners, who shall knowingly take or drive, without the consent of the owner or owners, or cause to be taken or driven, or shall assist in driving or taking away from the range or place where the same may be lawfully grazing, pasturing, or ranging, any horse, colt, mare, foal, mule, ass, jenny, or bull, cow, heifer, steer, calf, reindeer, sheep, hog, or any other description of domestic animal or animals, from where the same may be lawfully grazing or in the habit of ranging, or where the same may have been herded or placed by the owner or owners thereof, for a distance of more than ten miles from such place where the same may have been so located or placed by the owner or owners thereof, or where the same may be in

the habit of grazing or ranging, shall be fined in any sum not less than fifty dollars nor more than four hundred dollars, and shall be liable to the owner or owners of such animal or animals for all damages sustained by reason of such driving or taking away such domestic animal.

SEC. 45. That if any person shall willfully and knowingly make, alter, or deface any artificial earmark or brand upon any horse, mare, gelding, foal, mule, ass, jenny, bull, cow, steer, or calf, the property of another, with intent thereby to convert the same to his own use, such person shall be deemed guilty of larceny, and upon conviction thereof shall be punished by imprisonment in the penitentiary not less than one nor more than five years.

Larceny by altering marks or brands upon animals.

SEC. 46. That if any officer, agent, clerk, employee, or servant of any private person or persons, copartnership, or incorporation shall embezzle or fraudulently convert to his own use, or shall take or secrete with intent to embezzle or fraudulently convert to his own use, any money, property, or thing of another which may be the subject of larceny, and which shall have come into his possession or be under his care by virtue of such employment, such officer, agent, clerk, employee, or servant shall be deemed guilty of embezzlement, and upon conviction thereof, if the property embezzled shall exceed in value thirty-five dollars, shall be punished by imprisonment in the penitentiary not less than one nor more than ten years; but if the property embezzled shall not exceed the value of thirty-five dollars, such person, upon conviction thereof, shall be punished by imprisonment in the county jail not less than one month nor more than one year, or by fine not less than twenty-five nor more than one hundred dollars.

Embezzlement by servant.

SEC. 47. That if any bailee, with or without hire, shall embezzle, or wrongfully convert to his own use, or shall secrete, with intent to convert to his own use, or shall fail, neglect, or refuse to deliver, keep, or account for, according to the nature of his trust, any money or property of another delivered or intrusted to his care or control, and which may be the subject of larceny, such bailee, upon conviction thereof, shall be deemed guilty of embezzlement and punished accordingly; and if any such bailee shall receive grain of any kind from different bailors, and mix the same and store it together in bulk, in such case, in an indictment charging such bailee so mixing and storing grain with committing, with reference to said grain, the crime defined and made penal in this section, it shall not be necessary to charge in said indictment or prove on the trial that the ownership of said grain is in more than one of said bailors. And every mortgagor of personal property having possession of property mortgaged shall be deemed a bailee within the provisions of this section.

Embezzlement by bailee.

SEC. 48. That if any person shall receive any money whatever for said district, or for any county, town, or other municipal or public corporation therein, or shall have in his possession any money whatever belonging to such district, county, town, or corporation, or in which said district, county, town, or corporation has an interest, and shall in any way convert to his own use any portion thereof, or shall loan, with or without interest, any portion thereof, or shall neglect or refuse to pay over any portion thereof, as by law directed and required, or when lawfully demanded so to do, such person shall be deemed guilty of embezzlement, and upon conviction thereof shall be punished by imprisonment in the penitentiary not less than one nor more than fifteen years, and by fine equal to twice the amount so converted, loaned, or neglected or refused to be paid, as the case may be.

Embezzlement of public money.

SEC. 49. That the amount of the money converted, loaned, or neglected or refused to be paid, must be ascertained by the verdict of the jury as near as may be, and no person in any proceeding against him under section forty-eight can be allowed to set up or prove any private demand which he may have or claim to have against such district, county, town, or corporation as a defense to such proceeding.

Same subject.

SEC. 50. That if any person, being the trustee of any property for the benefit of another, or for any public or charitable use, shall, with

Trustees converting property.

intent to defraud, by any means convert the same or any portion thereof to his own use or benefit, or to the use and benefit of another not entitled thereto, such person, upon conviction thereof, shall be punished by imprisonment in the county jail not less than three months nor more than one year, or by fine not less than fifty nor more than one thousand dollars.

Banker, attorney, etc., converting property.

SEC. 51. That if any person, being a banker, broker, merchant, attorney, or agent, and being intrusted with the property of another, shall, by any means, with intent to defraud, convert the same, or any portion thereof, to his own use or benefit, or to the use or benefit of another not entitled thereto, such person, upon conviction thereof, shall be punished by imprisonment in the county jail not less than three months nor more than one year, or by fine not less than fifty nor more than one thousand dollars.

Buying, receiving, or concealing stolen property.

SEC. 52. That every person who buys, receives, or conceals any money, goods, bank notes, or other thing which may be the subject of larceny and which has been feloniously taken or stolen from any other person, knowing the same to have been so taken or stolen, shall be punished by a fine of not more than one thousand dollars and by imprisonment at hard labor not more than three years.

Larceny by falsely personating another.

SEC. 53. That if any person shall falsely personate or represent another, and in such assumed character shall receive or obtain any money or property whatever intended to be delivered to the person so personated or represented, with intent to defraud or to convert the same to his own use, such person shall be deemed guilty of larceny, and upon conviction thereof shall be punished accordingly.

Obtaining goods or writing by false pretenses.

SEC. 54. That if any person shall, by any false pretenses or by any privy or false token, and with intent to defraud, obtain, or attempt to obtain, from any other person any money or property whatever, or shall obtain, or attempt to obtain, with the like intent, the signature of any person to any writing the false making whereof would be punishable as forgery, such person, upon conviction thereof, shall be punished by imprisonment in the penitentiary not less than one nor more than five years. The making of a bill of sale, or assignment, or mortgage of personal property, by any person not the owner thereof, for the purpose of obtaining money or credit or to secure an existing indebtedness, shall be deemed a false pretense within the meaning of this section.

Malicious or wanton injury to animals or other personal property.

SEC. 55. That if any person shall maliciously or wantonly kill, wound, disfigure, or injure any animal the property of another, or shall willfully administer any poison to any such animal, or shall maliciously expose any poison with intent that the same shall be taken by any such animal, or shall maliciously or wantonly, in any manner or by any means not otherwise particularly specified in this chapter, destroy or injure any personal property of another, such person, upon conviction thereof, shall be punished by imprisonment in the penitentiary not less than six months nor more than three years or by imprisonment in the county jail not less than three months nor more than one year, or by fine not less than fifty nor more than one thousand dollars.

Destroying boat or vessel with intent to defraud owner or owner of goods laden thereon.

SEC. 56. That if any person shall willfully cast away, burn, sink, or otherwise destroy any ship, steamboat, or other vessel, with intent to injure or defraud any owner of such ship, steamboat, or other vessel, or with intent to injure or defraud the owner of any property laden on board the same, such person, upon conviction thereof, shall be punished by imprisonment in the penitentiary not less than three or more than ten years.

Fitting out vessel with intent to be destroyed.

SEC. 57. That if any person shall lade, equip, or fit out, or assist in lading, equipping, or fitting out, any ship, steamboat, or other vessel, with the intent that the same shall be willfully cast away, burnt, sunk, or otherwise destroyed, to injure or defraud any owner or insurer of said ship, steamboat, or other vessel, or of any property laden on board the same, such person, upon conviction thereof, shall be punished by imprisonment in the penitentiary not less than one nor more than five years.

SEC. 58. That if the owner of any ship, steamboat, or other vessel, or of any property laden or pretended to be laden on board the same, or if any other person concerned or assisting in the fitting out or lading of any such ship, steamboat, or other vessel, shall make out or exhibit or cause to be made out or exhibited any false or fraudulent invoice, bill of lading, bill of parcels, or other false estimate of any property laden or pretended to be laden on board of such ship, steamboat, or other vessel, with intent to injure or defraud any insurer of such ship, steamboat, or other vessel or property, or any part thereof, such person, upon conviction thereof, shall be punished by imprisonment in the penitentiary not less than six months nor more than three years.

Making or exhibiting false bill of lading.

SEC. 59. That if any person shall falsely and knowingly represent that he is the owner of any land to which he has no title, or shall falsely represent that he is the owner of any interest or estate in any land, and shall execute any conveyance of the same with intent to defraud anyone, such person, upon conviction thereof, shall be punished by imprisonment in the penitentiary not less than six months nor more than two years.

Making conveyance without title with intent to defraud.

SEC. 60. That if any person shall willfully break, cut away, injure, or destroy any boom or wharf lawfully established, being upon any river or other water in the said District of Alaska, or break down, injure, remove, or destroy any free or toll bridge, railway, plank road, macadamized road, or any gate upon any such road, or any lock or embankment of any canal, such person shall be imprisoned in the penitentiary not less than six months nor more than two years, or be imprisoned in the county jail not less than three months nor more than one year, or be fined not less than fifty dollars nor more than one thousand dollars.

Boom, bridge, road, wharf, etc.

SEC. 61. That if any person shall maliciously or wantonly set on fire any prairie or other grounds, other than his own or those of which he is in the lawful possession, or shall willfully or negligently permit or suffer the fire to pass from his own grounds or premises, to the injury of another, such person, upon conviction thereof, shall be punished by imprisonment in the county jail not less than three months nor more than one year, or by fine not less than fifty nor more than five hundred dollars.

Setting fire to prairie.

SEC. 62. That if any person shall maliciously or wantonly cut down, destroy, or injure any bush, shrub, fruit or other tree not his own, standing or growing for fruit, ornament, or other useful purpose, or shall willfully break the glass in or deface any building not his own, or shall willfully break down or destroy any fence or hedge belonging to or inclosing land not his own, or shall willfully throw down, or open and leave down or open any bars, gate, or fence, or hedge belonging to or inclosing land not his own, or shall maliciously or wantonly sever from the land of another any produce thereof, such person, upon conviction thereof, shall be punished by imprisonment in the county jail not less than three months nor more than one year, or by fine not less than ten dollars nor more than five hundred dollars.

Injury to fruit trees, fences, etc.

SEC. 63. That if any person shall willfully deface, break down, injure, remove, or destroy any monument erected or used for the purpose of designating the boundary of any town, tract, or parcel of land, or any tree marked for that purpose; or shall willfully break down, injure, remove, or destroy any milestone, board, or post, or any guide or finger board erected or placed upon any road or highway; or shall willfully alter, deface, or obliterate the inscription upon any such monument, stone, post, or board; or shall willfully extinguish any lamp, or break, injure, destroy, or remove any lamp, lamp-post, sign, or signpost, or any railing or posts erected upon any street, highway, sidewalk, court, or passage, such person, upon conviction thereof, shall be punished by imprisonment in the county jail not less than three months nor more than one year, or by fine not less than ten dollars nor more than five hundred dollars.

Injury to monuments, etc.

SEC. 64. That if any person shall willfully enter upon the garden, orchard, or other improved lands of another, or in his possession, with intent to cut, take, carry away, destroy, or injure the trees, grain, grass,

Trespassing on improved lands.

hay, fruit, or vegetable products there growing and being, such person, upon conviction thereof, shall be punished by imprisonment in the county jail not less than one nor more than six months, or by fine not less than five nor more than fifty dollars.

Fast driving over public bridge.

SEC. 65. That if any person shall willfully ride or drive over any public bridge at a greater speed than a walk, or shall drive at any one time more than twenty head of cattle, horses, or mules over any such bridge, such person shall be punished by fine not less than ten nor more than one hundred dollars.

Trespassing on lands of another.

SEC. 66. That if any person shall willfully cut down, destroy, or injure any standing or growing tree upon the lands of another, or shall willfully take or remove from any such lands any timber or wood previously cut or severed from the same, or shall willfully dig, take, quarry, or remove from any such lands any mineral, earth, or stone, such person, upon conviction thereof, shall be punished by imprisonment in the county jail not less than one month nor more than one year, or by fine not less than fifty nor more than one thousand dollars.

Trespassing on lands in possession of another.

SEC. 67. That if any person other than an officer on lawful business shall go or trespass on any lands or premises in the lawful occupation of another, and shall fail, neglect, or refuse to depart therefrom immediately and remain away until permitted to return upon the verbal or printed or written notice of the owner or person in the lawful occupation of said lands or premises, such trespasser shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by fine not less than five nor more than fifty dollars, and shall be committed, in default of payment of the fine and costs imposed, one day for each two dollars of the said fine and costs.

Evidence of notice.

SEC. 68. That printed or written notices, having attached thereto, by authority, the name of the owner or person in the lawful occupation of said lands or premises, and requiring all persons to forbear trespassing on said lands or premises and to depart therefrom, posted in three conspicuous places on said lands or premises, shall be held and deemed to be sufficient prima facie evidence of notice as mentioned in the last preceding section.

Using false weight, etc.

SEC. 69. That if any person shall knowingly use any false weight or measure, and shall thereby defraud or otherwise injure another, or shall knowingly mark or stamp a false weight or measure or false tare upon any cask or package, or shall knowingly sell or offer for sale any cask or package so marked, such person, upon conviction thereof, shall be punished by imprisonment in the county jail not less than one month nor more than one year, or by fine not less than fifty nor more than five hundred dollars.

Opening or publishing contents of sealed letter.

SEC. 70. That if any person shall willfully open or read, or cause to be opened and read, any sealed letter not addressed to himself, without being authorized so to do either by the writer of such letter or by the person to whom it is addressed, or shall willfully, without the like authority, publish any letter or portion thereof, knowing it to have been so opened, such person, upon conviction thereof, shall be punished by imprisonment in the county jail not less than one month nor more than one year, or by fine not less than fifty nor more than five hundred dollars; but this section shall not be construed to extend to or include any act made punishable by any other law of the United States.

Fraudulently producing heir.

SEC. 71. That if any person shall fraudulently produce an infant, and falsely pretend that it was born of any parent whose child would be entitled to inherit any real estate or interest therein, or to receive a share of any personal estate, with intent to intercept the inheritance of any such real estate or interest therein, or the distribution of any such personal estate, from any person lawfully entitled thereto, such person upon conviction thereof, shall be punished by imprisonment in the penitentiary not less than one nor more than ten years.

Substituting another child for infant.

SEC. 72. That if any person to whom an infant has been confided for nursing, education, or other purpose, shall, with intent to deceive any parent or guardian of such child, substitute or produce to such parent

or guardian another child in the place of the one so confided, such person, upon conviction thereof, shall be punished by imprisonment in the penitentiary not less than one nor more than ten years.

SEC. 73. That if any person, being or assuming to be an officer, agent, or member of any private corporation or company, shall, with intent to defraud or deceive anyone, willfully and knowingly destroy, alter, mutilate, or in any manner falsify, or concur in the destruction, alteration, mutilation, or falsification, of any of the books, papers, writings, or securities belonging to or in the possession of such corporation or company, such person, upon conviction thereof, shall be punished by imprisonment in the county jail not less than three months nor more than one year, or by fine not less than fifty nor more than one thousand dollars.

Officer, etc., of corporation falsifying records.

SEC. 74. That if any person, being or assuming to be an officer, agent, or member of any private corporation or company, shall, with intent to defraud or deceive anyone, willfully and knowingly make, circulate, or publish, or concur in the making, circulating, or publishing, any written or printed statement or account, concerning or relating to the liabilities, assets, or property of such corporation or company, which statement or account shall be false in any material particular, such person, upon conviction thereof, shall be punished in the manner provided in section seventy-three.

Officer, etc., of corporation publishing false reports.

SEC. 75. That any person who shall break or rob in any manner, or who shall attempt to break or rob, any flume, rocker, quartz, quartz vein, or lode, bed rock, sluice, sluice box, or mining claim not his own, or who shall trespass upon such mining claim, with the intent to commit a felony, shall, upon conviction thereof, be punished by imprisonment in the penitentiary not less than one nor more than five years, or by fine not less than one hundred nor more than one thousand dollars, or by both such imprisonment and fine.

Trespass on mining claims.

CHAPTER FOUR.

FORGERY AND COUNTERFEITING.

<p>Sec. 76. Forgery of record, certificate, conveyance, etc. 77. Forgery of evidence of debt issued by any Government, etc. 78. Making or having in possession tool designed for counterfeiting. 79. Counterfeiting gold or silver coin, etc. 80. Making or having in possession tool for counterfeiting coin. 81. What sufficient allegation of intention to defraud. 82. Fraudulently joining parts of different instruments.</p>	<p>Sec. 83. Making false receipt or altering receipt of goods in warehouse. 84. Knowingly using or counterfeiting trade-marks, etc. 85. Affixing fictitious signature. 86. Testimony as to signature to bank notes. 87. Punishment of person convicted of second crime. 88. Adulterating or selling adulterated gold dust. 89. Possession of adulterated gold dust.</p>
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SEC. 76. That if any person shall, with intent to injure or defraud anyone, falsely make, alter, forge, counterfeit, print, or photograph any public record whatever, or any certificate, return, or attestation of any clerk, notary public, or other public officer in relation to any matter wherein such certificate, return, or attestation may be received as legal evidence, or any note, certificate, or other evidence of debt issued by any officer of said district, or any county, town, or other municipal or public corporation therein, authorized to issue the same, or any contract, charter, letters patent, deed, lease, bill of sale, will, testament, bond, writing obligatory, undertaking, letter of attorney, policy of insurance, bill of lading, bill of exchange, promissory note, evidence of debt, or any acceptance of a bill of exchange, indorsement or assignment of a promissory note, or any warrant, order, or check, or money, or other property, or any receipt for money or other property, or any acquittance or discharge for money or other property, or any plat, draft, or survey of land; or shall, with such intent, knowingly utter or

Forgery of record certificate, conveyance, etc.

publish as true and genuine any such false, altered, forged, counterfeited, falsely printed, or photographed record, writing, instrument, or matter whatever, such person, upon conviction thereof, shall be punished by imprisonment in the penitentiary not less than two nor more than twenty years.

Forgery of evidence of debt issued by any Government, etc.

SEC. 77. That whoever shall, with intent to injure or defraud anyone, make, alter, forge, or counterfeit any bank bill, promissory note, draft, check, or other evidence of debt issued by any person or by the United States, said District, or any State or Territory of the United States, or any other state, government, or country, or by any corporation, company, or person duly authorized for that purpose by the laws of the United States, said District, or any State or Territory of the United States, or any other state, government, or country, or shall, with intent to injure or defraud anyone, knowingly utter, or publish, or pass, or tender in payment as true and genuine, any such false, altered, forged, or counterfeited bill, note, draft, check, or other evidence of debt, or shall have in his possession any such bill, note, draft, check, or other evidence of debt, with intent to utter or pass the same as true and genuine, knowing the same to be false, altered, forged, or counterfeited, shall be imprisoned in the penitentiary not less than one nor more than twenty years.

Making or having in possession tool designed for counterfeiting.

SEC. 78. That if any person shall engrave, make, or begin to engrave, make, or mend any plate, block, press, or other tool, instrument, or implement, or shall make, prepare, or provide any paper or other materials adapted and designed for the forging or making any false or counterfeit bill, note, draft, check, or other evidence of debt, as specified in section seventy-seven, or shall have in his possession or control any such plate, block, press, or other tool, instrument, or implement, or paper or other material adapted and designed as aforesaid, with intent to use the same, or to cause or permit the same to be used, in forging or making any such false or counterfeit bill, note, draft, check, or other evidence of debt, such person, upon conviction thereof, shall be punished by imprisonment in the penitentiary not less than one nor more than five years.

Counterfeiting gold or silver coin, etc.

SEC. 79. That if any person shall counterfeit any gold, silver, or other coin current by law or usage within said District, or shall have in his possession or control any false coin counterfeited in the similitude of any gold, silver, or other coin current as aforesaid, knowing the same to be false and counterfeit, and with intent to utter and pass the same as true and genuine, or shall, with intent to injure or defraud anyone, knowingly utter, pass, or tender in payment as true and genuine any such false and counterfeit coin, he shall be imprisoned in the penitentiary not less than one year nor more than ten years.

Making or having in possession tool for counterfeiting coin.

SEC. 80. That if any person shall stamp, engrave, make, or mend, or begin to stamp, engrave, make, or mend, or have in his possession or control, any mold, pattern, die, puncheon, engine, press, or other tool, implement, or instrument adapted and designed for coining or making any counterfeit coin in the similitude of any gold, silver, or other coin current by law or usage in said District, with intent to use the same or cause or permit the same to be used or employed in coining or making any such false and counterfeit coin as aforesaid, such person, upon conviction thereof, shall be punished in the manner provided in section seventy-nine.

What sufficient allegation of intention to defraud.

SEC. 81. That in any case where the intent to injure or defraud is necessary, by the provisions of this chapter, to constitute the crime, it shall be sufficient to allege in the indictment therefor an intent to injure or defraud without naming therein the particular person or body corporate intended to be injured or defrauded, and on the trial of the action it shall not be deemed a variance, but be deemed sufficient, if there appear to be an intent to injure or defraud the United States, or any State, Territory, county, town, or other municipal or public corporation, or any public officer in his official capacity, or any private corporation, copartnership, or member thereof, or any particular person or persons.

SEC. 82. That if any person shall connect together different parts of several bank notes or other genuine instruments in such manner as to produce an additional or different note or instrument, with intent to utter or pass all of them as true and genuine, the same shall be deemed a forgery in like manner and with like effect as if each of them had been falsely made or forged, and shall be punished by imprisonment in the penitentiary not less than two years or more than twenty years.

Fraudulently joining parts of different instruments.

SEC. 83. That if any person shall willfully or knowingly make or alter any receipt or other written evidence of the delivery into any warehouse, commission house, forwarding house, mill, store, or other building occupied by him or his employer, of any grain, flour, pork, beef, wool, or other goods, wares, or merchandise which shall not have been so received or delivered previous to the making and uttering of such receipt or other written evidence thereof, such person, upon conviction thereof, shall be punished by imprisonment in the penitentiary not less than one year nor more than five years, or by imprisonment in the county jail not less than three months nor more than one year.

Making false receipt or altering receipt of goods in warehouse.

SEC. 84. That if any person shall willfully and knowingly use or cause to be used any private brands, label, stamp, or trade-mark of another, either by counterfeiting the same or using any impression or copy thereof made or prepared by the proprietor thereof, or shall willfully and knowingly use or cause to be used any colorable imitation of such brand, label, stamp, or trade-mark, with intent to deceive any one, such person, upon conviction thereof, shall be punished by imprisonment in the county jail not less than one month nor more than six months, or by fine not less than twenty nor more than three hundred dollars.

Knowingly using or counterfeiting trade-marks, etc.

SEC. 85. That if any fictitious or pretended signature purporting to be the signature of an officer or agent of any public or private corporation shall be affixed to any instrument or writing purporting to be a note, draft, or other evidence of debt issued by such corporation, with intent to utter or pass the same as true and genuine, it shall be deemed a forgery, though no such person may ever have been an officer or agent of such corporation, nor such corporation ever have existed, and the person affixing to such instrument such fictitious or pretended signature shall be punished by imprisonment in the penitentiary not less than two years or more than twenty years.

Affixing fictitious signature.

SEC. 86. That in all prosecutions for forgery or counterfeiting any bank bill or note, or for uttering, publishing, or tendering in payment as true and genuine any forged or counterfeited bank bill or note, or for being in possession thereof with the intent to utter or pass them as true and genuine, the testimony of any person acquainted with the signature of the officer or agent authorized to sign the bills or notes of the bank of which said bill or note is alleged to be a counterfeit or similitude, or who has knowledge of the difference in appearance of the true and counterfeit bills or notes thereof, may be admitted to prove that any such bill or note is counterfeit.

Testimony as to signature to bank notes.

SEC. 87. That if any person, having been convicted of any crime defined in any of the preceding sections of this chapter, shall afterwards be convicted of the same or any other crime so defined, such person shall be punished by imprisonment not less than the longest term mentioned in the section under which he may be indicted and tried.

Punishment of person convicted of second crime.

SEC. 88. That if any person shall mix or adulterate any gold dust with any metal or coin found of less value than such gold dust, with intent to pass or sell or in any way dispose of such gold dust, so mixed or adulterated, as genuine, or shall pass, sell, or otherwise dispose of or cause to be sold, passed, or otherwise disposed of, or shall attempt to pass, sell, or in any way dispose of, as genuine and pure, any gold dust so mixed or adulterated, knowing the same to be so mixed or adulterated, he shall be imprisoned in the penitentiary not less than one year nor more than five years.

Adulterating or selling adulterated gold dust.

SEC. 89. That if any person shall have any gold dust in his possession mixed or adulterated as described in section eighty-eight, knowing the same to be mixed or adulterated, with intent to pass or sell or in

Possession of adulterated gold dust.

any wise dispose of the same as pure and genuine, or to cause the same to be sold, passed, or in any way disposed of as pure and genuine gold dust, such person, upon conviction of such offense, shall be punished by imprisonment in the penitentiary not less than one year nor more than five years.

CHAPTER FIVE.

OFFENSES AGAINST PUBLIC JUSTICE.

<p>Sec. 90. Perjury and subornation of perjury. 91. Punishment of perjury and subornation. 92. Inciting person to commit perjury. 93. Bribing or offering to bribe officer. 94. Officer receiving or agreeing to receive bribe. 95. Judicial officer, definition of. 96. Executive officer, definition of. 97. Aiding to escape from prison or legal confinement. 98. Same, punishment of. 99. Officer suffering an escape or refusing to receive person committed to his custody. 100. Rescue or aiding prisoner to escape from officer.</p>	<p>Sec. 101. Assault upon officer of penitentiary 102. Aiding escape from penitentiary. 103. Assault upon officer by a person imprisoned in county jail. 104. Aiding escape from county jail. 105. Officer refusing or delaying to serve process. 106. Compounding or concealing crime for reward. 107. Neglecting or refusing to aid officer. 108. Falsely assuming to be a magistrate or peace officer. 109. Malfeasance or negligence in office. 110. Destroying, secreting, or mutilating public records.</p>
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Perjury and subornation of perjury.

SEC. 90. That if any person authorized by law to take an oath or affirmation, or of whom an oath or affirmation shall be required by such law, shall willfully swear or affirm falsely in regard to any matter or thing concerning which any oath or affirmation is authorized or required, such person shall be deemed guilty of perjury; and if any person shall procure another to commit the crime of perjury, such person shall be deemed guilty of subornation of perjury.

Punishment of perjury and subornation.

SEC. 91. That every person convicted of the crime of perjury, committed on the trial of or proceedings in a criminal action for a crime punishable with death or imprisonment for life, shall be punished by imprisonment in the penitentiary not less than two or more than twenty years. Every person convicted of the crime of perjury, committed in any proceeding in a court of justice other than such criminal action, shall be punished by imprisonment in the penitentiary not less than three nor more than ten years; and every person convicted of the crime of perjury, committed otherwise than in a proceeding before a court of justice, or convicted of the crime of subornation of perjury, however committed, shall be punished by imprisonment in the penitentiary not less than one nor more than five years.

Inciting person to commit perjury.

SEC. 92. That if any person shall endeavor to procure or incite another to commit the crime of perjury, though no perjury be committed, such person, upon conviction thereof, shall be punished by imprisonment in the penitentiary not less than one nor more than three years.

Bribing or offering to bribe officer.

SEC. 93. That if any person shall corruptly give, offer, or promise to give any gift, gratuity, valuable consideration, or thing whatever, or shall corruptly promise to do or cause to be done any act beneficial to any judicial or executive officer, with intent to influence the vote, opinion, decision, judgment, or other official conduct of such officer in any matter, question, duty, cause, or proceeding which then is or by law may come or be brought before such officer, or with intent to influence such officer to act in his official capacity in a particular manner so as to produce or prevent any particular result, such person, upon conviction thereof, shall be punished by imprisonment in the penitentiary not less than two nor more than ten years.

Officer receiving or agreeing to receive bribe.

SEC. 94. That if any judicial or executive officer shall corruptly accept or receive any gift, gratuity, valuable consideration, or thing whatever, or any promise thereof, or any promise to do or cause to be done any act beneficial to such officer, with the understanding or agree-

ment, express or implied, that such officer will give his vote, opinion, decision, or judgment in a particular manner in any matter, question, duty, cause, or proceeding which then is or may by law come or be brought before such officer, or with the understanding or agreement that such officer will in his official capacity act in a particular manner, or so as to produce or prevent any particular result, such officer, upon conviction thereof, shall be punished by imprisonment in the penitentiary not less than five nor more than fifteen years.

SEC. 95. That every person authorized to act as a judge in a court of justice; every person summoned as a juror in any court of justice, or upon any inquest, or before any officer, from the time he is so summoned; and every referee, umpire, or arbitrator, from the time of his appointment, shall be held and deemed to be a judicial officer within the meaning of sections ninety-three and ninety-four, and for the purposes therein expressed.

Judicial officer, definition of.

SEC. 96. That every officer of said District, or of any county, town, or other municipal or public corporation therein, not included in the definition of judicial officers, as defined in section ninety-five, from the time of his election or appointment, shall be held and deemed to be an executive officer within the meaning of sections ninety-three and ninety-four, and for the purposes therein expressed.

Executive officer, definition of.

SEC. 97. That if any person shall convey into or about the yard or grounds of any penitentiary, jail, house of correction, or other place whatever for the confinement of persons upon any warrant, order, or other legal process, any disguise, material, instrument, tool, weapon, or other thing adapted to or useful in aiding any person or prisoner there committed or detained to escape, with intent to effect or facilitate the escape of such person or prisoner, or shall by any means whatever aid or assist any such person or prisoner in an attempt to escape, whether such escape be effected or attempted or not, such person, upon conviction thereof, shall be punished as in the following section provided.

Aiding to escape from prison or legal confinement.

SEC. 98. That if the person whose escape was attempted or effected was committed or detained upon a charge or conviction of a crime punishable with death or imprisonment for life, the punishment therefor shall be imprisonment in the penitentiary not less than ten nor more than twenty years; but if the person whose escape was attempted or effected was committed or detained upon a charge or conviction of a crime not so punishable, the punishment therefor shall be the same as that provided by law for the crime with which such person was charged or convicted; and in case the person whose escape was intended or effected was in custody or confinement upon civil process, or otherwise than upon a charge or conviction of crime, the punishment therefor shall be imprisonment in the county jail not less than three months nor more than one year, or a fine not less than one hundred dollars nor more than five hundred dollars.

Same, punishment of.

SEC. 99. That if any United States marshal, deputy marshal, jailer, or other officer shall voluntarily or through negligence suffer any person or prisoner committed to or in his custody to escape, or shall willfully refuse to receive into his custody any person or prisoner lawfully committed thereto, such United States marshal, deputy marshal, jailer, or other officer, upon conviction thereof, shall be punished by imprisonment not less than one year nor more than five years, and by a fine not less than two hundred dollars nor more than one thousand dollars.

Officer suffering an escape or refusing to receive person committed to his custody.

SEC. 100. That if any person shall rescue, or attempt to rescue, any prisoner from any officer or person having the lawful custody of such prisoner, or shall aid or assist any prisoner in escaping or attempting to escape from any officer or person having the lawful custody of such prisoner, such person, upon conviction thereof, shall be punished by imprisonment in the penitentiary not less than two nor more than ten years, or by imprisonment in the county jail not less than three months nor more than one year.

Rescue or aiding prisoner to escape from officer.

Assault upon officer of penitentiary.

SEC. 101. That if any person imprisoned in the penitentiary shall, with a deadly weapon, or by any means likely to produce great bodily injury, strike, wound, stab, cut, shoot, or shoot at any superintendent, keeper, or assistant keeper of the penitentiary, or other officer or person having the charge or custody of such person so imprisoned, or if any person sentenced to the penitentiary shall, with a deadly weapon, or by any means likely to produce great bodily injury, strike, wound, stab, cut, shoot, or shoot at any United States marshal, deputy marshal, or his assistants having the charge or custody of the person so sentenced, such person, upon conviction thereof, shall be punished by an additional imprisonment in the penitentiary of not less than three nor more than twenty years.

Aiding escape from penitentiary.

SEC. 102. That if any person, with intent to effect or aid the escape of a person imprisoned in any penitentiary or sentenced to such imprisonment, shall assault any officer or person having the charge or custody of the person so imprisoned or sentenced, such person, upon conviction thereof, shall be punished by imprisonment in the penitentiary not less than two nor more than fifteen years.

Assault upon officer by a person imprisoned in county jail.

SEC. 103. That if any person imprisoned or sentenced to imprisonment in the county jail or any building, prison, or place used as or in lieu of a county jail shall, with a deadly weapon, or by any means likely to produce great bodily injury, strike, wound, stab, cut, shoot, or shoot at any United States marshal, deputy marshal, jailer, or his assistants having the charge or custody of the person so imprisoned or sentenced, such person, upon conviction thereof, shall be punished by imprisonment in the penitentiary not less than ten nor more than twenty years.

Aiding escape from county jail.

SEC. 104. That if any person, with intent to effect or aid the escape of a person imprisoned or sentenced to imprisonment as mentioned in the last preceding section, shall assault any United States marshal, deputy marshal, jailer, or his assistant having the charge or custody of the person so imprisoned or sentenced, such person, upon conviction thereof, shall be punished by imprisonment in the penitentiary not less than three years nor more than ten years.

Officer refusing or delaying to serve process.

SEC. 105. That if any officer authorized to serve process shall willfully and wrongfully refuse to execute any lawful process to him directed and delivered, requiring him to arrest or confine any person, or shall willfully and wrongfully omit or delay to execute such process, whereby such person shall escape and go at large, such officer, upon conviction thereof, shall be punished by imprisonment in the county jail not less than three months nor more than one year, or by fine not less than fifty nor more than five hundred dollars.

Compounding or concealing crime for reward.

SEC. 106. That if any person having knowledge of the commission of a crime shall accept or receive any gift, gratuity, valuable consideration, or thing whatever, or any promise thereof, or any promise to do or cause to be done any act beneficial to such person, with the understanding or agreement, expressed or implied, to compound or conceal such crime, or not to prosecute therefor or give evidence thereof, such person, upon conviction thereof, shall, if such crime be punishable with death or imprisonment for life, be punished by imprisonment in the penitentiary not less than one year nor more than five years; or, if such crime is not so punishable, by imprisonment in the county jail not less than three months nor more than one year, or by fine not less than fifty dollars nor more than five hundred dollars.

Neglecting or refusing to aid officer.

SEC. 107. That if any person, being required by any peace officer or magistrate to assist him in the execution of his office, in the preservation of the peace, or the arrest of any person for a breach of the peace, or the service of any process, shall neglect or refuse to render such assistance, such person, upon conviction thereof, shall be punished by imprisonment in the county jail not less than one month nor more than six months, or by fine not less than twenty-five dollars nor more than five hundred dollars.

Falsely assuming to be a magistrate or peace officer.

SEC. 108. That if any person shall falsely assume to be a magistrate or peace officer, and shall take upon himself to act as such, and require

any person to aid or assist him in any matter pertaining to the duty thereof, such person, upon conviction thereof, shall be punished by imprisonment in the county jail not less than three months nor more than one year, or by fine not less than fifty dollars nor more than five hundred dollars.

SEC. 109. That if any officer of said District, or of any county, town, or other municipal or public corporation therein, other than the governor or judge of the district court, shall willfully and knowingly charge, take, or receive any fee or compensation, other than that authorized or permitted by law, for any official service or duty performed by such officer, or shall willfully neglect or refuse to perform any duty or service pertaining to his office, with intent to injure or defraud anyone, or shall willfully neglect or refuse to perform such duty or service to the injury of anyone, or the manifest hindrance or obstruction of public justice or business, whether such injury, hindrance, or obstruction was particularly intended or not, such officer, upon conviction thereof, shall be punished by imprisonment in the penitentiary not less than six months nor more than one year, or by imprisonment in the county jail not less than three months nor more than one year, or by a fine not less than fifty nor more than five hundred dollars, or by dismissal from office with or without either or any of such punishments.

Malfeasance or negligence in office.

SEC. 110. That if any person, having the legal custody of any public record, book, paper, or writing, shall willfully destroy, secrete, or mutilate the same; or if any attorney shall willfully destroy, secrete, or mutilate any such record, book, paper, or writing, or shall wrongfully take the same from the person having the legal custody thereof, or having obtained possession of such record, book, paper, or writing lawfully, shall wrongfully refuse or neglect to return or produce the same when lawfully required or demanded so to do, such person or attorney, upon conviction thereof, shall be punished by imprisonment in the penitentiary not less than six months nor more than one year, or by imprisonment in the county jail not less than three months nor more than one year, or by fine not less than one hundred nor more than five hundred dollars.

Destroying, secreting, or mutilating public records.

CHAPTER SIX.

OFFENSES AGAINST THE PUBLIC PEACE.

- Sec. 111. Definition of riot and unlawful assembly.
- 112. Punishment for participating in riot.
- 113. Disturbance of the peace in towns and villages.
- 114. Disturbing religious meetings.

- Sec. 115. Disturbing other public meetings.
- 116. Disorderly conduct before ladies.
- 117. Carrying concealed weapons.
- 118. Penalty for carrying concealed weapons.

SEC. 111. That any use of force or violence, or any threat to use force or violence, if accompanied by immediate power of execution, by three or more persons acting together and without authority of law, is riot. Whenever three or more persons assemble with intent, or with means and preparations, to do an unlawful act, which would be riot if actually committed, but do no act toward the commission thereof, or whenever such persons assemble without authority of law, and in such manner as is adapted to disturb the public peace or excite public alarm, or disguised in a manner to prevent them from being identified, such an assembly is an unlawful assembly.

Definition of riot and unlawful assembly.

SEC. 112. That if any person shall be guilty of participating in any riot, such person, upon conviction thereof, shall be punished as follows:
 First. If any felony or misdemeanor was committed in the course of such riot, such person shall be punished in the same manner as the principal in such crime;
 Second. If such person carried at the time of such riot any species of dangerous weapon, or was disguised, or encouraged or solicited other persons who participated in the riots to acts of force or violence,

Punishment for participating in riot.

such person shall be punished by imprisonment in the penitentiary not less than three nor more than fifteen years;

Third. In all other cases such person shall be punished by imprisonment in the county jail not less than three months nor more than one year, or by fine not less than fifty nor more than five hundred dollars.

Disturbance of the peace in towns and villages.

SEC. 113. That if any person or persons shall, in any town or village in said District, willfully drive or ride any horse or mule upon any sidewalk therein, or shall wilfully drive or ride any horse or mule through the streets thereof at a greater speed than six miles per hour, or shall use any obscene or profane language in any public place in such town or village to the disturbance or annoyance of any person or persons therein, such person or persons so offending shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not less than five nor more than fifty dollars.

Disturbing religious meetings.

SEC. 114. That if any person shall willfully disturb, interrupt, or disquiet any assembly or congregation of people met for religious worship, whether in a house or the open air, by either uttering any profane discourse, committing any rude or indecent act, or making any unnecessary noise within the place where such meeting is held, or so near it as to disturb the order and solemnity thereof, or by exposing for sale or gift any intoxicating liquors or drinks within two miles of the place where any such assembly or congregation shall be actually convened for religious worship, and in a place other than such as shall have been duly licensed therefor, and in which such person shall have usually resided and carried on such business, such person, upon conviction thereof, shall be punished by imprisonment in the county jail not less than one month nor more than six months, or by fine not less than ten dollars nor more than two hundred dollars.

Disturbing other public meetings.

SEC. 115. That if any person shall willfully disturb or break up any public meeting or assembly of people other than those mentioned in the section last preceding, lawfully met for a lawful purpose, whether such meeting or assembly be met in a house or in the open air, such person, upon conviction thereof, shall be punished by imprisonment in the county jail not less than one month nor more than three months, or by fine not less than ten dollars nor more than one hundred dollars.

Disorderly conduct before ladies.

SEC. 116. That if any person shall be guilty of disorderly conduct or of using obscene language before women, he shall, on conviction thereof, be fined in any sum not less than five nor more than twenty-five dollars.

Carrying concealed weapons.

SEC. 117. That it shall be unlawful for any person to carry concealed about his person, in any manner whatever, any revolver, pistol, or other firearm, or knife (other than an ordinary pocketknife), or any dirk or dagger, slung shot, metal knuckles, or any instrument by the use of which injury could be inflicted upon the person or property of any other person.

Penalty for carrying concealed weapons.

SEC. 118. That any person violating any of the provisions of the last preceding section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than ten dollars nor more than two hundred dollars, or by imprisonment in the county jail not less than five days nor more than one hundred days, or by both fine and imprisonment, in the discretion of the court. Nothing in this Act shall be construed to apply to any marshal, constable, police, or other peace officer, whose duty it is to serve process or make arrests.

CHAPTER SEVEN.

OFFENSES AGAINST MORALITY AND DECENCY.

<p>Sec. 119. Adultery. 120. Action for adultery, when commenced; adultery by unmarried man. 121. Cohabiting in a state of adultery or fornication. 122. Polygamy. 123. Seduction of chaste female. 124. Indecent exposure and exhibition. 125. Concealing death of child. 126. Indictment of mother for murder of bastard.</p>	<p>Sec. 127. Keeping bawdyhouse. 128. Common fame, evidence of bawdyhouse. 129. Incest, definition and punishment of. 130. Sodomy. 131. Illegal disinterment. 132. Injuring tombstones and trespassing on graveyards. 133. Making roads through graveyards. 134. Cruelty to animals.</p>
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SEC. 119. That whoever, being married, shall voluntarily have sexual intercourse with a person other than the offender's husband or wife is guilty of adultery, and shall be fined not more than two hundred dollars or be imprisoned in the county jail not more than three months.

Adultery.

SEC. 120. That a prosecution for the crime of adultery shall be commenced, within three years from the time of committing the crime. When the crime of adultery is committed between a married woman and an unmarried man, the man shall be deemed guilty of adultery also, and be punished accordingly.

Action for adultery, when commenced; adultery by an unmarried man.

SEC. 121. That whoever cohabits with another in a state of adultery or fornication shall be fined not more than five hundred dollars or imprisoned in the penitentiary not more than two years, or both.

Cohabiting in a state of adultery or fornication.

SEC. 122. That whoever, having a husband or wife, marries another, whether married or single, or simultaneously, or on the same day, marries more than one woman, is guilty of polygamy, and shall be imprisoned in the penitentiary not more than seven years nor less than one year. This section does not extend to any person whose husband or wife has been continually absent for five consecutive years, and is not known to such person to be living, and is believed by such person to be dead, nor to any person legally divorced from the bonds of matrimony.

Polygamy.

SEC. 123. That if any person, under promise of marriage, shall seduce and have illicit connection with any unmarried female of previous chaste character, such person, upon conviction thereof, shall be punished by imprisonment in the penitentiary not less than one nor more than five years, or by imprisonment in the county jail not less than three months nor more than one year, or by fine not less than five hundred nor more than one thousand dollars. A subsequent marriage of the parties, or offer to marry in good faith, is a defense to a violation of this section.

Seduction of a chaste female.

SEC. 124. That if any person shall willfully and lewdly expose his person or the private parts thereof in any public place, or in any place where there are present other persons to be offended or annoyed thereby, or shall take any part in any model artist exhibition, or make any other exhibition of himself to public view, or to the view of any number of persons, such as is offensive to decency, or is adapted to excite vicious or lewd thoughts or acts, such person, upon conviction thereof, shall be punished by imprisonment in the county jail not less than three months nor more than one year, or by fine not less than fifty nor more than five hundred dollars.

Indecent exposure and exhibition.

SEC. 125. That if any woman shall conceal the death of any issue of her body, so that it may not be known whether such issue was born alive or not, or whether it was not murdered, such woman, upon conviction thereof, shall be punished by imprisonment in the penitentiary not less than six months nor more than one year, or by imprisonment in the county jail not less than three months nor more than one year.

Concealing death of child.

Indictment of mother for murder of bastard.

SEC. 126. That when a woman is indicted for the murder of her bastard infant, she may also be charged in the same indictment with the crime defined in the last preceding section, and if she shall be found not guilty of the charge of murder she may be found guilty of the crime defined in such section, and punished accordingly.

Keeping bawdy-house.

SEC. 127. That if any person shall keep or set up a house of ill fame, brothel, or bawdyhouse for the purpose of prostitution, fornication, or lewdness, such person, upon conviction thereof, shall be punished by imprisonment in the county jail not less than three months nor more than one year, or by fine not less than one hundred nor more than five hundred dollars.

Common fame evidence of bawdyhouse.

SEC. 128. That in all prosecutions for the crime defined in the section last preceding, common fame shall be competent evidence in support of the indictment; and whenever any lessee or occupant of any house shall be convicted of any such crime, the lease or contract for the hiring or occupancy of such house shall, at the option of the lessor or owner, become void, and such lessor or owner shall thereupon be entitled to recover the possession of such premises as in the case of a tenant holding over after the expiration of his time.

Incest, definition and punishment of.

SEC. 129. That if any person related to another person within and not including the fourth degree of consanguinity, computed according to the rules of the civil law, shall marry or cohabit with, or have sexual intercourse with such other so related person, knowing her or him to be within said degree of relationship, the person so offending shall be deemed guilty of incest, and on conviction thereof shall be punished by imprisonment in the penitentiary not less than three years and not more than fifteen years.

Sodomy.

SEC. 130. That if any person shall commit sodomy, or the crime against nature, either with mankind or beast, such person, upon conviction thereof, shall be punished by imprisonment in the penitentiary not less than one year nor more than five years.

Illegal disinterment.

SEC. 131. That if any person shall willfully and wrongfully dig up, disinter, remove, or convey away any human body, or the remains thereof, such person, upon conviction thereof, shall be punished by imprisonment in the penitentiary not less than six months nor more than two years, or by imprisonment in the county jail not less than three months nor more than one year.

Injuring tombstones and trespassing on graveyards.

SEC. 132. That any person who shall willfully destroy, mutilate, deface, injure, or remove any tomb, monument, or gravestone, or other structure in any cemetery, or any fence, railing, or other work for the protection or ornament of a cemetery, or tomb, monument, or gravestone, or other structure aforesaid, or of any cemetery lot within a cemetery, or shall willfully destroy, cut, or break, or injure any tree, shrub, or plant within the limits of a cemetery, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be punished by a fine not less than five dollars nor more than five hundred dollars, and imprisonment in the county jail for a term not less than one nor more than thirty days, according to the nature and aggravation of the offense, and such offender shall also be liable in an action of trespass to pay all such damages as have been occasioned by his unlawful act or acts.

Making roads through graveyards.

SEC. 133. That if any person other than an officer on lawful business shall, without authority specially granted by law, or without the authority or consent of the proprietor or owner, open or make any highway, street, road, railway, macadamized road, or other thing in the nature of a public easement, over, in through, or upon any inclosure or yard used for the burial of the dead, or shall begin to open or make any such public easement over, in, through, or upon any such inclosure or yard, such person, upon conviction thereof, shall be punished by imprisonment in the county jail not less than three months nor more than one year, or by fine not less than one hundred nor more than five hundred dollars.

Cruelty to animals.

SEC. 134. That if any person shall cruelly beat or torture any animal, whether belonging to himself or another, such person, upon conviction

thereof, shall be punished by imprisonment in the county jail not less than ten nor more than thirty days, or by fine not less than five nor more than fifty dollars.

CHAPTER EIGHT.

OFFENSES AGAINST PUBLIC POLICY.

- Sec. 135. Setting up or promoting lotteries.
- 136. Selling lottery tickets.
- 137. Advertising lottery tickets.
- 138. Selling tickets in fictitious lotteries.
- 139. When defendant to prove existence of lottery.
- 140. Second conviction.
- 141. Profanation of Sunday.
- 142. Selling liquor or firearms to Indians.
- 143. Suffering vicious animals to run at large.
- 144. Taking female under sixteen years of age without consent of parents.

- Sec. 145. Disposing of opium other than to druggists.
- 146. Selling opium.
- 147. "Opium den," defined.
- 148. Frequenting opium den.
- 149. Penalty for violating above sections.
- 150. General reputation as evidence.
- 151. Definition and punishment of vagrancy.
- 152. Gambling.

SEC. 135. That if any person shall promote or set up any lottery for money or other valuable thing, or shall dispose of any property of value, real or personal, by way or means of lottery, or shall aid or be in any way concerned in setting up, managing, or drawing such lottery, or shall, in any house, shop, boat, shed, or building owned or occupied by him or under his control, knowingly permit or suffer the setting up, management, or drawing of any such lottery, or the sale of any lottery tickets, share of a ticket, or any writing, token, or other device purporting or intended to entitle the holder or bearer thereof, or any other person, to any prize or interest or share thereof, to be drawn in any lottery, such person, upon conviction thereof, shall be punished by imprisonment in the penitentiary not less than six months nor more than one year, or by imprisonment in the county jail not less than three months nor more than one year, or by fine not less than one hundred nor more than one thousand dollars.

Setting up or promoting lotteries.

SEC. 136. That if any person shall sell, either for himself or another, or shall offer for sale, or shall have in his possession with intent to sell or offer for sale, or to exchange or negotiate, a ticket or share of a ticket in any such lottery, or any writing, token, or other device as is mentioned in the section last preceding, such person, upon conviction thereof, shall be punished by imprisonment in the county jail not less than three months nor more than one year, or by fine not less than fifty dollars nor more than five hundred dollars.

Selling lottery tickets.

SEC. 137. That if any persons shall advertise any lottery ticket or share in such ticket, or any writing, token, or other device as is mentioned in section one hundred and thirty-eight, for sale, either for himself or another, or shall in any way invite or entice, or attempt to invite or entice, another to purchase or receive the same, or shall set up or exhibit any sign, symbol, or any emblematic or other representation of a lottery, where such ticket, share thereof, writing, token, or other device can be purchased or obtained, such person, upon conviction thereof, shall be punished by imprisonment in the county jail not less than one month nor more than six months, or by a fine not less than twenty dollars nor more than two hundred dollars.

Advertising lottery tickets.

SEC. 138. That if any person shall make or sell or offer for sale, or have in his possession with intent to sell, exchange, or negotiate, either for himself or another, any false or fictitious lottery ticket or share thereof, or any writing, token, or other device as is mentioned in section one hundred and thirty five, or any ticket or share thereof in any pretended or fictitious lottery, knowing the same to be false or fictitious, or shall receive any money or other thing of value for any such ticket or share thereof, or for any such writing, token, or other device, purporting that the owner, holder, or bearer thereof shall be entitled to receive any prize or any share of any prize, or anything of value that

Selling tickets in fictitious lotteries.

may be drawn in such lottery, knowing the same to be false or fictitious, such person, upon conviction thereof, shall be punished by imprisonment in the penitentiary not less than one year nor more than three years.

When defendant to prove existence of lottery.

SEC. 139. That upon the trial of an indictment for any of the crimes defined in the section last preceding, any ticket or share of a ticket, or any writing, token, or other device therein mentioned which the defendant shall have made, sold, or offered for sale, or shall have had in his possession with intent to sell, or for which he shall have received any money or other valuable thing, shall be deemed to be false, spurious, or fictitious, unless such defendant shall prove the same to be true and genuine and to have been duly issued by authority of law, and that such lottery was at the time existing and undrawn, and that such ticket or share thereof, or writing, token, or other device was issued by lawful authority and binding upon the person who issued the same.

Second conviction.

SEC. 140. That if any person, having been convicted of a crime defined in sections one hundred and thirty-five and one hundred and thirty-six, shall afterwards be convicted of the same or any other crime therein defined, such person shall be punished by imprisonment in the penitentiary not less than one nor more than three years.

Profanation of Sunday

SEC. 141. That if any person shall keep open any store, shop, grocery, ball alley, billiard room, or tippling house, for purpose of labor or traffic, or any place of amusement, on the first day of the week, commonly called Sunday or the Lord's day, such person, upon conviction thereof, shall be punished by a fine not less than five nor more than fifty dollars: *Provided*, That the above provision shall not apply to the keepers of drug stores, doctor shops, undertakers, livery-stable keepers, barbers, butchers, and bakers, and all circumstances of necessity and mercy may be pleaded in defense, which shall be treated as questions of fact for the jury to determine, when the offense is tried by jury.

Proviso. Drug stores, etc., excepted.

Selling liquor or firearms to Indians.

SEC. 142. That if any person shall, without the authority of the United States, or some authorized officer thereof, sell, barter, or give to any Indian or half-breed who lives and associates with Indians any firearms or ammunition therefor whatever, or any spirituous, malt, or vinous liquor, such person, upon conviction thereof, shall be punished by imprisonment in the county jail not less than two months nor more than six months, or by fine not less than one nor more than five hundred dollars. That the term "Indian" in this Act shall be so construed as to include the aboriginal races inhabiting Alaska when annexed to the United States, and their descendants of the whole or half blood. Section nineteen hundred and fifty-five of the Revised Statutes of the United States, and all that part of section fourteen of "An Act providing a civil government for Alaska," approved May seventeenth, eighteen hundred and eighty-four, after the word "provided," is hereby repealed.

Suffering vicious animals to run at large.

SEC. 143. That if any person, being the owner or having the control of any dangerous or vicious animal, knowing such animal to be dangerous or vicious, shall willfully or negligently permit or suffer the same to be at large in any neighborhood or on any public highway, such person, upon conviction thereof, shall be punished by fine not less than ten nor more than fifty dollars.

Taking female under sixteen years of age without consent of parents.

SEC. 144. That if any person shall for purposes of prostitution or marriage take away any female under the age of sixteen years from her father, mother, guardian, or other person having legal charge of her person, such person, upon conviction thereof, shall be punished by imprisonment in the penitentiary not less than one nor more than two years, or by imprisonment in the county jail not less than three months nor more than one year, or by fine not less than one hundred nor more than five hundred dollars.

Disposing of opium other than to druggists.

SEC. 145. That it shall be unlawful to sell or give away opium, or any preparation of which opium is the principal medicinal agent, to any person except druggists and practicing physicians, except on the pre-

scription of a practicing physician, written in the English or Latin language; and the druggist filling the prescription shall keep the same on file for one year subject to be inspected by any public officer of the district.

SEC. 146. That no person shall sell any opium, or preparation of which opium is the principal medicinal agent, to be smoked on or about the premises where sold.

Selling opium.

SEC. 147. That any building where opium is sold for the purpose of being smoked on or about the premises, or where the same is smoked, shall be considered an opium den.

"Opium den" defined.

SEC. 148. That it shall be unlawful for any person to frequent any opium den for the purpose of purchasing or smoking opium, or any preparation in which opium is the principal medicinal agent.

Frequenting opium den.

SEC. 149. That any person violating any of the four sections last preceding shall be punished by imprisonment in the penitentiary not less than six months nor more than two years, or by imprisonment in the county jail not less than one month nor more than six months, or by fine not less than fifty dollars nor more than five hundred dollars.

Penalty for violating above sections.

SEC. 150. That in a prosecution for any violation of the provisions of sections one hundred and forty-six, one hundred and forty-seven, and one hundred and forty-eight, general reputation shall be received in evidence to establish the character of any building as an opium den, and proof that any person frequents such den shall be prima facie evidence that such person frequents such den for the purpose of smoking opium.

General reputation as evidence.

SEC. 151. That all idle or dissolute persons who have no visible means of living, or lawful occupation or employment by which to earn a living; all able-bodied persons who shall be found begging the means of support in public places, or from house to house, or who shall procure a child or children so to do; all persons who live in houses of ill repute, shall be deemed vagrants, and upon conviction thereof shall be fined not less than twenty dollars nor more than two hundred and fifty dollars, or by imprisonment in the county jail not less than ten nor more than twenty-five days, or both, in the discretion of the court.

Definition and punishment of vagrancy.

SEC. 152. That each and every person who shall deal, play, or carry on, open or cause to be opened, or who shall conduct, either as owner, proprietor or employee, whether for hire or not, any game of faro, monte, roulette, rouge-et-noir, lansquenet, rondo, vingt-un, twenty-one, poker, draw poker, brag, bluff, thaw, craps, or any banking or other game played with cards, dice, or any other device, whether the same shall be played for money, checks, credit, or any other representative of value, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than five hundred dollars, and shall be imprisoned in the county jail until such fine and costs are paid: *Provided*, That such person so convicted shall be imprisoned one day for every two dollars of such fine and costs: *And provided further*, That such imprisonment shall not exceed one year.

Gambling.

Proviso.
Imprisonment one day for every two dollars fine.
Limit of imprisonment.

CHAPTER NINE.

OFFENSES AGAINST PUBLIC CONVENIENCE.

Sec.	Sec.
153. Throwing ballast into navigable stream.	154. Injuring buoys or beacons.
	155. Tearing down posted notices.

SEC. 153. That if any person, whether he be an officer of a vessel or not, shall discharge the ballast of any vessel into the navigable portions or channels of any of the bays, harbors, or rivers of said District, or within the jurisdiction of said District, so as to injuriously affect such portions or channels of such bays, harbors, or rivers, or to obstruct the navigation thereof, such person, upon conviction thereof, shall be punished by imprisonment in the county jail not less than three months nor more than one year, or by fine not less than one hundred nor more than five hundred dollars.

Throwing ballast into navigable stream.

Injuring buoys or beacons.

SEC. 154. That any person or persons who shall moor any vessel or vessels of any kind or name whatsoever, or any boat, skiff, barge, scow, raft, or part of a raft, to any buoy or beacon placed in the navigable waters of the District, or in any bay, river, or arm of the sea bordering upon said District, by the authority of the United States Light-House Board, or shall in any manner hang on with any vessel, boat, skiff, barge, scow, raft, or part of a raft, to any such buoy or beacon, or shall willfully remove, damage, or destroy any such buoy or beacon, or shall cut down, remove, damage, or destroy any beacon or beacons erected on land in said District by authority of the United States Light-House Board, shall for every such offense be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not less than one hundred nor more than two hundred dollars, or by imprisonment in the county jail not less than one nor more than six months, or by both such fine and imprisonment, in the discretion of the court.

Tearing down posted notices.

SEC. 155. That if any person shall willfully tear down, alter, or deface any posted, written, or printed notice, posted or put up in pursuance of any law requiring or authorizing the same to be done, before the time for which such notice is given has expired, such person, upon conviction thereof, shall be punished by imprisonment in the county jail not less than one month nor more than six months, or by fine not less than fifty dollars nor more than three hundred dollars.

CHAPTER TEN.

OFFENSES AGAINST THE PUBLIC HEALTH.

Sec.

156. Selling unwholesome provisions.
157. Adulterating provisions.
158. Adulterating drugs.
159. Polluting water used for domestic purposes.

Sec.

160. Same subject.
161. Penalty.
162. Spreading dangerous disease.
163. Selling poison without label.

Selling unwholesome provisions.

SEC. 156. That if any person shall knowingly sell any kind of diseased, corrupted, or unwholesome provisions, whether for meat or drink, without making the same fully known to the buyer, such person, upon conviction thereof, shall be punished by imprisonment in the county jail not less than three months nor more than one year, or by fine not less than fifty nor more than five hundred dollars.

Adulterating provisions.

SEC. 157. That if any person shall adulterate, for the purpose of sale, any substance intended for meat or drink with any substance injurious to health, or shall sell or offer for sale any substance so intended, knowing the same to be so adulterated, such person, upon conviction thereof, shall be punished in the manner provided in the section last preceding.

Adulterating drugs.

SEC. 158. That if any person shall adulterate, for the purpose of sale, any drug or medicine in such manner as to render the same injurious to health, or shall knowingly sell or offer for sale any adulterated drug or medicine, such person, upon conviction thereof, shall be punished in the manner provided in section one hundred and fifty-six, and such adulterated drugs or medicines shall be forfeited and destroyed.

Polluting water used for domestic purposes.

SEC. 159. That any person who shall put any sewage, drainage, or refuse, or polluting matter, as either by itself or in connection with other matter will corrupt or impair the quality of any well, spring, brook, creek, branch, or pond of water which is used or may be used for domestic purposes, shall be deemed guilty of a misdemeanor.

Same subject.

SEC. 160. That any person who puts any dead animal carcass, or part thereof, excrement, putrid, nauseous, noisome, decaying, deleterious, or offensive substance into, or in any other manner not herein named befoils, pollutes, or impairs the quality of any spring, brook, creek, branch, well, or pond of water which is or may be used for domestic purposes, shall be deemed guilty of a misdemeanor.

Penalty.

SEC. 161. That any person violating the provisions of either of the two sections last preceding shall, upon conviction, be fined not less

than ten nor more than fifty dollars, or be imprisoned not less than five nor more than twenty-five days, or by both fine and imprisonment.

SEC. 162. That if any person shall inoculate himself or suffer himself to be inoculated, or shall inoculate another, with the smallpox or any other malignant or infectious disease, within said District, or, being so inoculated, shall come within said District with the intent to cause the prevalence or spread of such disease within said District, such person, upon conviction thereof, shall be punished by imprisonment in the penitentiary not less than one year nor more than three years.

Spreading dangerous disease.

SEC. 163. That if any person shall sell or deliver any arsenic, corrosive sublimate, prussic acid, or other poison, without having the word "poison" and the true name thereof in English written or printed upon a label attached to the vial, box, or parcel containing the same, such person, upon conviction thereof, shall be punished by a fine of not less than twenty nor more than one hundred dollars.

Selling poison without label.

CHAPTER ELEVEN.

OFFENSES CONCERNING THE TELEGRAPH, TELEPHONE, AND SO FORTH.

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| <p>Sec.
164. Refusing to transmit official dispatch in time of war, and so forth.
165. Malicious injury to telegraph.
166. Divulging or altering dispatch.
167. Sending or delivering false dispatch.
168. Using information contained in dispatch.</p> | <p>Sec.
169. Delaying or refusing to send dispatch.
170. Opening or obtaining dispatch intended for another.
171. Taking information from wire, and so forth.
172. Bribing operator to disclose private message.</p> |
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SEC. 164. That every telegraph company shall be bound, on application of any officer of said District or of the United States, in case of any war, insurrection, riot, or other civil commotion or resistance of public authority, for the prevention and punishment of crime, or for the arrest of persons suspected or charged therewith, to give to the communications of such officers immediate dispatch, at the price of ordinary communications of the same length; and if any officer, agent, operator, or employee of any such company shall refuse or willfully omit to transmit such communications as aforesaid, or shall designedly alter or falsify the same, for any purpose whatever, the person so offending shall be liable to indictment, and on conviction may be fined not more than one thousand dollars or imprisoned in jail not more than twelve months or both, at the discretion of the court.

Refusing to transmit official dispatch in time of war, etc.

SEC. 165. That if any person shall willfully and maliciously cut, break, or throw down any pole or any tree or other object used in any line of telegraph, telephone, or system for the transmission of light or power by use of electricity, or shall willfully and maliciously break, displace, or injure any insulator in use in any such line, or shall willfully and maliciously cut, break, or remove from its insulators any wire used for any of the purposes above enumerated, or shall, by the attachment of a ground wire, or by any other contrivance, willfully and maliciously destroy the insulation of such line, or interrupt the transmission of the electric current through the same, or shall in any other manner willfully and maliciously injure, molest, or destroy any property or materials appertaining to any such line, or belonging to any telegraph, telephone, electric light or power company, or shall willfully and maliciously interfere with the use of any telegraph, telephone, electric light or power line, or obstruct or postpone the transmission of any message over any telegraph or telephone line, or procure or advise any such injury, interference, or obstruction, the person so offending shall be deemed guilty of a misdemeanor, and shall be punished by fine not to exceed five hundred dollars, or imprisonment not to exceed six months, or by both such fine and imprisonment, in the discretion of the court, and shall moreover be liable to the company

Malicious injury to telegraph.

whose property is injured or line obstructed in a sum equal to three times the amount of actual damages sustained thereby.

Divulging or altering dispatch.

SEC. 166. That if any officer, agent, operator, clerk, or employee of any telegraph company, or any other person, shall willfully divulge to any other person than the party from whom the same was received, or to whom the same was addressed, or his agent or attorney, any message received or sent, or intended to be sent, over any telegraph line, or the contents, substance, purport, effect, or meaning of such message, or any part thereof, or shall willfully alter any such message by adding thereto or omitting therefrom any word or words, figure or figures, so as to materially change the sense, purport, or meaning of such message, to the injury of the person sending or desiring to send the same, or to whom the same was directed, the person so offending shall be deemed guilty of a misdemeanor, and shall be punished by a fine not to exceed one thousand dollars or imprisonment not to exceed one year, or by both such fine and imprisonment, in the discretion of the court: *Provided*, That when numerals or words of number occur in any message the operator or clerk sending or receiving may express the same in words or figures, or in both words and figures, and such fact shall not be deemed an alteration of the message, nor in any manner affect its genuineness, force, or validity.

Proviso.
Expressing numerals.

Sending or delivering false dispatch.

SEC. 167. That if any agent, operator, or employee in any telegraph office, or other person, shall, knowingly and willfully, send by telegraph, to any person or persons, any false or forged message, purporting to be from such telegraph office, or from any other person, or shall willfully deliver, or cause to be delivered, to any person, any such message, falsely purporting to have been received by telegraph, or if any person or persons shall furnish or conspire to furnish, or cause to be furnished, to any such agent, operator, or employee, to be sent by telegraph, or to be so delivered, any such message, knowing the same to be false or forged, with the intention to deceive, injure, or defraud any individual, partnership, or corporation, or the public, the person or persons so offending shall be deemed guilty of a misdemeanor, and shall be punished by a fine not to exceed one thousand dollars or imprisonment not to exceed one year, or by both such fine and imprisonment, in the discretion of the court.

Using information contained in dispatch.

SEC. 168. That if any agent, operator, or employee in any telegraph office shall, in any way, use or appropriate any information derived by him from any private message or messages passing through his hands and addressed to any other person or persons, or in any other manner acquired by him by reason of his trust as such agent, operator, or employee, or shall trade or speculate upon any such information so obtained, or in any manner turn or attempt to turn the same to his account, profit, or advantage, the person so offending shall be deemed guilty of a misdemeanor, and shall be punished by a fine not to exceed one thousand dollars, or imprisonment not to exceed one year, or by both such fine and imprisonment, in the discretion of the court, and shall also be liable in treble damages to the party aggrieved for all loss or injury sustained by reason of such wrongful act.

Delaying or refusing to send dispatch.

SEC. 169. That if any agent, operator, or employee in any telegraph office shall unreasonably and willfully refuse or neglect to send any message received at such office for transmission, or shall unreasonably or willfully postpone the same out of its order, or shall unreasonably and willfully refuse or neglect to deliver any message received by telegraph, the person so offending shall be deemed guilty of a misdemeanor, and may be punished by a fine not to exceed five hundred dollars, or imprisonment not to exceed six months, or by both such fine and imprisonment, in the discretion of the court: *Provided*, That nothing herein contained shall be construed to require any message to be received, transmitted, or delivered unless the charges thereon shall have been paid or tendered, nor to require the sending, receiving, or delivery of any message counseling, aiding, abetting, or encouraging treason against the Government of the United States, or other resistance to the lawful authority,

Proviso.
Payment of charges.

or any message calculated to further any fraudulent plan or purpose, or to instigate or encourage the perpetration of any unlawful act, or to facilitate the escape of any criminal or person accused of crime.

SEC. 170. That if any person not connected with any telegraph office shall, without the authority or consent of the person or persons to whom the same may be directed, willfully or unlawfully open any sealed envelope inclosing a telegraph message, and addressed to any other person or persons, with the purpose of learning the contents of such message, or shall fraudulently represent any other person or persons, and thereby procure to be delivered to himself any telegraph message addressed to such other person or persons, with the intent to use, destroy, or detain the same from the person or persons entitled to receive such message, the person so offending shall be deemed guilty of a misdemeanor and shall be punished by a fine not to exceed one thousand dollars, or imprisonment not to exceed one year, or by both such fine and imprisonment, in the discretion of the court; and shall, moreover, be liable in damages to the party injured for all loss and damage sustained by reason of such wrongful act.

Opening or obtaining dispatch intended for another.

SEC. 171. That if any person not connected with any telegraph company shall, by means of any machine, instrument, or contrivance, or in any other manner, willfully and fraudulently read or attempt to read any message, or to learn the contents thereof, whilst the same is being sent over any telegraph line, or shall willfully and fraudulently or clandestinely learn or attempt to learn the contents or meaning of any message while the same is in any telegraph office, or is being received thereat, or is sent therefrom, or shall use or attempt to use, or communicate to others, any information so obtained by any person, the person so offending shall be deemed guilty of a misdemeanor, and shall be punished by fine not to exceed one thousand dollars, or imprisonment not to exceed one year, or by both such fine and imprisonment, in the discretion of the court.

Taking information from wire, etc.

SEC. 172. That if any person shall, by the payment or promise of any bribe, inducement, or reward, procure or attempt to procure any telegraph agent, operator, or employee to disclose any private message, or the contents, purport, substance, or meaning thereof, or shall offer to any such agent, operator, or employee any bribe, compensation, or reward for the disclosure of any private information received by him by reason of his trust as such agent, operator, or employee, or shall use or attempt to use any such information so obtained, the person so offending shall be deemed guilty of a misdemeanor, and shall be punished by fine not to exceed one thousand dollars, or imprisonment not to exceed one year, or by both such fine and imprisonment, in the discretion of the court.

Bribing operator to disclose private message.

CHAPTER TWELVE.

PROTECTION OF FUR-BEARING ANIMALS AND SALMON.

<p>Sec. 173. Killing of fur-bearing animals prohibited.</p> <p>174. Power to arrest persons and seize vessels.</p> <p>175. Remission of fines, etc.</p> <p>176. St. Paul and St. George islands declared a special reservation.</p> <p>177. Killing of seal upon them prohibited, when.</p>	<p>Sec. 178. Killing of certain seal prohibited.</p> <p>179. Obstructions in streams preventing ascent of salmon prohibited.</p> <p>180. Methods and times of fishing regulated.</p> <p>181. Concerning grounds and close seasons.</p> <p>182. Inspectors.</p> <p>183. Punishment for violations.</p>
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SEC. 173. That no person shall kill any otter, mink, marten, sable, or fur seal, or other fur-bearing animal within the limits of Alaska Territory, or in the waters thereof; and every person guilty thereof shall, for each offense, be fined not less than two hundred nor more than one thousand dollars, or imprisoned not more than six months, or both; and all vessels, their tackle, apparel, furniture, and cargo, found engaged in violation of this section shall be forfeited; but the Secretary of the

Killing of fur-bearing animals prohibited.

Treasury shall have power to authorize the killing of any such mink, marten, sable, or other fur-bearing animal, except fur seals, under such regulations as he may prescribe; and it shall be the duty of the Secretary to prevent the killing of any fur seal and to provide for the execution of the provisions of this section until it is otherwise provided by law; nor shall he grant special privileges under this section.

Regulations.

SEC. 174. That the collector and deputy collectors appointed for Alaska Territory, and any person authorized in writing by either of them, or by the Secretary of the Treasury, shall have power to arrest persons and seize vessels and merchandise liable to fines, penalties, or forfeitures under this and the other laws extended over the Territory, and to keep and deliver the same to the marshal.

Power to arrest persons and seize vessels.

SEC. 175. That in all cases of fine, penalty, or forfeiture embraced in the Act approved March third, seventeen hundred and ninety-seven, chapter thirteen, or mentioned in any Act in addition to or amendatory of such Act, that have occurred or may occur in the collection district of Alaska, the Secretary of the Treasury is authorized, if in his opinion the fine, penalty, or forfeiture was incurred without willful negligence or intention of fraud, to ascertain the facts in such manner and under such regulations as he may deem proper, without regard to the provisions of the Act above referred to; and upon the facts so to be ascertained he may exercise all the power of remission conferred upon him by that Act as fully as he might have done had such facts been ascertained under and according to the provisions of that Act.

Remission of fines, etc. Vol. 1, p. 506. R.S., sec. 1958, p. 344.

SEC. 176. That the islands of Saint Paul and Saint George, in Alaska, are declared a special reservation for Government purposes; and until otherwise provided by law it shall be unlawful for any person to land or remain on either of those islands, except by authority of the Secretary of the Treasury; and any person found on either of those islands contrary to the provisions hereof shall be summarily removed; and it shall be the duty of the Secretary of War to carry this section into effect.

St. Paul and St. George islands declared a special reservation. R.S., sec. 1959, p. 344.

SEC. 177. That it shall be unlawful to kill any fur seal upon the islands of Saint Paul and Saint George, or in the waters adjacent thereto, except during the months of June, July, September, and October in each year; and it shall be unlawful to kill such seals at any time by the use of firearms or by other means tending to drive the seals away from those islands; but the natives of the islands shall have the privilege of killing such young seals as may be necessary for their own food and clothing during other months, and also such old seals as may be required for their own clothing and for the manufacture of boats for their own use; and the killing in such cases shall be limited and controlled by such regulations as may be prescribed by the Secretary of the Treasury.

Killing of seal upon them prohibited, when. R.S., sec. 1960, p. 344.

SEC. 178. That it shall be unlawful to kill any female seal or any seal less than one year old at any season of the year, except as above provided; and it shall also be unlawful to kill any seal in the waters adjacent to the islands of Saint Paul and Saint George, or on the beaches, cliffs, or rocks where they haul up from the sea to remain; and every person who violates the provisions of this or the preceding section shall be punished for each offense by a fine of not less than two hundred dollars nor more than one thousand dollars, or by imprisonment not more than six months, or by both such fine and imprisonment; and all vessels, their tackle, apparel, and furniture, whose crews are found engaged in the violation of either this or the preceding section shall be forfeited to the United States.

Killing of certain seal prohibited. R.S., sec. 1961, p. 344.

SEC. 179. That the erection of dams, barricades, fish wheels, fences, or any such fixed or stationary obstructions in any part of the rivers or streams of Alaska, or to fish for or catch salmon or salmon trout in any manner or by any means, with the purpose or result of preventing or impeding the ascent of salmon to their spawning ground, is hereby declared to be unlawful, and the Secretary of the Treasury is hereby

Obstruction in streams preventing ascent of salmon prohibited. Vol. 29, p. 316.

authorized and directed to remove such obstructions and to establish and enforce such regulations and surveillance as may be necessary to insure that this prohibition and all other provisions of law relating to the salmon fisheries of Alaska are strictly complied with.

SEC. 180. That it shall be unlawful to fish, catch, or kill any salmon of any variety except with rod or spear above the tide waters of any creeks or rivers of less than five hundred feet width in the Territory of Alaska, except only for purposes of propagation, or to lay or set any drift net, set net, trap, pound net, or seine for any purpose across the tide waters of any river or stream for a distance of more than one-third of the width of such river, stream, or channel, or lay or set any seine or net within one hundred yards of any other net or seine which is being laid or set in said stream or channel, or to take, kill, or fish for salmon in any manner, or by any means, in any of the waters of the Territory of Alaska, either in the streams or tide waters, except Cook Inlet, Prince William Sound, Bering Sea, and the waters tributary thereto, from midnight on Friday of each week until six o'clock antemeridian of the Sunday following; or to fish for or catch, or kill in any manner, or by any appliances except by rod or spear, any salmon in any stream of less than one hundred yards in width in the said Territory of Alaska between the hours of six o'clock in the evening and six o'clock in the morning of the following day of each and every day of the week.

Methods and times of fishing regulated.

SEC. 181. That the Secretary of the Treasury may, at his discretion, set aside any streams as spawning grounds, in which no fishing will be permitted; and when, in his judgment, the results of fishing operations on any stream indicate that the number of salmon taken is larger than the capacity of the stream to produce, he is authorized to establish weekly close seasons, to limit the duration of the fishing season, or to prohibit fishing entirely for one year or more, so as to permit salmon to increase: *Provided, however,* That such power shall be exercised only after all persons interested shall have been given a hearing, of which hearing due notice must be given by publication: *And provided further,* That it shall have been ascertained that the persons engaged in catching salmon do not maintain fish hatcheries of sufficient magnitude to keep such streams fully stocked.

Spawning grounds and close seasons.

Concerning grounds and close seasons.

Provisos. Notice.

Hatcheries.

SEC. 182. That to enforce the provisions of law herein and such regulations as the Secretary of the Treasury may establish in pursuance thereof, he is authorized and directed to appoint one inspector of fisheries, at a salary of one thousand eight hundred dollars per annum, and two assistant inspectors, at a salary of one thousand six hundred dollars each per annum; and he will annually submit to Congress estimates to cover the salaries and actual traveling expenses of the officers hereby authorized and for such other expenditures as may be necessary to carry out the provisions of the law herein.

Inspector.

Inspectors.

SEC. 183. That any person violating the provisions of sections one hundred and seventy-nine, one hundred and eighty, and one hundred and eighty-one of this Act or the regulations established in pursuance of section one hundred and eighty-two of this Act shall, upon conviction thereof, be punished by a fine not exceeding one thousand dollars or imprisonment at hard labor for a term not exceeding ninety days, or both such fine and imprisonment, at the discretion of the court; and, further, in case of the violation of any of the provisions of section one hundred and seventy-nine, and conviction thereof, a further fine of two hundred and fifty dollars per diem will be imposed for each day that the obstruction or obstructions therein are maintained.

Punishment for violations.

CHAPTER THIRTEEN.

MISCELLANEOUS PROVISIONS AND DEFINITION.

<p>Sec.</p> <p>184. Division of crimes.</p> <p>185. Parties to crimes.</p> <p>186. Principals, who deemed such.</p> <p>187. Accessories, who deemed such.</p> <p>188. No accessories in misdemeanors.</p> <p>189. Accessories, how punished.</p> <p>190. Person not punishable for omission when performed by another.</p> <p>191. Misdemeanor, punishment for, when not otherwise prescribed.</p> <p>192. Attempt to commit crime, punishment of.</p> <p>193. Preceding section, how construed.</p> <p>194. Computation of sentences.</p> <p>195. Treatment of convicts.</p> <p>196. Judgment of imprisonment in penitentiary, effect of.</p> <p>197. Judgment of imprisonment for life.</p> <p>198. Person of a convict under the protection of law.</p> <p>199. Sentences to penitentiary, how executed.</p> <p>Sec.</p> <p>200. "Jail," definition of.</p> <p>201. Sentences to county jail how executed.</p> <p>202. Evidence given by a person may be used against him on a prosecution for perjury.</p> <p>203. Conviction of crime not to work forfeiture of property.</p> <p>204. Court to ascertain and impose punishments.</p> <p>205. In prosecution for libel, truth may be given in evidence.</p> <p>206. Presumption in case of injurious publication.</p> <p>207. "Dwelling house," definition of, in relation to arson.</p> <p>208. "Dwelling house," definition of, in relation to burglary.</p> <p>209. Certain terms presumed to be used in a certain sense.</p> <p>210. "Signature," what it includes.</p> <p>211. "Writing" includes printing.</p> <p>Sec.</p> <p>212. "Property" includes both real and personal.</p> <p>213. The term, "person," what it includes.</p> <p>214. The singular number includes the plural.</p>	<p>Sec.</p> <p>200. "Jail," definition of.</p> <p>201. Sentences to county jail how executed.</p> <p>202. Evidence given by a person may be used against him on a prosecution for perjury.</p> <p>203. Conviction of crime not to work forfeiture of property.</p> <p>204. Court to ascertain and impose punishments.</p> <p>205. In prosecution for libel, truth may be given in evidence.</p> <p>206. Presumption in case of injurious publication.</p> <p>207. "Dwelling house," definition of, in relation to arson.</p> <p>208. "Dwelling house," definition of, in relation to burglary.</p> <p>209. Certain terms presumed to be used in a certain sense.</p> <p>210. "Signature," what it includes.</p> <p>211. "Writing" includes printing.</p> <p>Sec.</p> <p>212. "Property" includes both real and personal.</p> <p>213. The term, "person," what it includes.</p> <p>214. The singular number includes the plural.</p>
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Division of crimes.

SEC. 184. That crimes are divided into felonies and misdemeanors. A felony is a crime punishable with death, or which is or may be punishable by imprisonment in the penitentiary. Every other crime is a misdemeanor.

Parties to crimes.

SEC. 185. That the parties to crime are classified as—
First. Principals.
Second. Accessories.

Principals, who deemed such.

SEC. 186. That all persons concerned in the commission of a crime, whether it be felony or misdemeanor, and whether they directly commit the act constituting the crime or aid and abet in its commission, though not present, are principals, and to be tried and punished as such.

Accessories, who deemed such.

SEC. 187. That all persons who, after the commission of any felony, conceal or aid the offender, with knowledge that he has committed a felony and with intent that he may avoid or escape from arrest, trial, conviction, or punishment, are accessories.

No accessories in misdemeanors.
Accessories, how punished.

SEC. 188. That in misdemeanors there are no accessories.

SEC. 189. That except in cases where a different punishment is prescribed by law, an accessory to a felony, upon conviction thereof, shall be punished by imprisonment in the penitentiary not less than one year nor more than five years, or by imprisonment in the county jail not less than three months nor more than one year, or by fine not less than one hundred dollars nor more than five hundred dollars.

Person not punishable for omission when performed by another.

SEC. 190. That no person is punishable for an omission to perform an act where such act has been performed by another person acting in his behalf, and competent by law to perform it.

Misdemeanor, punishment for, when not otherwise prescribed.

SEC. 191. That whenever, by any law relating to said district, an act is declared to be a misdemeanor, and no punishment is prescribed therefor, the person committing the same, upon conviction thereof, shall be punished by imprisonment in the county jail not more than one year, or by fine not more than five hundred dollars.

Attempt to commit crime, punishment of.

SEC. 192. That if any person attempts to commit any crime, and in such attempt does any act toward the commission of such crime, but fails, or is prevented or intercepted in the perpetration thereof, such

person, when no other provision is made by law for the punishment of such attempt, upon conviction thereof, shall be punished as follows:

First. If the crime so attempted be punishable by imprisonment in the penitentiary or county jail, the punishment for the attempt shall be by like imprisonment, as the case may be, for a term not more than half the longest period prescribed as a punishment for such crime.

Second. If the crime so attempted be punishable by fine, the punishment for the attempt shall be by fine not more than half the amount of the largest fine prescribed as a punishment for such crime.

SEC. 193. That the section last preceding must not be construed to protect a person who, in attempting unsuccessfully to commit a crime, accomplishes another or different crime, whether greater or less in guilt, from suffering the punishment prescribed by law for the crime committed.

Preceding section, how construed.

SEC. 194. That when a person is sentenced to imprisonment in the penitentiary, his term of confinement therein commences from the day of his delivery at such prison to the proper officer thereof, and no time during which such person is voluntarily absent from such penitentiary can be estimated or counted as a part of the term for which such person was sentenced.

Computation of sentences.

SEC. 195. That a judgment of imprisonment in the penitentiary need only specify the duration and place of such confinement, and thereafter the manner of the confinement and the treatment and employment of the person so sentenced shall be regulated and governed by whatever law may be in force prescribing the discipline of the penitentiary wherein he is confined and the treatment and employment of persons sentenced to confinement therein.

Treatment of convicts.

SEC. 196. That a judgment of imprisonment in the penitentiary for any term less than for life suspends all civil rights of the person so sentenced, and forfeits all public offices and all private trusts, authority, or power during the term or duration of such imprisonment.

Judgment of imprisonment in penitentiary, effect of

SEC. 197. That a person sentenced to imprisonment in the penitentiary for life is thereafter deemed civilly dead.

Judgment of imprisonment for life.

SEC. 198. That the person of a convict sentenced to imprisonment in the penitentiary is under the protection of the law, and any injury to his person not authorized by law is punishable in the same manner as if he was not convicted or sentenced.

Person of a convict under the protection of law.

SEC. 199. That whenever, in pursuance of the provisions of this Act, any person is sentenced to imprisonment in the penitentiary, such sentence may be executed by the confinement of such person in the building at Sitka, in said district, now used for that purpose, or in any other place of confinement within or without the said district that may be designated by the court, and his place of imprisonment may be changed at any time, and from time to time, upon the order of the Attorney-General.

Sentences to penitentiary, how executed.

SEC. 200. That whenever the words "jail" or "county jail" occur in this Act, the same shall be held to mean any house, building, structure, ship, or vessel used or suitable for the confinement of persons serving sentences for crime or awaiting trial therefor.

"Jail," definition of.

SEC. 201. That the commencement and termination of a sentence of imprisonment in a county jail is to be ascertained by the rule prescribed in section one hundred and ninety-four of Title I, and the manner of such confinement and the treatment of the persons so sentenced shall be governed by whatever law may be in force prescribing the discipline of county jails: *Provided*, That the United States marshal for said district may, under such regulations as the Attorney-General may prescribe, employ or cause to be employed upon public works any or all persons sentenced to imprisonment in the jails or the penitentiary within said district: *And provided further*, That for the purpose of satisfying any judgment which may be given against a prisoner for any fine, or for the costs and disbursements in the proceedings against him, such prisoner shall be credited with two dollars for every day's labor performed by him in pursuance hereof.

Sentences to county jail, how executed.

Provided.
Employment of prisoners on public works.

Credit on fine for labor.

Evidence given by a person may be used against him on a prosecution for perjury.

SEC. 202. That any section of this Act which declares that evidence obtained upon the examination of a person as a witness shall not be received against him in a criminal proceeding does not forbid such evidence being proved against such person upon any proceedings founded upon a charge of perjury committed by such person in such examination.

Conviction of crime not to work forfeiture of property.

SEC. 203. That no conviction of any person for crime works any forfeiture of any property, except in cases where the same is expressly provided by law; but in all cases of the commission or attempt to commit a felony the United States has a lien, from the time of such commission or attempt, upon all the property of the defendant for the purpose of satisfying any judgment which may be given against him for any fine on account thereof, and for the costs and disbursements in the proceedings against him for such crime.

Court to ascertain and impose punishments.

SEC. 204. That the several sections of this Act which declare certain crimes to be punishable as therein mentioned devolve a duty upon the court authorized to pass sentence to determine and impose the punishment prescribed; and whenever such punishment is left undetermined between certain limits or kinds, to determine the punishment to be inflicted in a particular case.

In prosecution for libel, truth may be given in evidence.

SEC. 205. That in all criminal prosecutions for libel the truth may be given in evidence; and if it shall appear to the jury that the matter charged as libelous is true and was published with good motives and justifiable ends, the defendant must be found not guilty.

Presumption in case of injurious publication.

SEC. 206. That an injurious publication is presumed to have been malicious if no justifiable end or good motive is shown for making it.

"Dwelling house," definition of, in relation to arson.

SEC. 207. That any building is deemed a "dwelling house" within the meaning of the sections of this Act defining the crime of arson any part of which has usually been occupied by any person lodging therein.

"Dwelling house," definition of, in relation to burglary.

SEC. 208. That any building is deemed a "dwelling house" within the meaning of the sections of this Act defining the crime of burglary any part of which has usually been occupied by any person lodging therein, and any structure joined to or immediately connected with such building.

Certain terms presumed to be used in a certain sense.

SEC. 209. That whenever the terms mentioned in the following sections are employed in this Act they are deemed to be employed in the senses hereafter affixed to them, except when a different sense plainly appears.

"Signature," what it includes.

SEC. 210. That the term "signature" includes any name, mark, or sign written with intent to authenticate any instrument or writing.

"Writing" includes printing.

SEC. 211. That the term "writing" includes printing.

"Property" includes both real and personal.

SEC. 212. That the term "property" includes both real and personal property.

"The term "person," what it includes.

SEC. 213. That the word "person" includes corporations as well as natural persons; and where such word is used to designate the party whose property may be the subject of a crime, it includes said District, or any State, government, or country which may lawfully own any property in said District, and all municipal or public corporations and private corporations, as well as individuals.

The singular number includes the plural.

SEC. 214. That the singular number includes the plural, and the plural the singular.

Masculine gender, what it comprehends.

SEC. 215. That words used in the masculine gender comprehend as well the feminine and the neuter.

Intent to defraud, what sufficient.

SEC. 216. That whenever, by any provision of this Act, an intent to defraud is necessary to constitute a crime, it is sufficient if an intent appears to defraud any person, body politic, or corporation whatever.

Criminal prosecution not to exclude other remedy or penalty.

SEC. 217. That the omission to specify or affirm in this Act any liability to any damages, penalty, or forfeiture, or other remedy imposed by law, and allowed to be recovered or enforced in any civil action or proceeding, for any act or omission declared punishable herein, does not affect any right to recover or enforce the same.

SEC. 218. The common law of England as adopted and understood in the United States shall be in force in said District, except as modified by this Act. Common law of England adopted.

SEC. 219. That nothing herein contained shall apply to or in any way affect any proceeding or indictment now found or pending or that may be found for any offense committed before the passage of this Act. Pending proceedings unaffected, etc.

TITLE II.

CHAPTER ONE.

PRELIMINARY PROVISIONS.

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| <p>Sec.
1. Crimes and offenses, how prosecuted.
2. Definition of a crime or public offense.
3. Felonies, how prosecuted.</p> | <p>Sec.
4. Criminal action defined.
5. Parties to a criminal action.</p> |
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SEC. 1. That proceedings for the punishment and prevention of the crimes defined in Title I of this Act shall be conducted in the manner herein provided. Crimes and offenses, how prosecuted.

SEC. 2. That a crime or public offense is an act or omission forbidden by law, and punishable, upon conviction, by either of the following punishments: Definition of a crime or public offense.

- First. Death;
- Second. Imprisonment;
- Third. Fine;
- Fourth. Removal from office;
- Fifth. Disqualification to hold and enjoy any office of honor, trust, or profit.

SEC. 3. That no person can be tried for the commission of a felony but upon the indictment of a grand jury. Felonies, how prosecuted.

SEC. 4. That the proceeding by which a person is tried and punished for the commission of a crime is known in this Act as a criminal action. Criminal action defined.

SEC. 5. That in a criminal action in the District of Alaska the United States is the plaintiff and the person prosecuted is the defendant. Parties to a criminal action.

CHAPTER TWO.

OF THE TIME OF COMMENCEMENT OF CRIMINAL ACTIONS.

- Sec.
6. Criminal actions, when commenced.

SEC. 6. That criminal action must be commenced within the periods prescribed in the laws of the United States now in force or that may be hereinafter enacted. Criminal actions, when commenced.

CHAPTER THREE.

OF THE JURISDICTION AND PLACE OF CRIMINAL ACTIONS.

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| <p>Sec.
7. When crime commenced without, but consummated within, this District.
8. Murder or manslaughter committed by means used without the District.</p> | <p>Sec.
9. When conviction or acquittal in another jurisdiction is a bar.</p> |
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SEC. 7. That when the commission of a crime commenced without said District is consummated within its boundaries, the defendant is liable to punishment therefor in said District though he were out of the District at the time of the commission of the crime charged, provided he consummated it in said District, through the intervention of an innocent or guilty agent, or by any means proceeding directly from himself. When crime commenced without, but consummated within, this District.

SEC. 8. That when the crime of murder or manslaughter has been committed by means of a mortal wound given, or injury inflicted, or poison administered without said District, and the person so wounded, Murder or manslaughter committed by means used without the District.

injured, or poisoned shall die thereof within said District, the person committing such crime is liable to punishment therefor in said District; and in such case, the action therefor may be commenced and tried in said District.

When conviction or acquittal in another jurisdiction is a bar.

SEC. 9. That when an act declared to be a crime is within the jurisdiction of any State, county, or Territory, as well as of said District, a conviction or acquittal therefor in the former is a bar to a prosecution therefor in said District.

CHAPTER FOUR.

OF THE GRAND JURY.

Sec.

13. Grand jury, how selected and summoned.

Sec.

14. Qualifications of grand jurors.
15. Who are exempt.

Grand jury, how selected and summoned.

SEC. 10. That grand juries, to inquire of the crimes designated in title one of this Act, committed or triable within said District, shall be selected and summoned, and their proceedings shall be conducted, in the manner prescribed by the laws of the United States with respect to grand juries of the United States district and circuit courts, the true intent and meaning of this section being that but one grand jury shall be summoned in each division of the court to inquire into all offenses committed or triable within said District, as well those that are designated in title one of this Act as those that are defined in other laws of the United States.

Qualifications of grand jurors.

SEC. 11. That a person is not competent to act as a juror who has been convicted of a felony nor unless he be a citizen of the United States, a male inhabitant of the District, over twenty-one years of age, and in possession of his natural faculties and of sound mind.

Who are exempt.

SEC. 12. That a person is exempt from liability to act as a grand juror if he be—

First. A judicial officer;

Second. Any other civil officer of said District or of the United States whose duties are at the time inconsistent with his attendance as a juror;

Third. An attorney;

Fourth. A minister of the gospel or priest of any denomination;

Fifth. A teacher in a college, academy, or school;

Sixth. A practicing physician;

Seventh. An acting noncommissioned officer, musician, or private of a military organization, duly enrolled in the service of the United States or of said District.

CHAPTER FIVE.

OF THE POWERS AND DUTIES OF THE GRAND JURY.

Sec.

- 13. Duty of grand jury.
- 14. May indict whether defendant has been held to answer or not.
- 15. When grand jury may present for opinion of court.
- 16. Presentment, duty of court in relation thereto.
- 17. Foremen may administer oaths to witnesses.
- 18. May order explanatory evidence to be produced.
- 19. What evidence will warrant indictment.
- 20. Grand juror must disclose his knowledge of commission of crime.

Sec.

- 21. Grand jury to investigate prisons and offices.
- 22. To have access to prisons and records.
- 23. District attorney to present indictment, when.
- 24. Same subject.
- 25. District attorney must attend sittings. Who may be present.
- 26. Indictment not to be found on statement of juror unless sworn.
- 27. When grand juror bound to disclose testimony of a witness.
- 28. For what grand juror may be questioned.

Duty of grand jury,

SEC. 13. That the grand jury have power, and it is their duty, to inquire into all crimes committed or triable within the jurisdiction of the court, and present them to the court, either by presentment or indictment, as provided in this Act.

SEC. 14. That the grand jury may indict or present a person for a crime, upon sufficient evidence, whether such person has been held to answer for such crime or not.

May indict whether defendant has been held to answer or not.

SEC. 15. That when the grand jury are in doubt whether the facts, as shown by the evidence before them, constitute a crime in law, or whether the same has ceased to be punishable by reason of lapse of time or a former acquittal or conviction, they may make a presentment of the facts to the court, without mentioning names of individuals, and ask the court to instruct them concerning the law arising thereon.

When grand jury may present for opinion of court.

SEC. 16. That such presentment of the facts can not be found and presented to the court except as provided in the last preceding section, and when so found and presented the court shall give such instructions to the grand jury concerning the law of the case as it may think proper and necessary.

Presentment, duty of court in relation thereto.

SEC. 17. That the foreman of the grand jury may administer an oath to any witness appearing before them.

Foreman may administer oaths to witnesses.

SEC. 18. That the grand jury are not bound to hear evidence for the defendant, but it is their duty to weigh all the evidence submitted to them, and when they have reason to believe that other evidence within their reach will explain away the charge, they should order such evidence to be produced, and for that purpose may require the district attorney to issue process for the witnesses.

May order explanatory evidence to be produced.

SEC. 19. That the grand jury ought to find an indictment when all the evidence before them, taken together, is such as in their judgment would, if unexplained or uncontradicted, warrant a conviction by the trial jury.

What evidence will warrant indictment.

SEC. 20. That if an individual grand juror know, or have reason to believe, that a crime has been committed which is triable by the court, he must disclose the same to his fellow jurors, who must thereupon investigate the same.

Grand juror must disclose his knowledge of commission of crime.

SEC. 21. That in addition to the power and duty above prescribed the grand jury have power and it is their duty to inquire—

Grand jury to investigate prisons and offices.

First. Into the condition and management of every public prison in the District; and

Second. Into the condition and management of the offices pertaining to the courts of justice in the District.

SEC. 22. That they shall be entitled to free access at all reasonable times to the prisons and offices mentioned in the last preceding section, and also to the examination, without charge, of all public records in the District.

To have access to prisons and records.

SEC. 23. That the district attorney must submit an indictment to the grand jury and cause the evidence in support thereof to be brought before them in case of every person held to answer a criminal charge in the court wherein such jury is formed.

District attorney to present indictment, when.

SEC. 24. That the district attorney may submit an indictment to the grand jury in any case when he has good reason to believe that a crime has been committed which is triable by the court.

Same subject.

SEC. 25. That the district attorney, when required by the grand jury, must prepare indictments or presentments for them and attend their sittings to advise them in relation to their duties or to examine witnesses in their presence; but no person other than the district attorney or a witness actually under examination can be allowed to be present during the sittings of the grand jury, nor either such attorney or witness when the grand jury are deliberating or voting upon a matter before them.

District attorney must attend sittings; who may be present.

SEC. 26. That an indictment or presentment must not be found upon the statement of a grand juror unless he be sworn and examined as a witness.

Indictment not to be found on statement of juror unless sworn.

SEC. 27. That a member of a grand jury may be required by any court to disclose the testimony of a witness examined before such grand jury, for the purpose of ascertaining whether it is consistent with that given by the witness before the court, or to disclose the testimony given before such grand jury by any person upon a charge against such person for perjury, or upon his trial therefor.

When grand juror bound to disclose testimony of a witness.

For what grand juror may be questioned.

SEC. 28. That a grand juror can not be questioned for anything he may say, or any vote he may give, while acting as such, in relation to any matter legally pending before the grand jury, except for a perjury, of which he may have been guilty in giving testimony before such jury.

CHAPTER SIX.

OF THE FINDING AND PRESENTATION OF THE INDICTMENT.

Sec.
29. The indictment must be found by twelve jurors and indorsed by foreman.
30. Witnesses' names to be indorsed on indictment; when marked as prosecutor.
31. Indictment, how presented; a public record, and when not subject to public inspection.

Sec.
32. Grand juror or officer not to disclose indictment when not subject to public inspection.
33. Proceeding when indictment not found "a true bill."
34. Indictment, effect of, when returned "not a true bill."
35. Presentment, definition of, and how made.

The indictment must be found by 12 jurors and indorsed by foreman.

SEC. 29. That an indictment can not be found without the concurrence of at least twelve grand jurors; and when so found it must be indorsed "a true bill," and such indorsement signed by the foreman of the jury.

Witnesses' names to be indorsed on indictment; when marked as prosecutor.

SEC. 30. That when an indictment is found the names of the witnesses examined before the grand jury must be inserted at the foot of the indictment, or indorsed thereon, before it is presented to the court; and if the indictment be for a misdemeanor only, and any witness has voluntarily appeared before the grand jury to complain of the defendant, his name must be marked as private prosecutor.

Indictment, how presented; a public record, and when not subject to public inspection.

SEC. 31. That an indictment, when found by the grand jury, as prescribed in the two sections last preceding, must be presented by their foreman, in their presence, in open court, and filed with the clerk, and remain in his office as a public record; but if the defendant has not been held to answer the charge, neither the indictment nor any order or process in relation thereto must be inspected by any person other than the judge of the court or an officer thereof in discharge of a duty concerning the same until after the arrest of the defendant.

Grand juror or officer not to disclose indictment when not subject to public inspection.

SEC. 32. That no grand juror or officer of the court shall disclose any fact concerning such indictment while it is not subject to public inspection; and the violation of this section, or the prohibitions of the section last preceding, is punishable as a contempt.

Proceeding when indictment not found "a true bill."

SEC. 33. That when a person has been held to answer a criminal charge, and the indictment in relation thereto is not found "a true bill," as provided in section twenty-nine of this Title, it must be indorsed "not a true bill," which indorsement must be signed by the foreman, and presented to the court and filed with the clerk, and remain a public record; but in the case of an indictment not found "a true bill" against a person not so held, the same, together with the minutes of the evidence in relation thereto, must be destroyed by the grand jury.

Indictment, effect of when returned "not a true bill."

SEC. 34. That when an indictment indorsed "not a true bill" has been presented in court and filed, the effect thereof is to dismiss the charge; and the same can not be again submitted to or inquired of by the grand jury, unless the court so order.

Presentment, definition of, and how made.

SEC. 35. That a presentment of the facts must be made to the court by the foreman in the presence of the grand jury, and with the concurrence of five of their number; but being a mere informal statement of facts for the purpose of obtaining the advice of the court as to the law arising thereon, is not to be filed in the court or preserved beyond the sitting of the grand jury.

CHAPTER SEVEN.

OF THE INDICTMENT.

- Sec. 36. Forms of pleading.
- 37. Indictment, the first pleading.
- 38. Indictment, what to contain.
- 39. Form of indictment.
- 40. Manner of stating act constituting the crime.
- 41. Indictment must be direct and certain as to what.
- 42. Proceedings when defendant indicted by fictitious name.
- 43. Indictment must charge but one crime and in one form.
- 44. Time, when material, to be stated precisely, otherwise not.
- 45. Statement as to person injured or intended to be.
- 46. What description of animal sufficient.
- 47. Construction of words.
- 48. Words of statute need not be strictly pursued.
- 49. Indictment, when sufficient.
- 50. Indictment not sufficient for defect of form.

- Sec. 51. Presumptions of law or matters judicially known need not be stated.
- 52. Pleading a judgment or proceeding before a court of special jurisdiction.
- 53. Private statute, how pleaded.
- 54. Pleading in indictment for libel.
- 55. Indictment for forgery when instrument has been withheld or destroyed by defendant.
- 56. Pleadings in indictment for perjury or subornation of perjury.
- 57. One or more defendants in same indictment may be convicted or acquitted.
- 58. Distinction between persons committing and aiding in commission of felony abrogated.
- 59. Accessory after fact may be tried before principal.
- 60. Indictment for compounding crime though the person committing the same has not been indicted.

SEC. 36. That the forms of pleading and the rules by which the sufficiency of pleadings is to be determined are those prescribed by this Act.

Forms of pleading.

SEC. 37. That the first pleading on the part of the United States is the indictment.

Indictment, the first pleading.

SEC. 38. That the indictment must contain—

Indictment, what to contain.

First. The title of the action, specifying the name of the court to which the indictment is presented and the names of the parties.

Second. A statement of the facts constituting the offense in ordinary and concise language, without repetition, and in such manner as to enable a person of common understanding to know what is intended.

SEC. 39. That the indictment may be substantially in the following form:

Form of indictment.

“ THE UNITED STATES OF AMERICA } District court for the
 “ v. } District of Alaska,
 “ A B. } division No. .

“ A B is accused by the grand jury of the District of Alaska, division No. , by this indictment, of the crime of ” (here insert the name of the crime, if it have one, such as treason, murder, arson, manslaughter, or the like, or if it be a crime having no general name, such as libel, assault and battery, and the like, insert a brief description of it as given by law) “ committed as follows:

“The said A B, on the day of , eighteen hundred and , in the District aforesaid” (here set forth the act charged as a crime according to the form adapted to the case, as provided in the next section).

“Dated at , in the District aforesaid, the day of ; eighteen hundred and .”

(Signed)

“C D, District Attorney.”

(Indorsed:) “A true bill.”

(Signed)

“E F, Foreman of the Grand Jury.”

SEC. 40. That the manner of stating the act constituting the crime, as set forth in the appendix to this Act, is sufficient in all cases where the forms there given are applicable, and in other cases forms may be used as nearly similar as the nature of the case will permit.

Manner of stating act constituting the crime.

SEC. 41. That the indictment must be direct and certain as it regards:

Indictment must be direct and certain as to what.

- First. The party charged;
- Second. The crime charged; and

Third. The particular circumstances of the crime charged when they are necessary to constitute a complete crime.

Proceedings when defendant indicted by fictitious name.

SEC. 42. That when a defendant is indicted by a fictitious or erroneous name, and in any stage of the proceedings his true name is discovered, it may be inserted in the subsequent proceedings, referring to the fact of his being indicted by the name mentioned in the indictment.

Indictment must charge but one crime and in one form.

SEC. 43. That the indictment must charge but one crime, and in one form only; except that where the crime may be committed by use of different means the indictment may allege the means in the alternative.

Time, when material, to be stated precisely; otherwise not.

SEC. 44. That the precise time at which the crime was committed need not be stated in the indictment, but it may be alleged to have been committed at any time before the finding thereof, and within the time in which an action may be commenced therefor, except where time is a material ingredient in the crime.

Statement as to person injured or intended to be.

SEC. 45. That when a crime involves the commission of or an attempt to commit a private injury, and is described with sufficient certainty in other respects to identify the act, an erroneous allegation as to the person injured or intended to be injured is not material.

What description of animal sufficient.

SEC. 46. That when a crime involves the taking of or injury to an animal, the indictment is sufficiently certain in that respect if it describes the animal by the common name of its class.

Construction of words.

SEC. 47. That the words used in an indictment must be construed in their usual acceptation in common language, except words and phrases defined by law, which are to be construed according to their legal meaning.

Words of statute need not be strictly pursued.

SEC. 48. That words used in a statute to define a crime need not be strictly pursued in the indictment, but other words conveying the same meaning may be used.

Indictment, when sufficient.

SEC. 49. That the indictment is sufficient if it can be understood therefrom:

First. That it is entitled in a court having authority to receive it, though the name of the court be not accurately stated;

Second. That it was found by a grand jury of the political division in which the court was held;

Third. That the defendant is named, or if his name can not be discovered, that he is described by a fictitious name, with the statement that his real name is to the jury unknown;

Fourth. That the crime was committed within the jurisdiction of the court;

Fifth. That the crime was committed at some time prior to the finding of the indictment, and within the time limited by law for the commencement of an action therefor;

Sixth. That the act or omission charged as the crime is clearly and distinctly set forth in ordinary and concise language, without repetition, and in such manner as to enable a person of common understanding to know what is intended;

Seventh. That the act or omission charged as the crime is stated with such a degree of certainty as to enable the court to pronounce judgment, upon a conviction, according to the right of the case.

Indictment not sufficient for defect of form.

SEC. 50. That no indictment is insufficient, nor can the trial, judgment, or other proceedings thereon be affected by reason of a defect or imperfection in matter of form, which does not tend to the prejudice of the substantial rights of the defendant upon the merits.

Presumptions of law or matters judicially known need not be stated.

SEC. 51. That neither presumptions of law nor matters of which judicial notice is taken need be stated in an indictment.

Pleading a judgment or proceeding before a court of special jurisdiction.

SEC. 52. That in pleading a judgment or other determination of or proceeding before a court or officer of special jurisdiction it is not necessary to state the facts conferring jurisdiction; but the judgment, determination, or proceeding may be stated to have been duly given or made. The facts conferring jurisdiction, however, must be established on the trial.

Private statute, how pleaded.

SEC. 53. That in pleading a private statute, or right derived therefrom, it is sufficient to refer to the statute by its title and the day of its passage, and the court must thereupon take judicial notice thereof.

SEC. 54. That an indictment for libel need not set forth any extrinsic facts, for the purpose of showing the application to the party libeled of the defamatory matter on which the indictment is founded; but it is sufficient to state generally that the same was published concerning him; and the fact that it was so published must be established on the trial.

Pleading in indictment for libel.

SEC. 55. That when an instrument which is the subject of an indictment for forgery has been destroyed or withheld by the act or procurement of the defendant, and the fact of the destruction or withholding is alleged in the indictment and established on the trial, the misdescription of the instrument is immaterial.

Indictment for forgery when instrument has been withheld or destroyed by defendant.

SEC. 56. That in an indictment for perjury or subornation of perjury, it is sufficient to set forth the substance of the controversy or matter in respect to which the crime was committed, and in what court, or before whom, the oath alleged to be false was taken, and that the court or person before whom it was taken had authority to administer it, with proper allegations of the falsity of the matter on which the perjury is assigned; but the indictment need not set forth the pleadings, record, or proceedings with which the oath is connected, nor the commission or authority of the court or person before whom the perjury was committed.

Pleadings in indictment for perjury or subornation of perjury.

SEC. 57. That upon an indictment against several defendants, any one or more may be convicted or acquitted.

One or more defendants in same indictment may be convicted or acquitted.

SEC. 58. That the distinction between an accessory before the fact and a principal, and between principals in the first and second degree in cases of felony, is abrogated, and all persons concerned in the commission of a felony, whether they directly commit the act constituting the crime, or aid and abet in its commission, though not present, must be indicted, tried, and punished as principals, as in the case of a misdemeanor.

Distinction between persons committing and aiding in commission of felony abrogated.

SEC. 59. That an accessory after the fact to the commission of a felony may be indicted, tried, and punished, though the principal felon be neither indicted nor tried.

Accessory after fact may be tried before principal.

SEC. 60. That a person may be indicted for having, with the knowledge of the commission of a crime, taken money or property of another, or a gratuity or a reward, or an engagement or promise thereof, upon an agreement or understanding, express or implied, to compound or conceal the crime, or to abstain from a prosecution therefor, or to withhold any evidence thereof, though the person guilty of the original crime has not been indicted or tried.

Indictment for compounding crime though the person committing the same has not been indicted.

CHAPTER EIGHT.

OF THE ARRAIGNMENT OF THE DEFENDANT.

Sec.	Sec.
61. Defendant, when and where arraigned	71. If defendant in custody, may be brought in by order.
62. Arraignment, how made.	72. If discharged on bail or deposit, bench warrant may issue.
63. Defendant to be informed that he is entitled to counsel.	73. Bench warrant, by whom and how issued.
64. Defendant to be requested to declare his true name.	74. If crime bailable, indorsement on.
65. Proceeding if the defendant do not give his true name.	75. Warrant to issue on application of district attorney.
66. Proceeding when defendant gives another name.	76. Bench warrant, form of.
67. Time allowed the defendant to answer the indictment.	77. When defendant must be taken before magistrate.
68. How defendant may answer indictment.	78. Proceeding on putting in bail.
69. If defendant refuse to plead, plea of not guilty to be entered.	79. Same subject.
70. Personal appearance at arraignment, when necessary.	80. Court may order defendant into custody unless increased bail be given.
	81. Defendant, if present, to be committed; if not, bench warrant to issue.

Defendant, when and where arraigned.

SEC. 61. That when the indictment has been filed, the defendant, if he has been arrested, or as soon thereafter as he may be, must be arraigned thereon before the court in which it is found.

Arraignment, how made.

SEC. 62. That the arraignment must be made by the court, or by the clerk or the district attorney under its direction, and consists in reading the indictment to the defendant, and delivering to him a copy thereof and the indorsements thereon, including the list of witnesses indorsed on it or appended thereto, and asking him whether he pleads guilty or not guilty to the indictment.

Defendant to be informed that he is entitled to counsel.

SEC. 63. That if the defendant appear for arraignment without counsel, he must be informed by the court that it is his right to have counsel before being arraigned, and must be asked if he desires the aid of counsel.

Defendant to be requested to declare his true name.

SEC. 64. That when the defendant is arraigned, he must be informed that if the name by which he is indicted be not his true name he must then declare his true name, or be proceeded against by the name in the indictment.

Proceeding if the defendant do not give his true name.

SEC. 65. That if the defendant give no other name, the court may proceed accordingly.

Proceeding when defendant gives another name.

SEC. 66. That if the defendant allege that another name is his true name, the court must direct an entry thereof to be made in its journal and the subsequent proceedings on the indictment may be had against him by that name, referring also to the name by which he is indicted.

Time allowed the defendant to answer the indictment.

SEC. 67. That if, on the arraignment, the defendant require it, he must be allowed until the next day, or such further time as the court may deem reasonable, to answer the indictment.

How defendant may answer indictment.

SEC. 68. That if the defendant do not require time as provided in the last section, or if he do, then on the next day, or at such further day as the court may have allowed him, he may, in answer to the arraignment, either move the court to set aside the indictment or may demur or plead thereto.

If defendant refuse to plead, plea of not guilty to be entered.

SEC. 69. That if the defendant, within the time required, refuse to demur or plead to the indictment, the court must direct that a plea of not guilty be entered for him.

Personal appearance at arraignment, when necessary.

SEC. 70. That when the indictment is for a felony the defendant must be personally present at the arraignment, but if it be for a misdemeanor only, and the defendant has been held to answer to the charge, his personal appearance is unnecessary, and he may appear by counsel.

If defendant in custody, may be brought in by order.

SEC. 71. That when the personal appearance of the defendant is necessary, if he be in custody, the court may direct the proper officer to bring him before it to be arraigned, and the officer must do so accordingly.

If discharged on bail or deposit, bench warrant may issue.

SEC. 72. That if the defendant has given bail, or has deposited money in lieu thereof, and does not appear to be arraigned when his personal appearance is necessary therefor, the court, in addition to the forfeiture of the undertaking of bail or of the money deposited in lieu thereof, may order the clerk to issue a bench warrant for his arrest.

Bench warrant, by whom and how issued.

SEC. 73. That when an indictment is filed in court, if the defendant has not been arrested and held to answer the charge, unless he voluntarily appear for arraignment the court must order the clerk to issue a bench warrant for his arrest.

If crime bailable, indorsement on.

SEC. 74. That if the crime charged in the indictment be bailable, the court, upon directing the bench warrant to issue, must fix the amount of bail, and the clerk must indorse the same upon such warrant and sign it, substantially as follows: "The defendant is to be admitted to bail in the sum of _____ dollars."

Warrant to issue on application of district attorney.

SEC. 75. That at any time after the making of the order for the bench warrant, the clerk, on the application of the district attorney, must issue such warrant as by order directed, whether the court be sitting or not.

Bench warrant, form of.

SEC. 76. That the bench warrant upon the indictment must be substantially in the following form:

Division No. .

“District court for the District of Alaska. In the name of the United States of America.

“To the United States marshal for the District of Alaska, or any deputy, greeting:

“An indictment having been found on the day of , hundred and , in the district court for the District aforesaid, division No. , charging A B with the crime of (designating it generally), this is to command you forthwith to arrest the defendant, and bring him before such court to answer the indictment, or, if the court have adjourned for the term, that you detain him in your custody. By order of the court.

“Witness my hand and seal of said district court, affixed at this day of , hundred and .

[L. S.] “C D, Clerk.”

SEC. 77. That when the crime is bailable, and the defendant requires it, the officer making the arrest must take him before the court if in session, and if the court is not in session, before a commissioner for the purpose of putting in bail, and thereupon such commissioner must proceed in respect thereto according to the provisions of chapter twenty-two of this Act, entitled “Bail.”

When defendant must be taken before magistrate.

SEC. 78. That if bail be taken, the court or the commissioner must make the order prescribed by section two hundred and twenty-three of this Title, and deliver it to the officer, who must thereupon discharge the defendant, and without delay return the warrant and order to the clerk of the court at which the defendant is required to appear.

Proceeding on putting in bail.

SEC. 79. That if the bail be not allowed, the officer must take the defendant before the court or commit him to the custody of the jailer, according to the command of the warrant.

Same subject.

SEC. 80. That although the defendant has put in bail to answer the charge or the indictment, the court may, at any time after the indictment is found, order the defendant into actual custody, unless he give bail with new surieties or in an increased amount, to be specified in the order.

Court may order defendant into custody unless increased bail be given.

SEC. 81. That if the defendant be present when the order is made, he must be forthwith committed accordingly; but if he be not present, a bench warrant must be issued and proceeded upon in the manner provided in this chapter.

Defendant, if present, to be committed; if not, bench warrant to issue.

CHAPTER NINE.

OF SETTING ASIDE THE INDICTMENT.

Sec. 82. Indictment, when set aside on motion.
83. Motion to set aside, when made and heard.
84. Motion, if granted, proceeding thereon.

Sec. 85. Effect of order for resubmission.
86. New indictment in such case, when to be found.
87. Indictment, order to set aside no bar to further prosecution.

SEC. 82. That the indictment must be set aside by the court, upon the motion of the defendant, in either of the following cases:

Indictment, when set aside on motion.

First. When it is not found, indorsed, and presented as prescribed in chapter six of title two of this Act;

Second. When the names of the witnesses examined before the grand jury are not inserted at the foot of the indictment or indorsed thereon.

SEC. 83. That the motion to set aside the indictment must be made and heard at the time of the arraignment, unless for good cause the court postpone the hearing to a future time, and if not so made, the defendant is precluded from afterwards taking the objections mentioned in the section last preceding.

Motion to set aside, when made and heard.

SEC. 84. That if the motion be allowed, the court must order that the defendant, if in custody, be discharged therefrom; or if he have

Motion, if granted, proceeding thereon.

given bail or deposited money in lieu thereof, that his bail be exonerated or his money refunded to him, unless it direct that the case be resubmitted to the same or another grand jury.

Effect of order for resubmission.

SEC. 85. That if the court direct that the case be resubmitted, the defendant, if then in custody, must so remain, unless he be admitted to bail; or if he have already given bail, or deposited money in lieu thereof, such bail or money is answerable for the appearance of the defendant to answer a new indictment, if one be found.

New indictment in such case, when to be found.

SEC. 86. That unless a new indictment be found before the next grand jury is discharged, the court must, on the discharge of such grand jury, make the order prescribed by section eighty-four of this Title.

Indictment, order to set aside no bar to further prosecution.

SEC. 87. That an order to set aside an indictment, as provided in this chapter, is no bar to a future prosecution for the same crime.

CHAPTER TEN.

OF THE DEMURRER.

- Sec. 88. Demurrer or plea only pleading on part of defendant.
- 89. Demurrer or plea, when put in.
- 90. Demurrer, grounds of.
- 91. Demurrer, how put in and its form.
- 92. Demurrer, when heard.
- 93. Judgment on demurrer.

- Sec. 94. Proceeding when demurrer allowed.
- 95. If resubmission not ordered, defendant to be discharged.
- 96. Proceeding if resubmission ordered.
- 97. Proceeding if demurrer be disallowed.
- 98. What objections may be taken at the trial or in arrest of judgment.

Demurrer or plea only pleading on part of defendant.

SEC. 88. That the only pleading on the part of the defendant is either a demurrer or plea.

Demurrer of plea, when put in.

SEC. 89. That both the demurrer and plea must be put in, in open court, either at the time of the arraignment or at such other time as may be allowed to defendant for that purpose.

Demurrer, grounds of.

SEC. 90. That the defendant may demur to the indictment when it appears upon the face thereof either—

First. That the grand jury by which it was found had no legal authority to inquire into the crime charged, because the same is not triable within the District.

Second. That it does not substantially conform to the requirements of chapter seven of title two of this Act.

Third. That more than one crime is charged in the indictment.

Fourth. That the facts stated do not constitute a crime.

Fifth. That the indictment contains any matter which, if true, would constitute a legal justification or excuse of the crime charged, or other legal bar to the action.

Demurrer, how put in and its form.

SEC. 91. That the demurrer must be in writing, signed either by the defendant or his attorney, and filed. It must distinctly specify the ground of objection to the indictment, or it may be disregarded.

Demurrer, when heard.

SEC. 92. That upon the demurrer being filed, the objections presented thereby must be heard, either immediately or at such time as the court may direct.

Judgment on demurrer.

SEC. 93. That upon considering the demurrer, the court must give judgment, either allowing or disallowing it, and an entry to that effect must be entered in the journal.

Proceeding when demurrer allowed.

SEC. 94. That if the demurrer be allowed, the judgment is final upon the indictment demurred to, and is a bar to another action for the same crime, unless the court, being of opinion that the objection on which the demurrer is allowed may be avoided in a new indictment, direct the case to be resubmitted to the same or another grand jury.

If resubmission not ordered, defendant to be discharged.

SEC. 95. That if the court do not direct the case to be resubmitted, the defendant, if in custody, must be discharged, or if admitted to bail his bail is exonerated, or if he have deposited money in lieu thereof the money must be refunded to him.

Proceeding if resubmission ordered.

SEC. 96. That if the court direct the case to be resubmitted, the same proceedings must be had thereon as are prescribed in sections eighty-five and eighty-six of this Title.

SEC. 97. That if the demurrer be disallowed, the court must permit the defendant, at his election, to plead, which he must do forthwith, or at such time as the court may allow; but if he do not plead, judgment must be given against him.

Proceeding if demurrer be disallowed.

SEC. 98. That when the objections mentioned in section ninety-three appear upon the face of the indictment, they can only be taken by demurrer, except that the objection to the jurisdiction of the court over the subject of the indictment, or that the facts stated do not constitute a crime, may be taken at the trial, under the plea of not guilty and in arrest of judgment.

What objections may be taken at the trial or in arrest of judgment.

CHAPTER ELEVEN.

OF PLEAS TO THE INDICTMENT.

Sec.
99. The different kinds of pleas.
100. Plea, how put in, and its form.
101. Plea of guilty must be put in in person, except in case of corporation.
102. Plea of guilty, when and how withdrawn.
103. Plea of not guilty, what it controverts.

Sec.
104. Plea of not guilty, what may be given in evidence under it.
105. What is not deemed a former acquittal.
106. What is deemed a former acquittal.
107. Conviction or acquittal for crime consisting of different degrees, when a bar to another indictment.

SEC. 99. That there are three kinds of pleas to an indictment; a plea of—

The different kinds of pleas.

First. Guilty.

Second. Not guilty.

Third. A former judgment of conviction or acquittal of the crime charged, which may be pleaded either with or without the plea of not guilty.

SEC. 100. That every plea must be oral, and must be entered on the journal of the court in substantially the following form:

Plea, how put in and its form.

First. If the defendant pleads guilty: "The defendant pleads that he is guilty of the crime charged in this indictment."

Second. If he pleads not guilty: "The defendant pleads that he is not guilty of the crime charged in this indictment."

Third. If he pleads a former conviction or acquittal: "The defendant pleads that he has already been convicted (or acquitted, as the case may be) of the crime charged in this indictment by the judgment of the court of (naming it), rendered at (naming the place), on the day of , eighteen hundred and ."

SEC. 101. That a plea of guilty must in all cases be put in by the defendant in person, in open court, unless upon an indictment against a corporation, in which case it may be put in by counsel.

Plea of guilty must be put in person, except in case of corporation.

SEC. 102. That the court may at any time before judgment, upon a plea of guilty, permit it to be withdrawn and a plea of not guilty substituted therefor.

Plea of guilty, when and how withdrawn.

SEC. 103. That the plea of not guilty controverts and is a denial of every material allegation in the indictment.

Plea of not guilty, what it controverts.

SEC. 104. That all matters of fact tending to establish a defense to the charge in the indictment, other than those specified in the third subdivision of section ninety-nine of this Title, may be given in evidence under the plea of not guilty.

Plea of not guilty, what may be given in evidence under it.

SEC. 105. That if the defendant were formerly acquitted on the ground of a variance between the indictment and the proof, or the indictment were dismissed upon a demurrer to its form or substance, or discharged for want of prosecution, without a judgment of acquittal or in bar of another prosecution, it is not an acquittal of the same crime.

What is not deemed a former acquittal.

SEC. 106. That when, however, the defendant was acquitted on the merits, he is deemed acquitted of the same crime, notwithstanding a defect in form or substance in the indictment on which he was acquitted.

What is deemed a former acquittal.

Conviction or acquittal for crime consisting of different degrees, when a bar to another indictment.

SEC. 107. That when the defendant shall have been convicted or acquitted upon the indictment for a crime consisting of different degrees, such conviction or acquittal is a bar to another indictment for the crime charged in the former, or for any inferior degree of that crime, or for an attempt to commit the same, or for an offense necessarily included therein, of which he might have been convicted under that indictment, as provided in sections one hundred and forty-six and one hundred and forty-seven of this Title.

CHAPTER TWELVE.

OF ISSUES OF LAW AND FACT.

Sec.

108. Issue of fact, definition of.
109. Issue of law, definition of.
110. Issue of law or fact, how tried.

Sec.

111. When defendant must appear in person on trial.

Issue of fact, definition of.

SEC. 108. That an issue of fact arises—

First. Upon a plea of not guilty; or,

Second. Upon a plea of former conviction or acquittal of the same crime.

Issue of law, definition of.

SEC. 109. That an issue of law arises upon a demurrer to the indictment.

Issue of law or fact, how tried.

SEC. 110. That an issue of law must be tried by the court, and an issue of fact by jury, of the political division in which the action is triable.

When defendant must appear in person on trial.

SEC. 111. That if the indictment be for a misdemeanor, the trial may be had in the absence of the defendant, if he appear by counsel; but if it be for a felony, he must be present in person.

CHAPTER THIRTEEN.

OF THE POSTPONEMENT OF TRIAL.

Sec.

112. Postponement of trial, when and how allowed.
113. May be refused unless party consent to take deposition of witness.
114. Order for taking the deposition.
115. Deposition to be filed, and when may be read.

Sec.

116. When court may order indictment discharged for want of prosecution.
117. Effect of such discharge.
118. Proceeding upon discharge in relation to bail.

Postponement of trial, when and how allowed.

SEC. 112. That when an indictment is at issue upon a question of fact, and before the same is called for trial, the court may, upon sufficient cause shown by such affidavits as the defendant, may produce, or the statement of the district attorney, direct the trial to be postponed to another day in the same term or to another term; and all affidavits and papers read on either side upon the application must be first filed with the clerk.

May be refused unless party consents to take deposition of witness.

SEC. 113. That when an application is made for the postponement of a trial, the court may, in its discretion and in the furtherance of justice, require as a condition precedent to granting the same that the party applying therefor consent that the deposition of a witness or witnesses present may be taken and read on the trial of the case, and unless such consent be given may refuse to allow such postponement for any cause.

Order for taking the deposition.

SEC. 114. That when such consent is given, the court must make an order appointing some proper time and place for taking the deposition of such witness, either by the judge thereof or before some suitable person to be named therein as commissioner, upon either written or oral interrogatories.

Deposition to be filed, and when may be read.

SEC. 115. That upon the making of the order provided in the last preceding section, the deposition must be taken and filed in court, and may be read on the trial of the case, in like manner and with like effect and subject to the same objections as in civil cases.

SEC. 116. That if, when the indictment is called for trial, the defendant appear for trial, and the district attorney is not ready and does not show any sufficient cause for postponing the trial, the court must order the indictment to be discharged, unless, being of opinion that the public interests require the indictment to be retained for trial, it direct it to be so retained.

When court may order indictment discharged for want of prosecution.

SEC. 117. That if the court order the indictment to be discharged, the order is not a bar to another action for the same crime, unless the court so direct; and if the court so direct, judgment of acquittal must be entered.

Effect of such discharge.

SEC. 118. That if, upon the discharge of the indictment, the court give a judgment of acquittal, the same proceedings must be had thereon, in relation to the custody of the defendant, his bail or money deposited in lieu thereof, as are prescribed in section ninety-five of this Title.

Proceeding upon discharge in relation to bail.

CHAPTER FOURTEEN.

OF THE FORMATION OF THE TRIAL JURY.

- Sec.
- 119. Trial jurors, how selected.
 - 120. Formation of jury.
 - 121. Challenge to the panel.
 - 122. Peremptory challenges defined.
 - 123. Challenge for cause defined.
 - 124. General causes of challenge.
 - 125. Particular causes of challenge.
 - 126. Challenge for implied bias.
 - 127. Challenge for actual bias.
 - 128. Exemption from service on jury.

- Sec.
- 129. Challenges, how and when taken.
 - 130. Order of taking challenges.
 - 131. Trial of challenge.
 - 132. Proceedings and evidence on trial of challenge.
 - 133. Challenge may be oral.
 - 134. Challenges, by whom and how taken.
 - 135. Peremptory challenges, number of.
 - 136. Oath of jury.

SEC. 119. That jurors for the trial of persons accused of any of the crimes defined in the laws of the United States applicable to the District of Alaska, as hereby revised and codified, and for the trial of issues of fact in civil actions, shall be selected and summoned in the manner prescribed by the laws of the United States with respect to jurors of the United States district and circuit courts, and shall have the same qualifications and be entitled to the same exemptions as are provided in chapter four, title two of this Act in the case of grand juries.

Trial jurors, how selected.

SEC. 120. That trial juries shall be formed as follows: When the action is called for trial the clerk shall draw from the trial-jury box of the court, one by one, the ballots containing the names of the jurors until the jury is completed or the ballots are exhausted. If the ballots become exhausted before the jury is complete, the marshal, under the direction of the court, shall summon from the bystanders or the body of the District so many qualified persons as may be necessary to complete the jury. Whenever, as in this section provided, the marshal shall summon more than one person at a time from the bystanders or the body of the District, he shall return a list of the persons so summoned to the clerk. The clerk shall write the names of such persons upon separate ballots and deposit the same in the trial-jury box, and then draw such ballots therefrom, as in the case of the panel of trial jurors for the term. The jury shall consist of twelve persons, unless in trials for misdemeanors the parties consent to a less number. Such consent shall be entered in the journal.

Formation of jury.

SEC. 121. That no challenge shall be made or allowed to the panel. A challenge is an objection to a particular juror, and may be either
 First. Peremptory; or,
 Second. For cause.

Challenge to the panel.

SEC. 122. That a peremptory challenge is an objection to a juror for which no reason need be given, but upon which the court shall exclude him.

Peremptory challenges defined.

Challenge for cause defined.

SEC. 123. That a challenge for cause is an objection to a juror, and may be either

First. General; that the juror is disqualified from serving in any action; or,

Second. Particular; that he is disqualified from serving in the action on trial.

General causes of challenge.

SEC. 124. That general causes of challenge are:

First. A conviction for felony;

Second. A want of any of the qualifications prescribed by law for a juror;

Third. Unsoundness of mind, or such defect in the faculties of the mind or organs of the body as renders him incapable of performing the duties of juror.

Particular causes of challenge.

SEC. 125. That particular causes of challenge are of two kinds—

First. For such bias as, when the existence of the facts is ascertained, in judgment of law disqualifies the juror, and which is known in this code as implied bias.

Second. For the existence of a state of mind on the part of a juror in reference to the action or to either party which satisfies the trier, in the exercise of a sound discretion, that he can not try the issue impartially and without prejudice to the substantial rights of the party challenging, and which is known in this code as actual bias.

Challenge for implied bias.

SEC. 126. That a challenge for implied bias may be taken for any of the following causes, and for no other:

First. Consanguinity or affinity within the fourth degree to the person alleged to be injured by the crime charged in the indictment, or the person indorsed thereon as the prosecutor, or to the defendant.

Second. Standing in the relation of guardian and ward, attorney and client, master and servant, or landlord and tenant, with the defendant, or the person alleged to be injured by the crime charged in the indictment, or indorsed thereon as prosecutor, or being a member of the family, a partner in business with or in the employment on wages for either of such persons, or being surety or bail in the action or otherwise for the defendant.

Third. Having served on the grand jury which found the indictment, or on a coroner's jury which inquired into the death of a person whose death is the subject of the indictment.

Fourth. Having been one of a jury formerly sworn in the same action, and whose verdict was set aside, or which was discharged without a verdict, after the cause was submitted to it.

Fifth. Having served as a juror in a civil action, suit, or proceeding brought against the defendant for substantially the same act charged as a crime.

Sixth. If the offense charged be punishable with death, the entertaining of such conscientious opinions as would preclude a person from finding the defendant guilty; in which case he shall neither be permitted nor compelled to serve as a juror.

Challenge for actual bias.

SEC. 127. That a challenge for actual bias may be taken for the cause mentioned in the second subdivision of section one hundred and twenty-eight. But on the trial of such challenge, although it should appear that the juror challenged has formed or expressed an opinion upon the merits of the cause from what he may have heard or read, such opinion shall not of itself be sufficient to sustain the challenge, but the court must be satisfied, from all the circumstances, that the juror can not disregard such opinion and try the issue impartially.

Exemption from service on jury.

SEC. 128. That an exemption from service on a jury shall not be cause of challenge, but the privilege of the person exempted.

Challenges, how and when taken.

SEC. 129. That all challenges shall be taken first by the defendant and then by the plaintiff, and the defendant shall exhaust his challenges to a particular juror before the plaintiff begins. All challenges shall be taken to each juror as he is drawn and appears, and before another juror is drawn, unless the court, for good cause shown, shall permit a challenge to be taken afterwards, and before the number of the jury is completed.

SEC. 130. That the challenge of either party shall be taken separately, in the following order, including in each challenge all the causes of challenge belonging to the same class: Order of taking challenges.

First. For general disqualification.

Second. For implied bias.

Third. For actual bias.

Fourth. Peremptory; but either party may take peremptory challenge at any time before his right of challenge ceases.

SEC. 131. That the challenge may be excepted to by the adverse party for insufficiency, and if so the court shall determine the sufficiency thereof, assuming the facts alleged therein to be true. The challenge may be denied by the adverse party, and if so the court shall try the issue and determine the law and the fact. Trial of challenge.

SEC. 132. That upon the trial of a challenge the rules of evidence applicable to testimony offered upon the trial of an ordinary issue of fact shall govern. The juror challenged, or any other person otherwise competent, may be examined as a witness by either party. If a challenge be determined to be sufficient or found to be true, as the case may be, it shall be allowed, and the juror to whom it was taken excluded. But if determined or found otherwise, it shall be disallowed. Proceedings and evidence on trial of challenge.

SEC. 133. That the challenge, the exception, and the denial may be made orally. The judge of the court shall note the same upon his minutes, and the substance of the testimony on either side. Challenge may be oral.

SEC. 134. All challenges, whether peremptory or for cause, may be taken by the United States or defendant, but when several defendants are tried together they can not sever their challenges, but must join therein. Challenges, by whom and how taken.

SEC. 135. That if the crime charged in the indictment be punishable with death, the defendant shall be entitled to twenty and the United States to ten peremptory challenges. On the trial of any other felony, the defendant shall be entitled to ten and the United States to five peremptory challenges, and in all other cases each party shall be entitled to three peremptory challenges. Peremptory challenges, number of

SEC. 136. That as soon as the number of the jury has been completed, an oath or affirmation shall be administered to the jurors in substance, that they and each of them will well and truly try the matter in issue between the plaintiff and defendant, and a true verdict give according to the law and evidence as given them on the trial. Oath of jury.

CHAPTER FIFTEEN.

OF THE CONDUCT OF THE TRIAL AND MISCELLANEOUS PROVISIONS RELATING THERETO.

- Sec.
- 137. Order of proceedings on trial.
 - 138. Conduct of jury after case is submitted.
 - 139. For what cause court may discharge jury.
 - 140. Jury may be polled.
 - 141. When jury to ascertain value of property.
 - 142. Insanity must be proven; intoxication not to be deemed insanity.
 - 143. Defendant to be convicted of the lowest degree in case of doubt.
 - 144. When defendants jointly indicted entitled to separate trial.
 - 145. When one of several defendants may be discharged as a witness for the State.
 - 146. When one may be discharged to be a witness for defendant.
 - 147. Effect of such discharge.
 - 148. Law of evidence in criminal cases.

- Sec.
- 149. Defendant can be witness.
 - 150. Husband or wife can be witness for or against each other in certain cases.
 - 151. Evidence in criminal actions to be given orally, except.
 - 152. Error in proceedings not material, unless it prejudice substantial rights of defendant.
 - 153. Testimony of accomplice must be corroborated.
 - 154. Evidence on trial for false pretenses.
 - 155. Evidence of female abducted or seduced must be corroborated.
 - 156. Court to decide questions of law; knowledge of the court.
 - 157. Jury to receive the law from the court and to decide the facts.
 - 158. Defendant may be committed after appearance.

SEC. 137. That after the jury is impaneled and sworn, the trial shall proceed in the following order: Order of proceedings on trial.

First. A counsel for the United States must state the case of the

prosecution, and may briefly state the evidence by which he expects to sustain it.

Second. The defendant, or his counsel, must then state his defense, and may briefly state the evidence he expects to offer in support of it.

Third. The United States must first produce its evidence; and the defendant will then produce his evidence.

Fourth. The United States will then be confined to rebutting evidence, unless the court, for good reasons, in furtherance of justice, permit it to offer evidence in chief.

Fifth. When the evidence is concluded, either party may request instructions to the jury on points of law, which shall be given or refused by the court; which instructions shall be reduced to writing if either party request it.

Sixth. When the evidence is concluded, unless the case be submitted without argument, the counsel for the United States shall commence, the defendant or his counsel follow, and the counsel for the United States conclude, the argument to the jury.

Seventh. The court, after the argument is concluded, shall immediately, and before proceeding with other business, charge the jury; which charge, or any charge given after the conclusion of the argument, shall be reduced to writing by the court, if either party request it before the argument of the trial is commenced; such charge or charges, or any other charge or instructions provided for in this section, when so written and given, shall in no case be orally qualified, modified, or in any manner explained to the jury by the court; and all written charges and instructions shall be taken by the jury in their retirement, and returned with their verdict into court, and shall remain on file with papers of the case.

Conduct of jury after case is submitted.

SEC. 138. That when a case is finally submitted, the jurors must be kept together in some convenient place under the charge of an officer until they agree upon a verdict or are discharged by the court; the officer having them in charge shall not suffer any communication to be made to them nor make any himself, except to ask them if they have agreed upon a verdict, unless by order of the court; nor shall he communicate to any person, before the verdict is delivered, any matter in relation to the state of their deliberations; and if the jurors be permitted to separate during the trial, they shall be admonished by the court that it is their duty not to converse with, nor to suffer themselves to be addressed by, any person, nor to listen to any conversation on the subject of the trial, nor to form or express an opinion thereon, until the case is finally submitted to them.

For what cause court may discharge jury.

SEC. 139. That the court may discharge a jury without prejudice to the prosecution for the sickness of a juror, the corruption of a juror, or other accident or calamity, or because there is no probability of the jurors agreeing, and the reason for the discharge shall be entered on the journal.

Jury may be polled.

SEC. 140. That when the jurors agree upon their verdict they must be conducted into court by the officer having them in charge; and before the verdict is accepted, the jury may be polled at the request of either the district attorney or the defendant.

When jury to ascertain value of property.

SEC. 141. That when an indictment charges an offense against property by larceny, embezzlement, or obtaining by false pretenses, the jury, on conviction, shall ascertain and declare in the verdict the value of the property stolen, embezzled, or falsely obtained.

Insanity must be proven; intoxication not to be deemed insanity.

SEC. 142. That no act committed by a person while in a state of voluntary intoxication shall be deemed less criminal by reason of his having been in such condition; but whenever the actual existence of any particular motive, purpose, or intent is a necessary element to constitute any particular species or degrees of crime, the jury may take into consideration the fact that the defendant was intoxicated at the time in determining the purpose, motive, or intent with which he committed the act.

SEC. 143. That when it appears that the defendant has committed a crime, and there is reasonable ground of doubt in which of two or more degrees he is guilty, he can be convicted of the lowest of those degrees only.

Defendant to be convicted in the lowest degree in case of doubt.

SEC. 144. That when two or more defendants are jointly indicted for a felony, any defendant requiring it must be tried separately; but in other cases defendants jointly indicted may be tried separately or jointly, in the discretion of the court.

When defendants jointly indicted entitled to separate trial.

SEC. 145. That when two or more persons are charged in the same indictment, the court may, at any time before the defendant has gone into his defense, on the application of the district attorney, direct any defendant to be discharged from the indictment, so that he may be a witness for the United States.

When one of several defendants may be discharged as a witness for the State.

SEC. 146. That when two or more persons are charged in the same indictment, and the court is of the opinion that, in regard to a particular defendant, there is not sufficient evidence to put him on his defense, it must, if requested by another defendant then on trial, order him to be discharged from the indictment, before the evidence is closed, that he may be a witness for his co-defendant.

When one may be discharged to be a witness for defendant.

SEC. 147. That the order provided for in the last two sections, when made, must state the reasons for making it; and it is an acquittal of the defendant discharged, and a bar to another prosecution for the same crime.

Effect of such discharge.

SEC. 148. That the law of evidence in civil actions is also the law of evidence in criminal actions and proceedings, except as otherwise specially provided in this Act.

Law of evidence in criminal cases.

SEC. 149. That in the trial of or examination upon all indictments, complaints, information, and other proceedings before any court, magistrate, jury, or other tribunal, against persons accused or charged with the commission of crimes or offenses, the person so charged or accused shall, at his own request, but not otherwise, be deemed a competent witness, the credit to be given to his testimony being left solely to the jury, under the instructions of the court, or to the discrimination of the magistrate, or other tribunal before which such testimony may be given: *Provided*, That his waiver of such right shall not create any presumption against him; that such defendant or accused, when offering his testimony as a witness in his own behalf, shall be deemed to have given to the prosecution a right to cross-examination.

Defendant can be witness.

Proviso.
No presumption from waiver.

SEC. 150. That in all criminal actions where the husband is the party accused, the wife shall be a competent witness, and when the wife is the party accused the husband shall be a competent witness; but neither husband nor wife, in such cases, shall be compelled or allowed to testify in such case unless by consent of both of them: *Provided*, That in all cases of personal violence upon either by the other, the injured party, husband or wife, shall be allowed to testify against the other.

Husband or wife can be witness for or against each other in certain cases.

Proviso.
Personal violence.

SEC. 151. That in a criminal action the testimony of a witness must be given orally in the presence of the court and jury, except in the case of a witness whose testimony is taken by deposition, by order of the court, in pursuance of the consent of the parties, as provided in chapter thirteen of this Act.

Evidence in criminal actions to be given orally, except.

SEC. 152. That neither a departure from the form or mode prescribed by this Act, in respect to any pleadings or proceedings, nor any error or mistake therein, renders it invalid, unless it have actually prejudiced the defendant, or tend to his prejudice in respect to a substantial right.

Error in proceedings not material, unless it prejudice substantial rights of defendant.

SEC. 153. That a conviction can not be had upon the testimony of an accomplice unless he be corroborated by such other evidence as tends to connect the defendant with the commission of the crime, and the corroboration is not sufficient if it merely show the commission of the crime or the circumstances of the commission.

Testimony of accomplice must be corroborated.

SEC. 154. That upon a trial for having, by any false pretense, obtained the signature of any person to any written instrument, or

Evidence on trial for false pretenses.

obtained from any person any valuable thing, no evidence can be admitted of a false pretense expressed orally and unaccompanied by a false token or writing; but such pretense, or some note or memorandum thereof, must be in writing, and either subscribed by or in the handwriting of the defendant. This section does not apply to an action for falsely representing or personating another, and in such assumed character receiving any such valuable thing.

Evidence of female abducted or seduced must be corroborated.

SEC. 155. That upon a trial for inveigling, enticing, or taking away an unmarried female for the purposes of prostitution, or for having seduced and had illicit connection with an unmarried female, the defendant can not be convicted upon the testimony of the female injured, unless she is corroborated by some other evidence tending to connect the defendant with the commission of the crime.

Court to decide questions of law; knowledge of the court.

SEC. 156. That all questions of law, including the admissibility of testimony, the facts preliminary to such admission, and the construction of statutes and other writings, and other rules of evidence, are to be decided by the court, and all discussions of law addressed to it; and whenever the knowledge of the court is by this Act made evidence of a fact, the court is to declare such knowledge to the jury, who are bound to accept it as conclusive.

Jury to receive the law from the court and to decide the facts.

SEC. 157. That although the jury have the power to find a general verdict, which includes questions of law as well as fact, they are bound, nevertheless, to receive as law what is laid down as such by the court; but all questions of fact other than those mentioned in the last section must be decided by the jury, and all evidence thereon addressed to them.

Defendant may be committed after appearance.

SEC. 158. That when a defendant who has given bail appears for trial, the court may, in its discretion, at any time after such appearance, order him to be committed to actual custody to abide the judgment or further order of the court; and he must be committed and held in custody accordingly.

CHAPTER SIXTEEN.

OF THE VERDICT.

Sec.

159. Jury may convict of any degree of the crime charged, or of an attempt to commit the crime.

160. Jury may convict of any crime necessarily included in that charged.

161. Jury may give verdict as to defendants concerning whom they agree, and cause others to be tried again.

Sec.

162. Custody of defendant when verdict given against him.

163. Proceeding when defendant acquitted on account of insanity.

Jury may convict of any degree of the crime charged, or of an attempt to commit the crime.

SEC. 159. That upon an indictment for a crime consisting of different degrees, the jury may find the defendant not guilty of the degree charged in the indictment and guilty of any degree inferior thereto, or of an attempt to commit the crime or any such inferior degree thereof.

Jury may convict of any crime necessarily included in that charged.

SEC. 160. That in all cases the defendant may be found guilty of any crime the commission of which is necessarily included in that with which he is charged in the indictment, or of an attempt to commit such crime.

Jury may give verdict as to defendants concerning whom they agree, and cause others to be tried again.

SEC. 161. That on an indictment against several, if the jury can not agree upon a verdict as to all, they may give a verdict as to those in regard to whom they do agree, on which a judgment must be given accordingly; and the case as to the rest of the defendants may be tried by another jury.

Custody of defendant when verdict given against him.

SEC. 162. That if a verdict be given against the defendant, he must be remanded if in custody; if he has given bail he may be permitted to await the judgment of the court upon the verdict. When committed his bail is exonerated, or if money be deposited in lieu thereof it must be refunded to the defendant.

SEC. 163. That if the defense be the insanity of the defendant the jury must be instructed, if they find him not guilty on that ground, to state that fact in their verdict, and the court must thereupon, if it deems his being at large dangerous to the public peace or safety, order him to be committed to any lunatic asylum authorized by the United States to receive and keep such persons until he become sane or be otherwise discharged therefrom by authority of law.

Proceedings when defendant acquitted on account of insanity.

CHAPTER SEVENTEEN.

OF EXCEPTIONS AND NEW TRIAL.

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| <p>Sec.
164. Definition of exception.
165. Exceptions, how taken.
166. When exceptions not taken or allowed.
167. Definition of new trial.</p> | <p>Sec.
168. For what causes granted.
169. Motion for new trial.
170. Same, when made.
171. Motion should state grounds.
172. Counter affidavit, when allowed.</p> |
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SEC. 164. That an exception is an objection taken at the trial to a decision upon matter of law, whether such trial be by jury or court, and whether the decision be made during the formation of a jury, or in the admission or rejection of evidence, or in the charge to the jury, or at any other time from the calling of the action for trial to the rendering of the verdict or decision.

Definition of exception.

SEC. 165. That the point of the exception shall be particularly stated, and may be delivered in writing to the judge or entered in his minutes, and, at the time or afterwards, be corrected until made conformable to the truth.

Exceptions, how taken.

SEC. 166. That the statement of the exception, when settled and allowed, shall be signed by the judge and filed with the clerk, and thereafter it shall be deemed and taken to be a part of the record of the cause. No exception need be taken or allowed to any decision upon a matter of law when the same is entered in the journal or made wholly upon matters in writing and on file in the court.

When exceptions not taken or allowed.

SEC. 167. That a new trial is a reexamination of an issue of fact in the same court after a trial and decision or verdict by a court or jury.

Definition of new trial.

SEC. 168. That the former verdict or other decision may be set aside and a new trial granted, on the motion of the defendant, for any of the following causes materially affecting the substantial rights of such party:

For what causes granted.

First. Irregularity in the proceedings of the court, jury, or adverse party, or any order of the court or abuse of discretion, by which such party was prevented from having a fair trial.

Second. Misconduct of the jury or prevailing party.

Third. Accident or surprise which ordinary prudence could not have guarded against.

Fourth. Newly discovered evidence, material for the defendant, which he could not with reasonable diligence have discovered and produced at the trial.

Fifth. Insufficiency of the evidence to justify the verdict or other decision, or that it is against law.

Sixth. Error in law occurring at the trial and excepted to by the defendant.

SEC. 169. That a motion for a new trial, with the affidavits, if any, in support thereof, shall be filed within one day after the rendition of the verdict or other decision sought to be set aside. When the adverse party is entitled to oppose the motion by counter affidavits, he shall file the same within one day after the filing of the motion. The motion shall be heard and determined during the term, unless the court continue the same for advisement or want of time to hear it.

Motion for new trial.

SEC. 170. That upon a trial by the court, when the decision is given in vacation, a motion for a new trial shall be filed within twenty days from the time of filing such decision. If the next regular term of said

Same, when made.

court shall commence within less than twenty days from the time of filing such decision, then such motion shall be filed by the first day of said term. In either case the adverse party may, within four days after the filing of the motion, file counter affidavits, where the same are allowed.

Motion should state grounds.

SEC. 171. That in all cases of motion for a new trial the grounds thereof shall be plainly specified, and no cause of new trial not so stated shall be considered or regarded by the court. When the motion is made for a cause mentioned in subdivisions one, two, three, or four of section one hundred and sixty-eight of this Title, it shall be upon affidavit setting forth the facts upon which such motion is based.

Counter affidavit when allowed.

SEC. 172. That if the motion be supported by affidavits, counter affidavits may be offered by the adverse party; and if the cause be newly discovered evidence, the affidavits of any witness or witnesses showing what their testimony will be shall be produced, or good reason shown for their nonproduction; and in the consideration of any motion for a new trial, reference may be had to any proceedings in the case prior to the verdict or other decision sought to be set aside.

CHAPTER EIGHTEEN.

OF ARREST OF JUDGMENT.

Sec.
173. Motion in arrest of judgment.
174. Effect of arrest of judgment.

Sec.
175. Defendant, when to be held.
176. When to be discharged.

Motion in arrest of judgment.

SEC. 173. That a motion in arrest of judgment is an application on the part of the defendant that no judgment be rendered on a plea or verdict of guilty, or on a verdict against the defendant on a plea of a former conviction or acquittal. It may be founded on either or both of the causes specified in subdivisions one and four of section ninety of this Title, and not otherwise. The motion must be made within the time allowed to file a motion for a new trial, and both such motions may be made together, and heard and decided at once or separately, as the court may direct.

Effect of arrest of judgment.

SEC. 174. That the effect of allowing a motion in arrest of judgment is to place the defendant in the same situation in which he was before the indictment was found.

Defendant, when to be held.

SEC. 175. That if, from the evidence given on the trial, there is reasonable ground to believe the defendant guilty, and a new indictment can be framed upon which he may be convicted, the court must order the defendant to be recommitted to custody or admitted to bail, to answer the new indictment, if one be found; and if the evidence show him to be guilty of another crime than that charged in the indictment, he must in like manner be committed or held thereon, and in neither case is the verdict a bar to another action for the same crime.

When to be discharged.

SEC. 176. That if no evidence appear sufficient to charge the defendant with any crime, he must, if in custody, be discharged, or if he has given bail or deposited money in lieu thereof, his bail is exonerated or his money must be refunded to him; and in such case the arrest of judgment operates as an acquittal of the charge upon which the indictment was founded.

CHAPTER NINETEEN.

OF THE JUDGMENT.

Sec.
177. Time for pronouncing judgment.
178. What time may be appointed.
179. If conviction for a felony, defendant must be present; if for misdemeanor, not necessary to be present.

Sec.
180. Defendant, if in custody, must be brought before the court.
181. Proceeding when defendant on bail and does not appear for judgment.
182. Bench warrant to issue.
183. Form of bench warrant.

- Sec.
 184. Bench warrant, how served.
 185. Court may inquire into circumstances in aggravation or mitigation of punishment.
 186. Testimony as to circumstances, how given.
 187. Defendant may be examined if he consent.
 188. No other testimony or representation to be received.
 189. On conviction of two or more crimes, judgment of imprisonment, how given.

- Sec.
 190. Judgment to pay fine; duration of imprisonment on.
 191. Entry of judgment of conviction.
 192. Judgment to pay fine to be docketed, and effect thereof.
 193. The name of private prosecutor to be indorsed on indictment.
 194. Judgment in case prosecution is malicious.
 195. Judgment roll, how and when made.

SEC. 177. That after a plea or verdict of guilty, or after a verdict against the defendant on a plea of former conviction or acquittal, if the judgment be not arrested or a new trial granted, the court must appoint a time for pronouncing judgment.

Time for pronouncing judgment.

SEC. 178. That the time appointed for pronouncing judgment must be at least two days after the verdict, if the court intend to remain in session so long, or if not, as remote time as can reasonably be allowed; but in no case can the judgment be given, except by the consent of the defendant, in less than six hours after the verdict.

What time may be appointed.

SEC. 179. That for the purpose of giving judgment, if the conviction be for a felony, the defendant must be personally present; but if it be for a misdemeanor, judgment may be given in his absence.

If conviction for a felony, defendant must be present; if for misdemeanor, not necessary to be present.

SEC. 180. That when the defendant is in custody, the court must direct the officer in whose custody he is to bring him before it for judgment, and the officer must do so accordingly.

Defendant if in custody must be brought before the court.

SEC. 181. That if the defendant has given bail or has deposited money in lieu thereof, and does not appear for judgment when his personal attendance is necessary, the court, in addition to the forfeiture of the undertaking of bail or the money deposited, may direct the clerk to issue a bench warrant for his arrest.

Proceeding when defendant on bail and does not appear for judgment.

SEC. 182. That at any time after the making of the order for the bench warrant, the clerk, on the application of the district attorney, must issue such warrant, as by the order directed, whether the court be sitting or not.

Bench warrant to issue.

SEC. 183. That the bench warrant must be substantially in the following form:

Form of bench warrant.

"District court for the District of Alaska, Division No. . . .

"In the name of the United States of America.

"To the United States marshal for said District, or any deputy, greeting:

"A B having been, on the day of , eighteen hundred and , duly convicted in the court aforesaid of the crime of (designating it generally), this is to command you forthwith to arrest the above-named defendant and bring him before such court for judgment, or if the court have adjourned for the term, that you retain him in your custody. By order of the court.

"Witness my hand and seal of said district court, affixed at this day of , eighteen hundred and .

[L. S.]

"C D, Clerk."

SEC. 184. That such bench warrant may be served in the same manner as provided in case of a bench warrant upon an indictment.

Bench warrant, how served.

SEC. 185. That after a plea or verdict of guilty, or a verdict against the defendant on a plea of former conviction or acquittal, in a case where a discretion is conferred upon the court as to the extent of the punishment, the court, upon the suggestion of either party that there are circumstances which may properly be taken into view, either in aggravation or mitigation of the punishment, may, in its discretion, hear the same summarily at a specified time and upon such notice to the adverse party as it may direct.

Court may inquire into circumstances in aggravation or mitigation of punishment.

SEC. 186. That the circumstances must be presented by the testimony of witnesses examined in open court, except that when a witness is so

Testimony as to circumstances, how given.

sick or infirm as to be unable to attend, his deposition may be taken out of court before such person authorized to take depositions, and at such time and place and upon such notice to the adverse party as the court may direct.

Defendant may be examined if he consent.

SEC. 187. That if the defendant consent thereto, he may be examined as a witness in relation to such circumstances; but if he gives his testimony at his own request, then he must submit to be examined generally by the adverse party.

No other testimony or representation to be received.

SEC. 188. That no affidavit or testimony or representation of any kind, verbal or written, can be offered to or received by the court in aggravation or mitigation of the punishment, except as provided in the last three sections; and a violation of this section may be punished as a contempt.

On conviction of two or more crimes, judgment of imprisonment, how given.

SEC. 189. That if the defendant is convicted of two or more crimes, before judgment on either, the judgment must be that the imprisonment upon any one may commence at the expiration of the imprisonment upon any other of such crimes; and if the defendant be in imprisonment upon a previous judgment on a conviction for a crime, the judgment must be that the imprisonment must commence at the expiration of the term limited by such previous judgment.

Judgment to pay fine; duration of imprisonment on.

SEC. 190. That a judgment that the defendant pay a fine must also direct that he be imprisoned in the county jail until the fine be satisfied, specifying the extent of the imprisonment, which can not exceed one day for every two dollars of the fine; and in case the entry of judgment should omit to direct the imprisonment and the extent thereof, the judgment to pay the fine shall operate to authorize and require the imprisonment of the defendant until the fine is satisfied at the rate above mentioned.

Entry of judgment of conviction.

SEC. 191. That when judgment upon a conviction is given, the clerk must enter the same in the journal, stating briefly the crime for which the conviction has been had. Such entry may be made at any time during the term, as of the day's proceedings upon which the judgment was given.

Judgment to pay fine to be docketed, and effect thereof.

SEC. 192. That a judgment that the defendant pay money either as a fine or as costs and disbursements of the action, or both, must be docketed as a judgment in a civil action and may be enforced by execution against the property of the defendant in like manner as judgments in civil cases are enforced: *Provided*, That where the judgment directs that the defendant shall be imprisoned until the fine or penalty imposed is paid, the issue of an execution on the judgment shall not operate to discharge the defendant from imprisonment until the amount of the judgment is collected or otherwise paid.

Proviso. Directing imprisonment until fine paid.

SEC. 193. That the name of every person who voluntarily appears before any commissioner, magistrate, or grand jury to prosecute any person in a criminal action, either for a misdemeanor or felony, shall be indorsed upon the complaint, information, or indictment as a private prosecutor; and if it be found by any commissioner, magistrate, or court trying said action or hearing said proceeding that the prosecution is malicious or without probable cause, said facts shall be entered upon record in said action or proceeding by said commissioner, magistrate, or court.

The name of private prosecutor to be indorsed on indictment.

SEC. 194. That upon making the entry prescribed in the last preceding section, the commissioner, magistrate, or court must immediately render judgment against the private prosecutor for the costs and disbursements of the action or proceeding, which may be enforced by execution in the same manner as a judgment in a civil action.

Judgment in case prosecution is malicious.

SEC. 195. That immediately after the entry of judgment the clerk must prepare and annex together the following papers, which constitute the judgment roll:

Judgment roll, how and when made.

First. The indictment and demurrer, if there be one;

Second. A copy of the journal entry of the plea, the trial, and verdict, and of any order involving the merits and necessarily affecting the judgment;

Third. A copy of the journal entry of the judgment;

Fourth. The bill of exceptions, if there be one.

And in all cases the clerk must attach upon the outside of the judgment roll a blank sheet of paper, upon which he shall indorse the name of the court, the term at which judgment was given, and the names of the parties to the action and the title thereof, for whom judgment was given, and the amount and nature thereof, and the date of its entry and docketing.

CHAPTER TWENTY.

OF THE EXECUTION.

<p>Sec. 196. Authority for the execution of judgment, except of death.</p> <p>197. Judgment of imprisonment or for a fine, how executed.</p> <p>198. Warrant to enforce judgment of death.</p>	<p>Sec. 199. Death sentence, how and where executed.</p> <p>200. Judgment for money in criminal action, how enforced.</p> <p>201. Return of marshal or officer executing judgment.</p>
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SEC. 196. That when a judgment, except of death, has been pronounced, a certified copy of the entry thereof upon the journal must be forthwith furnished by the clerk to the officer whose duty it is to execute the judgment; and no other warrant or authority is necessary to justify or require its execution.

Authority for the execution of judgment, except of death.

SEC. 197. That when the judgment is imprisonment in the penitentiary, the marshal shall deliver the body of the defendant, together with a copy of the entry of judgment, to the keeper of such prison; and when the judgment is imprisonment in the county jail, or a fine and that the defendant be imprisoned until it be paid, the judgment must be executed by the marshal.

Judgment of imprisonment or for a fine, how executed.

SEC. 198. That when judgment of death is pronounced, a warrant, signed by the judge of the court and attested by the clerk, with the seal of the court affixed, must be drawn and delivered to the United States marshal. The warrant shall state the conviction and judgment and appoint a day on which the judgment is to be executed, which must not be less than sixty nor more than ninety days from the time of judgment.

Warrant to enforce judgment of death.

SEC. 199. That the punishment of death must be inflicted by hanging the defendant by the neck until he be dead, and the judgment must be executed by the United States marshal or his deputy; and all executions shall take place in the presence of twelve bona fide inhabitants of the District, to be selected by the marshal; and the fact of the faithful performance of the marshal or his deputy in carrying out the sentence of the court shall be certified by the said twelve inhabitants, and filed in the office of the clerk of the court.

Death sentence, how and where executed.

SEC. 200. That a judgment in a criminal action, so far as it requires the payment of money, whether the same be a fine or costs and disbursements of the action, or both, in addition to the means in this chapter provided, may be enforced as a judgment in a civil action.

Judgment for money in criminal action, how enforced.

SEC. 201. That when a judgment in a criminal action has been executed, the marshal or officer executing it must return to the clerk the warrant or copy of the entry of judgment upon which he acted, with a statement of his doings indorsed thereon, and the clerk must file the same and annex it to the judgment roll in the case.

Return of marshal or officer executing judgment.

CHAPTER TWENTY-ONE.

OF APPEALS AND WRITS OF ERROR.

Sec.
202. Appeals and writs of error, how taken.

SEC. 202. That appeals and writs of error in criminal actions may be taken and prosecuted from the decisions and judgments of the district court for the District of Alaska to the Supreme Court of the United States, or to the circuit court of appeals for the ninth circuit, in the

Appeals and writs of error, how taken.

same manner and under the same regulations as from the circuit and district courts of the United States, under the Acts of Congress now in force or that may be hereafter enacted.

CHAPTER TWENTY-TWO.

OF BAIL.

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| <p>Sec.
203. Admission to bail defined.
204. Taking bail defined.
205. When defendant can not be admitted to bail.
206. When defendant admitted to bail before conviction, as a matter of right.
207. When defendant may be admitted to bail after conviction and during examination.
208. Who may admit to bail.
209. When only admitted to bail by court or judge where action is pending.
210. Order for admission to bail, how made.
211. Application when denied can not be made to another magistrate.
212. Admission to bail in such cases may be revoked or vacated.
213. When defendant may appeal from decision denying application.
214. Manner of taking such appeal.
215. Decision of court on appeal final.</p> | <p>Sec.
216. Bail, how put in and form of undertaking.
217. Undertaking, how executed.
218. Qualifications of bail.
219. Bail must justify.
220. Bail must be examined as to sufficiency.
221. Other testimony may be received as to the sufficiency of bail.
222. Decision upon a sufficiency of bail, and filing the papers.
223. Discharge of defendant on allowance of bail.
224. Form of bail on appeal.
225. Proceeding when bail disallowed.
226. Application to take bail or be admitted to bail, district attorney may appear.
227. When court or magistrate may require notice of application to be given to district attorney.
228. Bail may be taken with or without notice to the district attorney.</p> |
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Admission to bail defined.

SEC. 203. That admission to bail is the order of a competent court or magistrate that the defendant be discharged from actual custody upon bail.

Taking bail defined.

SEC. 204. That the taking of bail consists in the acceptance by a competent court or magistrate, of the undertaking of sufficient bail for the appearance of defendant, according to the terms of the undertaking, or that the bail will pay to the United States a specified sum of money.

When defendant can not be admitted to bail.

SEC. 205. That the defendant can not be admitted to bail when the proof or presumption of his guilt is evident or strong, and when he is charged with the crime of murder in the first degree or with treason or with rape.

When defendant admitted to bail before conviction, as a matter of right.

SEC. 206. That if the charge be for any other crime than those mentioned in the last section, the defendant, before conviction, is entitled to be admitted to bail, as a matter of right.

When defendant may be admitted to bail after conviction and during examination.

SEC. 207. That after judgment of conviction of a crime other than those mentioned in section two hundred and five of this Title, a defendant who has appealed, and when there is a stay of proceedings and not otherwise, may be admitted to bail as a matter of right; and as a matter of discretion, a defendant may be admitted to bail for his appearance from day to day before the magistrate, on the examination of the charge, before being held to answer, or discharged.

Who may admit to bail.

SEC. 208. That a magistrate authorized to issue a warrant of arrest, as provided in sections two hundred and seventy-one and two hundred and seventy-two of this Title, is a magistrate authorized, within his jurisdiction, to admit to bail and to take bail, except as in this chapter otherwise provided.

When only admitted to bail by court or judge where action is pending.

SEC. 209. That after an indictment is found, and upon an appeal, a defendant can not be admitted to bail except by the court, or judge thereof, where the action is pending or in which the judgment appealed from is given.

Order for admission to bail, how made.

SEC. 210. That if an application to be admitted to bail be made to a court, an order must be made granting or denying it; and if it be granted, stating the sum in which bail may be taken; but if the application be made to a magistrate, he must certify, in writing, his decision granting or denying the same, and, if he grant it, stating the sum in which bail may be taken.

SEC. 211. That if an application for admission to bail be denied, no subsequent application therefor can be made to another magistrate; and a violation of this section may be punished as a contempt.

Application when denied can not be made to another magistrate.

SEC. 212. That the admission to bail contrary to the last section may be revoked by the magistrate who made it, or vacated by the court, or judge thereof, in which the defendant is triable for the crime charged.

Admission to bail in such cases may be revoked or vacated.

SEC. 213. That if the application for admission to bail, when made to a magistrate, he denied, the defendant may appeal from the decision to the court or judge thereof in which the defendant is triable for the crime charged.

When defendant may appeal from decision denying application.

SEC. 214. That such appeal is taken by a notice to the district attorney that the defendant appeals from the decision of the magistrate, and that he will apply to the court or judge thereof (naming it or him) to be admitted to bail at a time and place therein specified, the former not less than three days from the service of such notice.

Manner of taking such appeal.

SEC. 215. That the decision of the court, or judge thereof, granting or denying bail, either upon an original application or upon an appeal, is final.

Decision of court on appeal final.

SEC. 216. That bail is put in by a written undertaking, executed by two sufficient sureties, and acknowledged before the court or magistrate taking the same. It may be substantially in the following form:

Bail, how put in and form of undertaking.

First. Before indictment:

"An order having been made on the day of , eighteen hundred and , by A B (adding his official title and place of jurisdiction), that C D be held to answer upon a charge of (stating briefly the nature of the crime), upon which he has been duly admitted to bail in the sum of dollars,

"We, E F, of (stating his place of residence and occupation), and G H, of (stating his place of residence and occupation), hereby undertake that the above-named C D shall appear and answer the charge above mentioned, in whatever court it may be prosecuted, and shall at all times render himself amenable to the orders and process of the court; and, if convicted, shall appear for judgment, and render himself in execution thereof, or if he fail to perform either of those conditions that we will pay to the United States the sum of dollars" (inserting the sum in which the defendant is admitted to bail).

Second. After indictment and before judgment:

"An indictment having been found on the day of , eighteen hundred and , in the district court for the District of Alaska, division No. , charging A B with the crime of (designating it generally), and he having been duly admitted to bail in the sum of dollars" (the remainder of the undertaking may be in the words of the form numbered one, substituting the word "indictment" for the word "charge").

Third. Upon an appeal:

"A judgment having been given on the day of , whereby A B was condemned to (setting forth the terms of the judgment generally), and he having appealed from said judgment and been duly admitted to bail in the sum of dollars,

"We, C D, of (stating his place of residence and occupation), and E F, of (stating his place of residence and occupation), hereby undertake that the above-named A B shall in all respects abide and perform the orders and judgments of the appellate court upon the appeal, or if he fail to do so in any particular, that we will pay to the United States the sum of dollars" (inserting the sum in which the defendant is admitted to bail).

SEC. 217. That the undertaking must be dated and signed by the sureties in the presence of the magistrate taking the bail, and he must append thereto a certificate signed by him, with his name of office, and substantially in the following form: "Taken and acknowledged before me the day and year above written."

Undertaking, how executed.

SEC. 218. That the qualifications of bail are as follows:

Qualifications of bail.

First. Each of them must be a resident within the district; but no

counselor or attorney, marshal, clerk of any court, or other officer of any court is qualified to be bail.

Second. They must each be worth the sum specified in the undertaking, exclusive of property exempt from execution, and over and above all just debts and liabilities; but the court or magistrate, on taking the bail, may allow more than two bail to justify severally in amounts less than that expressed in the undertaking, if the whole justification be equivalent to that of two sufficient bail.

Bail must justify.

SEC. 219. That the bail must in all cases justify by affidavit; and the affidavit must state that they each possess the qualifications prescribed by the last preceding section.

Bail must be examined as to sufficiency.

SEC. 220. That the district attorney or the court or magistrate may, before the bail is taken, further examine them, upon oath, concerning their sufficiency, in such manner as the court or magistrate may deem proper. The statements of the bail in response to the examination must be reduced to writing, and subscribed by them.

Other testimony may be received as to the sufficiency of bail.

SEC. 221. That the court or magistrate may also receive other testimony, either for or against the sufficiency of the bail, and may from time to time adjourn the taking of bail, to afford an opportunity of proving or disproving their sufficiency.

Decision upon a sufficiency of bail, and filing the papers.

SEC. 222. That when the examination is closed, the court or magistrate must indorse upon the undertaking an order either allowing or disallowing the bail, and must forthwith cause the same, with the affidavits and examination of the sureties and the order of admission to bail, to be filed with the clerk of the court at which the defendant is bound to appear, or where the action is pending, or the judgment appealed from is given, as the case may be.

Discharge of defendant on allowance of bail.

SEC. 223. That upon the execution of the undertaking and the allowance of the bail, the court or magistrate must make an order, signed with his name of office, for the discharge of the defendant, to the following effect:

"To the United States marshal, District of Alaska:

"A. B, who is detained by you to answer a [charge or indictment, as the case may be] for the crime of [designating it generally], having given sufficient bail to answer the same, you are commanded forthwith to discharge him from your custody."

Form of bail on appeal.

SEC. 224. That if the bail be taken upon an appeal from a judgment, the order must be to the effect following:

"To the United States marshal, District of Alaska:

"A. B, who is detained by you in execution of a judgment whereby he is condemned to [stating the terms of the judgment generally], having appealed from said judgment and given sufficient bail to abide and perform the judgment of the appellate court, you are commanded forthwith to discharge him from your custody."

Proceeding when bail disallowed.

SEC. 225. That if the bail be disallowed, the defendant must be detained in custody until other bail be put in and is allowed.

Application to take bail or be admitted to bail, district attorney may appear.

SEC. 226. That upon an application for admission to bail or to take bail, the district attorney, either in person or by anyone authorized by him, is entitled to appear and be heard in relation thereto.

When court or magistrate may require notice of application to be given to district attorney.

SEC. 227. That when the admission to bail is a matter of discretion, or the right thereto may be doubtful, the court or magistrate by whom it may be ordered may require such notice of the application therefor as he deems reasonable to be given to the district attorney, or to any person by him authorized to appear for him.

Bail may be taken with or without notice to the district attorney.

SEC. 228. That bail may be taken, in the discretion of the court or magistrate, without notice to the district attorney, or he may require reasonable notice for the application therefor, as in case of an application to bail.

CHAPTER TWENTY-THREE.

OF DEPOSIT INSTEAD OF BAIL.

<p>Sec. 229. Deposit in lieu of bail, when and how made. 230. May be made after bail given and before forfeiture.</p>	<p>Sec. 231. Bail may be given after deposit. 232. Deposit to be applied in payment of judgment for fine.</p>
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SEC. 229. That the defendant, at any time after an order admitting him to bail, instead of giving bail may deposit with the clerk of the court at which he is held to answer, or in which the action is pending or the judgment appealed from is given, the sum of money mentioned in the order; and upon delivering to the officer in whose custody he is the clerk's certificate of such deposit he must be discharged from custody.

Deposit in lieu of bail, when and how made.

SEC. 230. That if the defendant have given bail, he may, at any time before the forfeiture of their undertaking of it, in like manner deposit the sum of money mentioned in the undertaking; and upon the deposit being made and the certificate thereof given, the bail is exonerated.

May be made after bail given and before forfeiture.

SEC. 231. That if money be deposited, as provided in the last two sections, bail may be given in the same manner as if it had been originally given upon the order for admission to bail, at any time before the forfeiture of the deposit, and the court or magistrate before whom the bail is taken must thereupon direct, in the order of allowance, that the money deposited be refunded by the clerk to the defendant; and it must be refunded accordingly.

Bail may be given after deposit.

SEC. 232. That when any money has been deposited in lieu of bail, if it remain on deposit at the time of a judgment for the payment of money, the clerk must, under the direction of the court, apply the money in satisfaction thereof, and after satisfying the same must refund the surplus, if any, to the defendant.

Deposit to be applied in payment of judgment for fine.

CHAPTER TWENTY-FOUR.

OF THE SURRENDER OF THE DEFENDANT.

<p>Sec. 233. Surrender, by whom, when, and how made. 234. Bail may arrest defendant for the purpose of surrender.</p>	<p>Sec. 235. On surrender, if money deposited, must be refunded. 236. Notice to the district attorney to obtain order for deposit.</p>
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SEC. 233. That at any time before the forfeiture of their undertaking, the bail may surrender the defendant in their exoneration, or he may surrender himself to the officer to whose custody he was committed at the time of giving bail in the following manner:

Surrender, by whom, when, and how made.

First. A certified copy of the undertaking of the bail must be delivered to the officer, who must detain the defendant in his custody thereon, as upon a commitment, and by a certificate signed with his name of office acknowledge the surrender.

Second. At any time after the surrender of the defendant, either by his bail or himself, the court or judge thereof, at which the defendant is bound to appear, or where the action is pending or the judgment appealed from is given, as the case may be, may, upon reasonable notice to the district attorney, order that the bail be exonerated, and, upon the entry or filing of such order, they are exonerated accordingly.

SEC. 234. That for the purpose of surrendering the defendant, the bail, at any time before the forfeiture of their undertaking, and at any place within the district, may themselves arrest him, or by a written authority, indorsed on a certified copy of the undertaking, may empower any other person to do so.

Bail may arrest defendant for the purpose of surrender.

On surrender, if money deposited, must be refunded.

SEC. 235. That if money have been deposited in lieu of bail and the defendant, at any time before the forfeiture thereof, surrender himself to the officer to whose custody he was committed at the time of making the deposit, in the manner provided in section two hundred and thirty-three, of this Title the court or judge thereof must order a return of the deposit to the defendant, upon producing the certificate of the officer showing the surrender, and upon reasonable notice of the application to the district attorney.

Notice to the district attorney to obtain order for deposit.

SEC. 236. That the notice to be given to the district attorney, as required in this chapter, may be given to him personally or to any person authorized to appear for him, as provided in sections two hundred and twenty-six and two hundred and twenty-seven of this Title.

CHAPTER TWENTY-FIVE.

OF THE FORFEITURE OF THE UNDERTAKING OF BAIL OR THE DEPOSIT MONEY.

Sec.
237. Undertaking, when forfeited, and how ordered.
238. When and how forfeiture may be discharged.
239. Forfeiture to be enforced by action.
240. Remission of forfeiture.

Sec.
241. Conditions of remission.
242. Applications therefor, how made, judgment on final.
243. Deposit of money, how disposed of when forfeited.

Undertaking, when forfeited and how ordered.

SEC. 237. That if, without sufficient excuse, the defendant neglect or fail to appear for arraignment, or for trial or judgment, or upon any other occasion when his presence in court may be lawfully required, or to surrender himself in execution of the judgment, the court must direct the fact to be entered in its journal; and the undertaking of bail or the money deposited in lieu thereof, as the case may be, is thereupon forfeited.

When and how forfeiture may be discharged.

SEC. 238. That if, at any time before the final adjournment of the court, the defendant appear and satisfactorily excuse his neglect or failure, the court may direct the forfeiture of the undertaking or deposit to be discharged, upon such terms as are just.

Forfeiture to be enforced by action.

SEC. 239. That if the forfeiture be not discharged, as provided in the last section, the district attorney may, at any time after the adjournment of the court, proceed, by action only, against the bail upon their undertaking.

Remission of forfeiture.

SEC. 240. That at any time before judgment against the bail, in an action upon the undertaking, they may apply to the court for a remission of the forfeiture, and thereupon the court, upon good cause shown, may remit the forfeiture or any part thereof, upon such terms as may be just and reasonable, according to the circumstances of the case.

Conditions of remission.

SEC. 241. That the court can only remit the forfeiture, in whole or in part, upon the payment of the costs and expenses incurred in the proceedings for its enforcement; and if part only be remitted, judgment must be given against the bail for the remainder, and such judgment is a bar to an action upon the undertaking, or if one be already commenced, it is thereby abated.

Applications therefor, how made; judgment on final.

SEC. 242. That the application for remission must be upon at least ten days' notice to the district attorney, with copies of all affidavits and papers on which it is founded. The application must admit the forfeiture and their legal obligation to pay the sum mentioned in the undertaking, and the judgment or order of the court in the matter is final.

Deposit of money, how disposed of when forfeited.

SEC. 243. That if money deposited in lieu of bail is forfeited and the forfeiture be not discharged, as provided in section two hundred and thirty-eight, of this Title the clerk with whom it is deposited must, after the final adjournment of the court, forthwith deposit the same in the same manner as in the case of moneys collected upon judgments in favor of the United States.

CHAPTER TWENTY-SIX.

OF RECOMMITMENT OF THE DEFENDANT AFTER BAIL OR A DEPOSIT OF MONEY IN LIEU THEREOF.

<p>Sec. 244. When defendant may be recommit- ted. 245. Contents of the order for the arrest. 246. Defendant arrested on copy of order, how served. 247. If for failure to appear for judgment, defendant must be committed.</p>	<p>Sec. 248. If for other cause he may be admit- ted to bail. 249. Bail in such case, by whom taken. 250. Form of the undertaking. 251. Qualifications of bail, and how put in.</p>
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SEC. 244. That the court at which the defendant is bound to appear, or where the action is pending, or the judgment appealed from is given, may, by an order entered upon its journal, direct the arrest of the defendant and his commitment to the officer to whose custody he was committed at the time of giving bail, and his detention until legally discharged, in the following cases :

When defendant may be recommitted.

First. When, by reason of his neglect or failure to appear, he has incurred a forfeiture of his bail, or of money deposited in lieu thereof, as provided in section two hundred and thirty-seven of this Title;

Second. When it satisfactorily appears to the court that his bail, or either of them, are dead or insufficient, or have removed from the district;

Third. Upon an indictment being found in the cases provided for in section eighty of this Title.

SEC. 245. That the order for the recommitment of the defendant must recite, generally, the facts upon which it is founded, and direct that the defendant be arrested by the United States marshal or any deputy, to be detained until legally discharged.

Contents of the order for the arrest.

SEC. 246. That the defendant may be arrested pursuant to the order, upon a certified copy thereof, in the same manner as upon a bench warrant.

Defendant arrested on copy of order, how served.

SEC. 247. That if the order recite, as the ground upon which it is made, the failure of the defendant to appear for judgment upon conviction, the defendant must be committed according to the requirement of the order.

If for failure to appear for judgment, defendant must be committed.

SEC. 248. That if the order be made for any other cause than that specified in the last section, and the crime be bailable, the court may direct in the order that the defendant be admitted to bail, in an amount to be therein specified.

If for other cause, he may be admitted to bail.

SEC. 249. That when the defendant is admitted to bail the bail may be taken by any magistrate having authority to take bail, as provided in section two hundred and eight of this Title, or by any particular magistrate, to be designated by the order.

Bail in such case, by whom taken.

SEC. 250. That when bail is taken upon an order for the recommitment of the defendant, the undertaking of bail must be in substantially the form prescribed in section two hundred and sixteen of this Title for the original undertaking of bail, except that it need not refer to the original order of admission to bail and must specify the court in which the order for recommitment and admission to bail is made and the date of such order.

Form of the undertaking.

SEC. 251. That the bail must possess the qualifications and must be put in in all respects in the manner prescribed by chapter twenty-two of this Act.

Qualifications of bail and how put in.

CHAPTER TWENTY-SEVEN.

OF COMPELLING THE ATTENDANCE OF WITNESSES.

Sec.

252. Subpœnas, and so forth, how regulated.

Subpœnas, etc., how regulated.

SEC. 252. That the issuance of subpœnas and all proceedings to compel the attendance of witnesses in criminal actions in the said District shall be regulated by the laws of the United States respecting district and circuit courts.

CHAPTER TWENTY-EIGHT.

OF COMPROMISING CERTAIN CRIMES BY LEAVE OF THE COURT.

Sec.

253. What crimes may be compromised.
254. Compromise by permission of the court; order thereon.

What crimes may be compromised.

SEC. 253. That when a defendant is held to answer on a charge of misdemeanor, for which the person injured by the act constituting the crime has a remedy by a civil action, the crime may be compromised, as provided in the next section, except when it was committed—

First. By or upon an officer of justice while in the execution of the duties of his office;

Second. Riotously; or

Third. With an intent to commit a felony, or

Fourth. Larcenously.

Compromise by permission of the court; order thereon.

SEC. 254. That if the party injured appear before the court at which the defendant is bound to appear, at any time before trial on an indictment for the crime, and acknowledge in writing that he has received satisfaction for the injury, the court may, in its discretion, on payment of the costs and expenses incurred, order all further proceedings to be stayed upon the prosecution and the defendant to be discharged therefrom; but the order and the reasons therefor must be entered on the journal.

Order a bar to another prosecution.

SEC. 255. That the order authorized by the last section, when made and entered, is a bar to another prosecution for the same crime.

No crime can be compromised, except.

SEC. 256. That no crime can be compromised, nor can any proceeding for the prosecution or punishment thereof be stayed upon a compromise, except as provided in this chapter.

CHAPTER TWENTY-NINE.

OF DISMISSAL OF THE ACTION FOR WANT OF PROSECUTION OR OTHERWISE.

Sec.

257. Dismissal of charge when indictment not found at next term.
258. Dismissal of action when not brought to trial at next term after indictment found.
259. Court may continue cause and admit defendant to bail on his own undertaking.

Dismissal of charge when indictment not found at next term.

SEC. 257. That when a person has been held to answer for a crime, if an indictment be not found against him at the next term of the court at which he is held to answer, the court must order the prosecution to be dismissed, unless good cause to the contrary be shown.

Dismissal of action when not brought to trial at next term after indictment found.

Sec. 258. That if a defendant, indicted for a crime, whose trial has not been postponed upon his application or by his consent, be not brought to trial at the next term of the court in which the indictment is triable after it is found, the court must order the indictment to be dismissed, unless good cause to the contrary be shown.

Sec.

260. Effect of dismissal of action or charge upon bail or deposit.
261. When court may dismiss action on its own motion or that of the district attorney.
262. Nolle prosequi abolished.
263. Dismissal, when a bar to another action.

SEC. 259. That if the defendant be not indicted or tried as provided in the last two sections, and sufficient reason therefor be shown, the court may order the action to be continued from term to term, and in the meantime may discharge the defendant from custody, on his own undertaking of bail, for his appearance to answer the charge or action at the time to which the same is continued.

Court may continue cause and admit defendant to bail on his own undertaking.

SEC. 260. That if the court direct the charge or action to be dismissed, the defendant must, if in custody, be discharged therefrom, or if admitted to bail, his bail is exonerated, or money deposited in lieu thereof must be refunded to him.

Effect of dismissal of action or charge upon bail or deposit.

SEC. 261. That the court may, either on its own motion or upon the application of the district attorney, and in furtherance of justice, order an action, after indictment, to be dismissed; but in that case the reasons of the dismissal must be set forth in the order, which must be entered in the journal.

When court may dismiss action on its own motion or that of the district attorney.

SEC. 262. That the entry of a nolle prosequi is abolished; and the district attorney can not discontinue or abandon a prosecution for a crime, except as provided in the last section.

Nolle prosequi abolished.

SEC. 263. That an order for the dismissal of a charge or action, as provided in this chapter, is a bar to another prosecution for the same crime, if it be a misdemeanor, but it is not a bar if the crime charged be a felony.

Dismissal, when a bar to another action.

CHAPTER THIRTY.

OF THE DISPOSAL OF PROPERTY STOLEN OR EMBEZZLED.

- Sec. 264. How officer to hold property alleged to have been stolen or embezzled.
- 265. Order for delivery to the owner by magistrate.
- 266. Order by court where trial is had.
- 267. Effect of order of delivery of property.

- Sec. 268. Receipt for money or property taken from person when arrested.
- 269. Sale and disposition of property when not claimed.

SEC. 264. That when property alleged to have been stolen or embezzled comes into the custody of a peace officer, he must hold it subject to the order of the magistrate or court, as provided in this chapter.

How officer to hold property alleged to have been stolen or embezzled.

SEC. 265. That on satisfactory proof of title of the owner of the property, the magistrate who examines the charge against the person accused of the crime must order it to be delivered to the owner, or his duly authorized agent, on his paying the reasonable and necessary expenses incurred in its preservation, to be ascertained and certified by the magistrate.

Order for delivery to the owner by magistrate.

SEC. 266. That if property stolen or embezzled has not been delivered to the owner, the court before which the trial is had for the stealing or embezzling may, on like proof and condition, order its delivery to the owner or his agent.

Order by court where trial is had.

SEC. 267. That the order provided for in the last two sections entitles the owner or his agent to demand and receive the possession of the property from the officer having it in custody, and authorizes such officer to deliver it accordingly, but does not affect the rights of third persons.

Effect of order of delivery of property.

SEC. 268. That when money or other property is taken from a person arrested upon a charge of crime, the officer taking it must at the time give duplicate receipts therefor, specifying particularly the amount of money or kind of property taken, one of which receipts he must then deliver to the person arrested and the other to the magistrate who examines the charge; or if the arrest be after indictment found, to the clerk of the court where the action is pending.

Receipt for money or property taken from person when arrested.

SEC. 269. That if property stolen or embezzled be not claimed by the owner before the expiration of sixty days from the conviction of the person for stealing or embezzling it, the officer having it in custody must, if it be money, pay it to the clerk of the court, or if it be other

Sale and disposition of property when not claimed.

property, must sell it as upon an execution, and after paying the expenses of the sale and preservation of the property, to be ascertained and certified by the clerk of the court, pay the proceeds to the clerk of the court, to be deposited by him as in the case of moneys collected upon judgments in favor of the United States.

CHAPTER THIRTY-ONE.

OF THE INFORMATION AND BY WHOM TAKEN.

Sec.
270. Information defined.
271. Magistrate defined.

Sec.
272. Who are magistrates.

Information defined.

SEC. 270. That an information is the allegation or statement made before a magistrate, and verified by the oath of the party making it, that a person has been guilty of some designated crime.

Magistrate defined.

SEC. 271. That a magistrate is an officer having power to issue a warrant for the arrest of a person charged with the commission of a crime.

Who are magistrates.

SEC. 272. That the following persons are magistrates:
First. The judge of the district court.

Second. The commissioners authorized by Act of Congress to exercise the powers and duties of justices of the peace.

CHAPTER THIRTY-TWO.

OF THE WARRANT OF ARREST.

Sec.
273. Examination of informant and his witnesses.
274. When warrant of arrest to issue.
275. Definition and form of warrant.
276. What warrant is to contain.
277. Peace officer defined.

Sec.
278. Duty of officer making arrest.
279. Statement and depositions to be sent to magistrate who makes examination.
280. Defendant must be taken before magistrate without delay.

Examination of informant and his witnesses.

SEC. 273. That when complaint is made to a magistrate of the commission of a crime he must examine the informant on oath, and reduce his statement to writing and cause the same to be subscribed by him, and also take the depositions of any witnesses that the informant may produce in support thereof.

When warrant of arrest to issue.

SEC. 274. That thereupon, if the magistrate be satisfied that the crime complained of has been committed, and that there is probable cause to believe that the person charged has committed it, he must issue a warrant of arrest.

Definition and form of warrant.

SEC. 275. That a warrant of arrest is an order in writing, in the name of the United States, signed by a magistrate with his name of office, commanding the arrest of the defendant, and may be substantially in the following form: "District of Alaska, division No.

"In the name of the United States of America.

"To the United States marshal of the District of Alaska or any deputy, greeting:

"Information upon oath having been this day laid before me that the crime of (designating it) has been committed, and accusing C D thereof:

"You are, therefore, hereby commanded forthwith to arrest the above-named C D and bring him before me at (naming the place), or, in case of my absence or inability to act, before the nearest or most accessible magistrate.

"Dated at , this day of , eighteen hundred and .

"E F,
"Commissioner, ex officio Justice of the Peace."

SEC. 276. That the warrant must specify the name of the defendant, or if it be unknown to the magistrate, the defendant may be designated by a fictitious name, with a statement therein that his true name is unknown, and it must also state a crime in respect of which the magistrate has authority to issue the warrant.

What warrant is to contain.

SEC. 277. That a peace officer is the United States marshal or any deputy, and a warrant of arrest must be directed to and executed by such officer. For this purpose the marshal or any deputy is to be deemed a constable.

Peace officer defined.

SEC. 278. That the officer making the arrest must take the defendant before the magistrate who issued the warrant, or, in case he be absent or unable to act, before the nearest or most accessible magistrate, and the officer must, at the same time, deliver to the magistrate the warrant, with his return indorsed and subscribed by him.

Duty of officer making arrest.

SEC. 279. That if the defendant be taken for examination before a magistrate other than the one who issued the warrant, the statement and depositions on which the warrant was granted must be sent to that magistrate; or, if they can not be procured, the informant and his witnesses must be subpoenaed to give their testimony anew.

Statement and depositions to be sent to magistrate who makes examination.

SEC. 280. That the defendant must, in all cases, be taken before the magistrate without delay.

Defendant must be taken before magistrate without delay.

CHAPTER THIRTY-THREE.

OF THE ARREST, HOW AND BY WHOM MADE.

- Sec. 281. Arrest defined.
- 282. By whom an arrest may be made.
- 283. Every person bound to aid an officer in making an arrest.
- 284. Arrest, how made.
- 285. No further restraint allowed than is necessary.
- 286. Officer must state his authority and show warrant if required.
- 287. If defendant flee or resist, officer may use necessary means.
- 288. When officer may break open door or window.
- 289. Same subject.
- 290. When peace officer may arrest without warrant.

- Sec. 291. May break open door or window if admittance refused.
- 292. Officer must state his authority and cause of arrest, except.
- 293. When officer may take person before magistrate, arrested by a bystander.
- 294. When magistrate may commit for crime committed in his presence.
- 295. Arrest by private person, when allowed.
- 296. Must take person before a magistrate or deliver him to a peace officer.
- 297. Pursuit of person rescued or escaping.
- 298. May use proper means in making an original arrest.

SEC. 281. That arrest is the taking of a person into custody that he may be held to answer for a crime.

Arrest defined.

SEC. 282. That an arrest may be made either :

By whom an arrest may be made.

- First. By a peace officer, under a warrant;
- Second. By a peace officer, without a warrant; or
- Third. By a private person.

SEC. 283. That every person must aid an officer in the execution of a warrant, if the officer require his aid and be present and acting in its execution.

Every person bound to aid an officer in making an arrest.

SEC. 284. That an arrest is made by an actual restraint of the person of the defendant, or by his submission to the custody of the officer.

Arrest, how made.

SEC. 285. That the defendant is not to be subjected to any more restraint than is necessary and proper for his arrest and detention.

No further restraint allowed than is necessary.

SEC. 286. That the officer must inform the defendant that he acts under the authority of the warrant, and must also show the warrant if required by the defendant.

Officer must state his authority and show warrant if required.

SEC. 287. That if, after notice of intention to arrest the defendant, he either flee or forcibly resist, the officer may use all necessary and proper means to effect the arrest.

If defendant flee or resist, officer may use necessary means.

SEC. 288. That the officer may break open any outer or inner door or window of a dwelling house, or otherwise, to execute the warrant, if after notice of his authority and purpose he be refused admittance.

When officer may break open door or window.

Same subject.

SEC. 289. That the officer may break open any outer or inner door or window of a dwelling house, or otherwise, for the purpose of liberating a person who, having entered for the purpose of making an arrest, is detained therein, or when necessary for his own liberation.

When peace officer may arrest without warrant.

SEC. 290. That a peace officer may, without a warrant, arrest a person—

First. For a crime committed or attempted in his presence;

Second. When the person arrested has committed a felony, although not in his presence;

Third. When a felony has in fact been committed, and he has reasonable cause for believing the person arrested to have committed it.

May break open door or window if admittance refused.

SEC. 291. That to make arrests as provided in the last section the officer may break open any door or window, as provided in sections two hundred and eighty-eight and two hundred and eighty-nine of this Title, if after notice of his office and purpose, he be refused admittance.

Officer must state his authority and cause of arrest, except.

SEC. 292. That when arresting a person without a warrant the officer must inform him of his authority and the cause of the arrest, except when he is in the actual commission of a crime, or is pursued immediately after its commission, or an escape.

When officer may take person before magistrate, arrested by a bystander.

SEC. 293. That an officer may, without warrant, take before a magistrate a person who, being engaged in a breach of the peace, is arrested by a bystander and delivered to him.

When magistrate may commit for crime committed in his presence.

SEC. 294. That when a crime is committed in the presence of a magistrate he may, by a verbal or written order, command any person to arrest the offender, and may thereupon proceed as if the offender had been brought before him upon a warrant of arrest.

Arrest by private person, when allowed.

SEC. 295. That a private person may arrest another for the causes specified in section two hundred and ninety of this Title, in like manner and with like effect as a peace officer without warrant.

Must take person before a magistrate or deliver him to a peace officer.

SEC. 296. That a private person who has arrested another for the commission of a crime must without unnecessary delay take him before a magistrate or deliver him to a peace officer.

Pursuit of person rescued or escaping.

SEC. 297. That if a person arrested escape or be rescued, the person from whose custody he escaped or was rescued may immediately pursue and retake him at any time and in any place in said District.

May use proper means in making an original arrest.

SEC. 298. That to retake the person escaping or rescued, the person pursuing may use all the means and do any act necessary and proper in making an original arrest.

CHAPTER THIRTY-FOUR.

OF THE EXAMINATION OF THE CASE AND DISCHARGE OF THE DEFENDANT OR HOLDING HIM TO ANSWER.

Sec.	Sec.
299. Magistrate to inform defendant of the charge and his right to counsel.	313. Defendant's witnesses to be examined, when.
300. Time to send, and sending for counsel.	314. Magistrate may exclude witnesses.
301. Examination, when to proceed.	315. Testimony of witnesses need not be reduced to writing.
302. Examination, when completed; adjournment.	316. Proceedings in testimony, how and by whom kept.
303. On adjournment defendant to be committed or give bail.	317. Violation of last section, how punished.
304. Form of commitment.	318. Informant may employ counsel, but district attorney to control proceedings.
305. When witnesses to be subpoenaed.	319. Defendant, when and how discharged.
306. Witnesses to be examined in presence of defendant.	320. Same subject.
307. Defendant to be informed of his right to make a statement.	321. Defendant, when to be committed; order for commitment.
308. Waiver of his right and effect thereof.	322. Defendant, how committed.
309. Statement of defendant, how taken.	323. Form of commitment.
310. Same subject.	324. Commitment to be directed to marshal, and how defendant to be kept.
311. How reduced to writing and how authenticated.	
312. Statement of defendant, when used as testimony.	

- Sec.
 325. Order for bail on commitment.
 326. Undertaking for material witnesses.
 327. Security for appearance of witnesses, when may be required.
 328. Infants and married women may be required to give security.

- Sec.
 329. Witness refusing to give undertaking must be committed.
 330. Magistrate to return proceedings and papers.

SEC. 299. That when the defendant is brought before a magistrate upon an arrest, either with or without warrant, on a charge of having committed a crime, the magistrate must immediately inform him of the charge against him and of his right to the aid of counsel before any further proceedings are had.

Magistrate to inform defendant of the charge and his right to counsel.

SEC. 300. That he must allow the defendant a reasonable time to send for counsel, and adjourn the examination for that purpose; and may, upon the request of the defendant, require a peace officer to take a message to such counsel in the precinct, town, or village as the defendant may name. The officer, when required by the magistrate, must take the message without delay.

Time to send, and sending for counsel.

SEC. 301. That immediately after the appearance of counsel, or if, after waiting a reasonable time, none appear, or if the defendant do not require counsel, the magistrate must proceed to examine the case.

Examination, when to proceed.

SEC. 302. That the examination must be completed at one session, unless the magistrate, for good cause shown by affidavit, adjourn it; and the adjournment can not be for more than one day at each time, nor more than six days in all, unless by consent or on motion of the defendant.

Examination, when completed; adjournment.

SEC. 303. That if an adjournment be had for any cause, the magistrate must commit the defendant for examination, or may, in his discretion, discharge him from custody until the close of the examination, upon his giving bail or depositing money in lieu thereof, as provided in this Act, for his appearance at the time to which the examination is adjourned.

On adjournment defendant to be committed or given bail.

SEC. 304. That the commitment for examination is by an indorsement, signed by the magistrate, on a warrant of arrest, to the following effect: "The within-named A B, having been brought before me under this warrant, is committed for examination to the custody of the officer having him in charge."

Form of commitment.

SEC. 305. That at the examination the magistrate must, in the first place, read to the defendant the statement and affidavits upon which the warrant of arrest is issued, and if the defendant request it, must subpoena the informant and witnesses so examined, if they be within fifty miles of the place where the magistrate sits, and if they be within such distance he must issue subpoenas for additional witnesses when required by the informant or the defendant.

When witnesses to be subpoenaed.

SEC. 306. That the witnesses must be examined in the presence of the defendant, and may be cross-examined in his behalf or against him.

Witnesses to be examined in presence of defendant.

SEC. 307. That when the examination of the witnesses on the part of the United States is closed, the magistrate must inform the defendant that it is his right to make a statement in relation to the charge against him; that the statement is designed to enable him, if he sees fit, to answer the charge and explain the facts alleged against him; that he is at liberty to waive making a statement, and that his waiver can not be used against him on the trial.

Defendant to be informed of his right to make a statement.

SEC. 308. That if the defendant waive his right to make a statement, the magistrate must make a memorandum thereof in the proceedings; but the fact of his waiver can not be used against the defendant on the trial.

Waiver of his right and effect thereof.

SEC. 309. That if the defendant choose to make a statement, the magistrate must proceed to take it in writing, and must put to the defendant the following questions only:

Statement of defendant, how taken.

First. What is your name and age?

Second. Where were you born?

Third. Where do you reside, and how long have you resided there?

Fourth. What is your business or occupation?

Fifth. Give any explanation you may think proper of the circumstances appearing in the testimony against you, and state any facts which you think will tend to your exculpation.

Same subject.

SEC. 310. That the answer of the defendant to each of the questions must be read to him as it is taken down. He may thereupon correct or add to his answer until it is made conformable to what he declares to be the truth.

How reduced to writing and how authenticated.

SEC. 311. That the statement of the defendant must be reduced to writing by the magistrate or under his direction, and authenticated in the following form:

First. It must set forth that the defendant was informed of his rights as provided in section three hundred and seven, of this Title and that after being so informed he made the statement.

Second. It need not contain the questions put to the defendant, but must contain his answers thereto, with the corrections and additions, if any are made.

Third. It may be signed by the defendant, but if he refuse to sign it, his reason therefor must be stated as he gives it.

Fourth. It must be signed and certified to by the magistrate.

Statement of defendant, when used as testimony.

SEC. 312. That the statement of the defendant is competent testimony to be laid before the grand jury, and may be given in evidence against the defendant on the trial.

Defendant's witnesses to be examined, when.

SEC. 313. That after the waiver of the defendant to make a statement, or after he has made it, his witnesses, if he produce any, must be sworn and examined.

Magistrate may exclude witnesses.

SEC. 314. That the magistrate may exclude the witnesses who have not been examined during the examination of the defendant, or during the examination of the witnesses for the United States or the defendant.

Testimony of witnesses need not be reduced to writing.

SEC. 315. That the testimony of the witnesses need not be reduced to writing, except as provided in section two hundred and seventy-three, of this Title but the magistrate must make a memorandum of the name of each witness, his place of residence, and business or occupation

Proceedings in testimony, how and by whom kept.

SEC. 316. That the magistrate must keep the statement and depositions taken on the information, the statement of the defendant, if any, together with the memorandum specified in sections three hundred and eight and three hundred and fifteen, of this Title until they are returned to the proper court, and must not permit them to be inspected by any person except the district attorney, or the attorney who acts for him, and the defendant and his counsel.

Violation of last section, how punished.

SEC. 317. That a violation of the last section is punishable as a contempt by the court having jurisdiction of the crime charged against the defendant.

Informant may employ counsel, but district attorney to control proceedings.

SEC. 318. That the informant may employ counsel to appear against the defendant on the examination in every stage of the proceedings; but the district attorney, either in person or by some attorney authorized to act for him, is entitled to appear on behalf of the United States and control and conduct the prosecution.

Defendant, when and how discharged.

SEC. 319. That after hearing the proofs and the statement of the defendant, if he have made one, if it appear either that a crime has not been committed or that there is no sufficient cause to believe the defendant guilty thereof, the magistrate must order the defendant to be discharged, by an indorsement on the warrant signed by him, to the following effect: "There being no sufficient cause shown to believe the within-named A B guilty of the crime within mentioned, I order him to be discharged."

Same subject.

SEC. 320. That if the arrest have been made without warrant, the discharge may be made by a certificate in writing, signed by the magistrate, to the following effect: "There being no sufficient cause shown to believe A B, brought before me without warrant, guilty of the crime of (designating it generally), I order him to be discharged." This certificate must be delivered to the defendant.

Defendant, when to be committed; order for commitment.

SEC. 321. That if, however, it appear from the examination that a crime has been committed, and that there is sufficient cause to believe

the defendant guilty thereof, the magistrate must make a written order, signed by him, to the following effect: "It appearing to me from the testimony produced before me on the examination that the crime of (designating it generally) has been committed, and that there is sufficient cause to believe A B guilty thereof, I order him to be held to answer the same."

SEC. 322. That if the magistrate order the defendant to be held to answer, as provided in the last section, he must make out a commitment, signed by him with his name of office, and deliver it with the defendant to the officer to whom he is committed, or if that officer be not present, to any peace officer, who must immediately deliver the defendant into the proper custody, together with the commitment.

Defendant, how committed.

SEC. 323. That the commitment may be in substantially the following form:

Form of commitment.

"In the name of the United States of America.

"To the United States marshal for the District of Alaska, greeting:

"An order having been this day made by me that A B be held to answer upon a charge (designating it generally), you are therefore commanded to receive him in your custody, and detain him until legally discharged.

"Dated at _____, this _____ day of _____, eighteen hundred and _____.

"C D,

"Commissioner and ex officio Justice of the Peace."

SEC. 324. That the commitment must be directed to the United States marshal, who must receive and detain the defendant by such means as may be necessary and proper therefor.

Commitment to be directed to marshal, and how defendant to be kept.

SEC. 325. That if the crime be bailable, the magistrate must admit the defendant to bail by adding to the order mentioned in section three hundred and twenty-one of this Title words to the following effect: "And I have admitted him to bail, to answer in a sum of _____ dollars." The defendant may either put in bail, according to the order of admission, then or afterwards; but if it be not put in before he is delivered to the officer for commitment, the magistrate must indorse the amount of the bail on the writ.

Order for bail on commitment.

SEC. 326. That on holding the defendant to answer, the magistrate may take from each of the material witnesses examined before him on behalf of the United States a written undertaking, to the effect that he will appear and testify at the court in which the defendant is held to answer, or that he will pay to the United States the sum of one hundred dollars.

Undertaking for material witnesses.

SEC. 327. That when the magistrate has good reason to believe, by proof produced before him, that any such witness will not appear and testify unless security therefor be given, he may order the witness to enter into a written undertaking, with such sureties and in such sum as he may deem proper, for his appearance, as specified in the last section.

Security for appearance of witnesses, when may be required.

SEC. 328. That infants and married women who are material witnesses against the defendant may in like manner be required to procure sureties for their appearance as provided in the last section.

Infants and married women may be required to give security.

SEC. 329. That if a witness required to enter into an undertaking to appear and testify, either with or without sureties, refuse compliance with the order for that purpose, the magistrate must commit him to the custody of the marshal until he comply or be legally discharged.

Witness refusing to give undertaking must be committed.

SEC. 330. That when a magistrate has discharged a defendant or has held him to answer as provided in sections three hundred and nineteen, three hundred and twenty, and three hundred and twenty-one, of this Title he must return to the court at which the defendant is held to answer, at or before the first day of the next term thereof, the warrant, if any, the statement and depositions of the informant and his witnesses, the statement of the defendant, if he have made one, the memoranda specified in sections three hundred and eight and three hundred and fifteen, of this Title and all undertakings of bail for the appearance of witnesses taken by him.

Magistrate to return proceedings and papers.

CHAPTER THIRTY-FIVE.

OF THE PREVENTION OF CRIMES AND SECURITY TO KEEP THE PEACE.

<p>Sec.</p> <p>331. Resistance to the commission of crime, by whom made.</p> <p>332. Officers of justice may interfere to prevent crime, and how.</p> <p>333. Persons acting in their aid are justified.</p> <p>334. Information of threatened crime, before whom laid.</p> <p>Sec.</p> <p>339. Conduct of the examination as to adjournment, commitment, and bail.</p> <p>340. Subpœnas, when issued.</p> <p>341. Persons complained of entitled to make statement.</p> <p>342. When to be discharged.</p> <p>343. Security to keep the peace, when required.</p> <p>344. Qualifications of securities.</p> <p>345. Persons complained of to be committed if security be not given.</p> <p>346. Form of commitment.</p> <p>347. Breach of peace committed in presence of court or magistrate.</p> <p>348. Person committed for not giving security, how discharged.</p>	<p>Sec.</p> <p>335. Examination of complainant and witnesses.</p> <p>336. Warrant of arrest, when issued.</p> <p>337. Warrant of arrest, to whom directed, form of, and how served.</p> <p>338. Proceedings on complaint being controverted.</p> <p>Sec.</p> <p>349. Undertaking or statement to be transmitted to district court.</p> <p>350. Evidence to be transmitted with undertaking</p> <p>351. Undertaking, when forfeited.</p> <p>352. Proceedings in case of forfeiture, how regulated.</p> <p>353. Proceeding if complainant do not appear in district court.</p> <p>354. Proceeding in district court.</p> <p>355. Right of sureties in undertaking to keep the peace.</p> <p>356. When court may require defendant to give security.</p> <p>357. Undertaking to keep the peace to include good behavior.</p>
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Resistance to the commission of crime, by whom made.

SEC. 331. That resistance to the commission of crime may be lawfully made by the party about to be injured, or by any other person in his aid or defense—

First. To prevent a crime against his person;

Second. To prevent an illegal attempt, by force, to take or injure property in his possession.

Officers of justice may interfere to prevent crime, and how.

SEC. 332. That crimes may be prevented by the intervention of the officers of justice—

First. By requiring security to keep the peace;

Second. By forming a police in towns, villages, and settlements, and by requiring their attendance at exposed places;

Third. By suppressing riots.

Persons acting in their aid are justified.

SEC. 333. That when the officers of justice act in the prevention of crime, other persons who by their command act in their aid are justified in so doing.

Information of threatened crime, before whom laid.

SEC. 334. That an information may be laid before any of the magistrates mentioned in section two hundred and seventy-one of this Title that a person has threatened to commit a crime against the person or property of another.

Examination of complainant and witnesses.

SEC. 335. That when the complaint is made to a magistrate, he must examine the complainant on oath, and reduce his statement to writing, and cause the same to be subscribed by him, and also take the depositions of any witnesses that the complainant may produce in support thereof.

Warrant of arrest, when issued.

SEC. 336. That thereupon, if it appear to the magistrate that there is good reason to fear the commission of the crime threatened by the person complained of, he must issue a warrant for the arrest of such person.

Warrant of arrest, to whom directed, form of, and how served.

SEC. 337. That the warrant must be directed and executed as a warrant of arrest, and may be substantially in the same form, except that, instead of reciting the commission of a crime, it must recite the substance of the threat to commit one, according to the information.

Proceedings on complaint being controverted.

SEC. 338. That when the person complained of is brought before a magistrate, if the charge be controverted he must take the testimony in relation thereto, and the evidence must be reduced to writing and subscribed by the witness.

SEC. 339. That the magistrate may adjourn the examination and commit the person complained of, or take bail or a deposit of money in lieu thereof, as provided in sections three hundred and two, three hundred and three, and three hundred and four of this Title.

Conduct of the examination as to adjournment, commitment, and bail.

SEC. 340. That the magistrate must issue subpoenas for witnesses for the complainant or person complained of if such witnesses be within fifty miles from the place where the magistrate is sitting.

Subpoenas, when issued.

SEC. 341. That the person complained of is entitled, if he choose, to make a statement concerning the charges against him, as provided in sections three hundred and nine, three hundred and ten, and three hundred and eleven of this Title.

Persons complained of entitled to make statement.

SEC. 342. That if from the examination it appear that there is no good reason to fear the commission of the crime alleged to have been threatened, the person complained of must be discharged; the order for the discharge must be indorsed upon the warrant, and signed by the magistrate with his name of office, and may be to the following effect: "There being no good reason shown to fear the commission of the crime within mentioned by the within-named A B, I order him to be discharged."

When to be discharged.

SEC. 343. That if, however, there be good reason to fear the commission of the crime, the person complained of must be required to enter into an undertaking in such sum, not exceeding two thousand dollars, as the magistrate may direct, with one or more sufficient sureties, to abide the order of the district court, and in the meantime to keep the peace toward the people of said District, and particularly toward the complainant.

Security to keep the peace, when required.

SEC. 344. That the sureties in the undertaking must have the qualifications of bail, and justify thereto as provided in sections two hundred and eighteen and two hundred and nineteen of this Title.

Qualifications of sureties.

SEC. 345. That if the undertaking required by section three hundred and forty-three of this Title be given, the party complained of must be discharged; but if he do not give it, the magistrate must commit him to the custody of the marshal, specifying in the commitment the requirement to give security, the amount thereof, and the omission to give the same.

Persons complained of to be committed if security be not given.

SEC. 346. That the commitment may be in substantially the following form:

Form of commitment.

"In the name of the United States of America.

"To the United States marshal for the District of Alaska, greeting:

"An order having been this day made by me that A B give an undertaking in the sum of dollars, as security to keep the peace and abide the order of the district court, and the said A B having failed to give such undertaking, you are therefore commanded to receive him into your custody, and detain him until legally discharged.

"Dated at , this day of , eighteen hundred and .

"C D,

"Commissioner and ex officio Justice of the Peace."

SEC. 347. That a person who, in the presence of a court or magistrate, assaults or threatens to assault another, or to commit an offense against his property, or who contends with another with angry words to the disturbance of the peace, may be ordered by the court or magistrate, without warrant or other proof, to give security as provided in section three hundred and forty-three, or if he omit to do so may be committed as provided in section three hundred and forty-five of this Title.

Breach of peace committed in presence of court or magistrate.

SEC. 348. That a person committed for not giving an undertaking to keep the peace may, at any time thereafter, upon giving the required undertaking, be discharged from custody by the order of any magistrate before whom the information might have been laid.

Person committed for not giving security, how discharged.

SEC. 349. That an undertaking to keep the peace must be transmitted by the first day of the term to the district court by the magistrate to whom it is given; but if the person be committed for want of an undertaking, the magistrate must, in like manner, transmit a statement of the commitment.

Undertaking or statement to be transmitted to district court.

Evidence to be transmitted with undertaking.

SEC. 350. That with the undertaking or statement mentioned in the last section the magistrate must also transmit the evidence taken by him for and against the charge.

Undertaking, when forfeited.

SEC. 351. That a person who has entered into an undertaking to keep the peace must appear on the first day of the next term of the district court, and abide the order thereof; and if he do not, the court must direct the fact to be entered in its journal, and the undertaking is thereupon forfeited. The undertaking is also forfeited upon the person complained of being convicted of a breach of the peace.

Proceedings in case of forfeiture, how regulated.

SEC. 352. That sections two hundred and thirty-eight to two hundred and forty-two, of this Title inclusive, shall apply to and govern the excusing of a forfeiture of the undertaking, the remission of the forfeiture, and the prosecution of the undertaking.

Proceeding if complainant do not appear in district court.

SEC. 353. That if the complainant do not appear at the district court, the person complained of may be discharged, unless good cause to the contrary be shown.

Proceeding in district court.

SEC. 354. That if both parties appear, the court must hear the proofs and allegations transmitted by the magistrate, and such other evidence as the parties may produce, and may either discharge the undertaking or require a new one, for a time not exceeding one year.

Right of sureties in undertaking to keep the peace.

SEC. 355. That the sureties in an undertaking to keep the peace are entitled to the rights and authority of bail, as provided in chapter twenty-two of this Act, and may be exonerated from their undertaking in the manner therein prescribed.

When court may require defendant to give security.

SEC. 356. That the court before whom any person is convicted of a crime, which by the judgment of such court is punished otherwise than by death or imprisonment in the penitentiary, may require such person to enter into an undertaking as provided in section three hundred and forty-three, of this Title for a period not exceeding two years, and in default thereof may commit him until the undertaking be given or the period expired.

Undertaking to keep the peace to include good behavior.

SEC. 357. That an undertaking to keep the peace shall be taken and deemed to be an undertaking to be of good behavior also, and can not be required except as provided in this chapter.

CHAPTER THIRTY-SIX.

OF THE SUPPRESSION OF RIOTS.

- Sec. 358. How and by whom rioters commanded to disperse.
- 359. If rioters do not disperse, to be arrested.
- 360. Consequence of refusing to aid officers.

- Sec. 361. Magistrate or officer neglecting to act guilty of misdemeanor.
- 362. Proceedings if rioters do not disperse.
- 363. If death ensue, who deemed guilty thereof.

How and by whom rioters commanded to disperse.

SEC. 358. That when any persons, to the number of three or more, whether armed or not, are unlawfully or riotously assembled in any town, village, or settlement, the marshal or any deputy, the chief executive officer of such town, village, or settlement, and the commissioners as justices of the peace for the precinct where the assemblage takes place, must go among the persons assembled, or as near to them as they can with safety, and command them in the name of the United States to disperse.

If rioters do not disperse, to be arrested.

SEC. 359. That if the persons assembled do not immediately disperse, the magistrates and officers must arrest them or cause them to be arrested, that they may be punished according to law, and for that purpose may command the aid of all persons present.

Consequence of refusal to aid officers.

SEC. 360. That if a person so commanded to aid the magistrate or officers, or any of them, mentioned in section three hundred and fifty-eight, of this Title neglect to do so, he is deemed one of the rioters, and may be treated and is punishable accordingly.

SEC. 361. That if a magistrate or officer having notice of an unlawful or riotous assembly, mentioned in section three hundred and fifty-eight, of this Title neglect to proceed to the place of assembly, or as near thereto as he can with safety, and to exercise the authority with which he is invested for suppressing the same and arresting the offenders, he is guilty of a misdemeanor. Magistrate or officer neglecting to act, guilty of misdemeanor.

SEC. 362. That if the persons assembled and commanded to disperse do not immediately disperse, any two of the magistrates or officers mentioned in section three hundred and fifty-eight of this Title may command the aid of a sufficient number of persons, armed or otherwise, as may be necessary, and may proceed in such manner as in their judgment may be most expedient to disperse the assembly and arrest the offenders. Proceedings if rioters do not disperse.

SEC. 363. That if, in the effort to suppress or disperse any unlawful or riotous assembly, or to arrest or detain any of the persons engaged therein, any such rioters or other persons then present as spectators or otherwise be killed or wounded, the magistrate and officers and persons acting in their aid are guiltless thereof; but if any such magistrate or officers or persons acting in their aid be killed or wounded, all the persons engaged in such assembly are guilty thereof. If death ensue, who deemed guilty thereof.

CHAPTER THIRTY-SEVEN.

OF THE CORONER'S INQUEST AND PROCEEDINGS THEREON.

<p>Sec. 364. Commissioners to act as coroners. 365. Duty of coroners. 366. To summon jury to hold inquest. 367. Oath of jury. 368. Witnesses to be subpoenaed to include physician. 369. Compelling attendance of witnesses. 370. Verdict of jury.</p>	<p>Sec. 371. Testimony, how taken. 372. To issue warrant, when, and proceedings thereon. 373. When coroner to bury body. 374. Coroner's statement of expenses. 375. Inventory of property found on the deceased. 376. Disposition of property.</p>
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SEC. 364. That the commissioners appointed by the President of the United States and those appointed by the judge of the district court in pursuance of the provisions of this Act shall perform the duties and exercise the authority of coroners. Commissioners to act as coroners.

SEC. 365. That every such commissioner has the power, and it is his duty, when he is informed that a person has been killed or dangerously wounded by another or has suddenly died under such circumstances as to afford a reasonable ground to suspect that his death has been occasioned by criminal means or has committed suicide, to inquire by the intervention of a jury into the cause of the death or wound, and to perform the other duties incidental thereto in the manner prescribed by statute. Duty of coroners.

SEC. 366. That in such case he must go to the place where the dead or wounded person is, and forthwith summon six persons, qualified by law to serve as jurors, to appear before him forthwith at a specified place, to inquire into the cause of the death or wound. To summon jury to hold inquest.

SEC. 367. That when the jurors to the number of six appear, they must be sworn by the coroner to inquire who the person was, and when, where, and by what means he came to his death or was wounded, as the case may be, and into the circumstances attending the death or wounding, and to give a true verdict thereon, according to the evidence offered to them or arising from the inspection of the body. Oath of jurors.

SEC. 368. That the commissioner must subpoena and examine as witnesses every person who in his opinion has knowledge of the material facts, and also a surgeon or physician, who must, in the presence of the jury, inspect the body and give a professional opinion as to the cause of the death or wounding. Witnesses to be subpoenaed to include physician.

SEC. 369. That for the purpose of subpoenaing witnesses, compelling them to attend and testify, and punishing them for disobedience, the Compelling attendance of witnesses.

commissioner shall have the power and authority conferred upon justices of the peace with respect to examinations in criminal cases.

Verdict of jury.

SEC. 370. That when the examination is closed the jury, or two-thirds of their number, must give their verdict in writing, and signed by them, setting forth, so far as they know or have good reason to believe, who the person killed or wounded is, and when, where, and by what means he came to his death or was wounded, and whether any person, and who, is guilty of a crime thereby.

Testimony, how taken.

SEC. 371. That the testimony of the witnesses must be reduced to writing by the commissioner, or under his direction, and the verdict of the jury delivered to him.

To issue warrant, when, and proceedings thereon.

SEC. 372. That if the jury find that a crime was committed in the killing or the wounding, and also charge a person with the commission of the crime, the commissioner, as a magistrate, must forthwith issue a warrant for the arrest of such person as on an information, and when the defendant is brought before him must proceed to examine the charge contained in the verdict, and hold the defendant to answer, or discharge him therefrom, in the same manner in all respects as upon a warrant of arrest.

When coroner to bury body.

SEC. 373. That when a commissioner shall hold an inquest upon the body of a stranger or pauper, and no friend or relative appears to claim the body for burial, the commissioner must cause the same to be plainly and decently buried.

Coroner's statement of expenses.

SEC. 374. That the commissioner must return to the district court a written statement, verified by his own oath, of the expense of any inquest or burial held by him, including his fees and the fees of jurors and witnesses, which account, upon being allowed by the district court, must be paid to the persons to whom the items thereof are due by the United States marshal, from moneys appropriated to pay the expenses of United States courts.

Inventory of property found on the deceased.

SEC. 375. That if money or other property be found on the body, the commissioner must make an inventory of it, and take the same into his possession, which inventory he must verify and return to the district court, with the account specified in the last section.

Disposition of property.

SEC. 376. That the commissioner must, within thirty days from the inquest, deliver the money, or other property, to the clerk of the district court. If it be other property the clerk must cause it to be sold as upon execution, and after deducting the expenses of sale, deposit the same in the manner provided in the case of moneys collected on judgments in favor of the United States. If it be money, he shall also so deposit it.

CHAPTER THIRTY-EIGHT.

OF SEARCH WARRANTS, AND PROCEEDINGS THEREON.

Sec.

- 377. Who may issue search warrant.
- 378. On what ground search warrant may issue.
- 379. Search warrant issued only upon probable cause.
- 380. Examination of complainant and his witnesses.
- 381. When magistrate to issue warrant, form of.
- 382. Power of officer in executing search warrant.
- 383. Officer must give receipt for property taken.
- 384. Property when delivered to magistrate, how disposed of.

Sec.

- 385. Within what time warrant must be executed and returned.
- 386. Return of warrant and delivery of property.
- 387. Magistrate to give copy of inventory to whom.
- 388. Proceedings if grounds of issuing warrants controverted.
- 389. Property, when to be restored.
- 390. Return of magistrate.
- 391. When person procuring search warrant guilty of misdemeanor.
- 392. Person charged with crime may be searched. Disposition of weapon.

Who may issue search warrant.

SEC. 377. That a magistrate authorized to issue a warrant of arrest has authority to issue a search warrant, directed to the peace officer, commanding him to search for personal property at any place within said District and bring it before the magistrate.

SEC. 378. That a search warrant may be issued upon either of the following grounds:

On what ground search warrant may issue.

First. When the property was stolen or embezzled, in which case it may be taken, on the warrant, from any house or other place in which it was concealed or may be found, or from the possession of the person by whom it was stolen or embezzled, or of any other person in whose possession it may be;

Second. When the property was used as a means of committing a felony, in which case it may be taken, on the warrant, from any house or other place in which it is concealed or may be found, or from the possession of the person by whom it was used in the commission of the offense, or of any other person in whose possession it may be;

Third. When the property is in the possession of any person with the intent to use it as the means of committing a crime, or in possession of another to whom he may have delivered it for the purpose of concealing it or preventing its being discovered, in which case it may be taken on the warrant from the possession of such person, or the person to whom he may have so delivered it, or from any house or other place occupied by them or under their control, or either of them.

SEC. 379. That a search warrant can not be issued but upon probable cause, shown by affidavit, naming or describing the person, and describing the property and the place to be searched.

Search warrant issued only upon probable cause.

SEC. 380. That the magistrate must, before issuing the warrant, examine on oath the complainant and any witnesses he may produce and take their depositions in writing, and cause them to be subscribed by the parties making them.

Examination of complainant and his witnesses.

SEC. 381. That thereupon, if the magistrate be satisfied that there is probable cause to believe in the existence of the grounds of the application, he must issue the warrant, which may be in substantially the following form:

When magistrate to issue warrant, form of.

"District of Alaska, division No.

"In the name of the United States of America.

"To the United States marshal for the District of Alaska, greeting:

"Information on oath having been this day laid before me (stating the particular grounds of the application, according to section three hundred and seventy-eight of this Title), you are therefore hereby commanded, at any time in the day or night, to make immediate search on the person of A B (or in the house situated—describing it—or any other place to be searched with reasonable particularity, as the case may be) for the following property (describing it with reasonable particularity), and if you find the same, or any part thereof, to bring it forthwith to me at (stating the place).

"Dated at , this day of , eighteen hundred and

"C D,

"Commissioner and ex officio Justice of the Peace."

SEC. 382. That in the execution or service of a search warrant, the officer has the same power and authority, in all respects, to break open any door or window, to use all necessary and proper means to overcome any forcible resistance made to him, or to call any other person to his aid, that he has in the execution or service of a warrant of arrest.

Power of officer in executing search warrant.

SEC. 383. That when the officer takes property under the warrant, he must give a receipt for the property taken, specifying it in detail, to the person from whom he takes it or in whose possession it is found, or in the absence of any person he must leave it in the place where he found the property.

Officer must give receipt for property taken.

SEC. 384. That when the property is delivered to the magistrate, he must, if it was stolen or embezzled, dispose of it as provided in sections two hundred and sixty-five, two hundred and sixty-six, and two hundred and sixty-nine of this Title; but if it were taken on a warrant issued on the grounds stated in subdivisions two and three of section three hundred and seventy-eight, of this Title he must retain it in his possession, subject to the order of the court to which he is required to

Property when delivered to magistrate, how disposed of.

return the proceedings before him, or any other court in which the crime in respect to which the property was taken is triable.

Within what time warrant must be executed and returned.

SEC. 385. That a search warrant must be executed and returned to the magistrate by whom it was issued within ten days from its date, unless such magistrate, before the expiration of such time, shall, by indorsement thereon, extend the time for thirty days. After the expiration of the time herein prescribed, the warrant, unless executed, is void.

Return of warrant and delivery of property.

SEC. 386. That the officer must forthwith return the warrant to the magistrate and deliver to him a written inventory of the property taken, made publicly or in the presence of the person from whose possession it was taken, and of the applicant for the warrant, if they be present, verified by the oath of the officer, to the following effect:

"I, A B, the officer by whom this warrant was executed, do swear that the above inventory contains a true and detailed account of all the property taken by me on the warrant."

Magistrate to give copy of inventory to whom.

SEC. 387. That the magistrate must thereupon, if required, deliver a certified copy of the inventory to the person from whose possession the property was taken and to the applicant for the warrant.

Proceedings if grounds of issuing warrants controverted.

SEC. 388. That if the person from whose possession the property was taken controvert the grounds of issuing the warrant, the magistrate must proceed to examine the matter by taking testimony in relation thereto.

Property, when to be restored.

SEC. 389. That if it satisfactorily appear that the property taken is not the same as that described in the warrant, or that there is no probable cause for believing the existence of the grounds on which the warrant was issued, the magistrate must cause it to be restored to the person from whom it was taken.

Return of magistrate.

SEC. 390. That the magistrate must annex together the depositions, the search warrant and return, and the inventory, and return them to the district court at or before the first day of the next term thereof.

When person procuring search warrant guilty of misdemeanor.

SEC. 391. That a person who maliciously and without probable cause procures a search warrant to be issued and executed is guilty of a misdemeanor.

Person charged with crime may be searched. Disposition of weapon.

SEC. 392. That when a person charged with a crime is supposed by the magistrate before whom he is brought to have on his person a dangerous weapon, or anything which may be used as evidence of the commission of the crime, the magistrate may direct him to be searched in his presence, and direct the weapon or other thing to be retained, subject to his order or the order of the court in which the defendant may be tried.

CHAPTER THIRTY-NINE.

OF PROCEEDINGS IN RELATION TO FUGITIVES FROM JUSTICE.

<p>Sec. 393. Governor to appoint agent to demand fugitive from justice. 394. Governor may require report from district attorney. 395. Payment of expenses of agent. 396. Fugitive from justice, when to be delivered up by governor. 397. When fugitive not to be delivered, and when he may be. 398. Report of district attorney in relation to custody of fugitive. 399. When and to whom governor to issue warrant for arrest. 400. Executive warrant to direct officers and magistrate to aid in its execution.</p>	<p>Sec. 401. Magistrate may issue warrant for arrest of fugitive. 402. Proceeding for arrest and commitment of fugitive before magistrate. 403. When magistrate to commit, and for what time. 404. Magistrate may admit person arrested to bail. 405. Magistrate to give notice to governor of commitment. 406. Person arrested to be discharged unless taken under executive warrant. 407. Person causing arrest liable for costs and expenses.</p>
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Governor to appoint agent to demand fugitive from justice.

SEC. 393. That whenever a person charged with treason or other felony, in said district shall flee from justice the governor of said district may appoint an agent to demand such fugitive of the executive author-

ity of any State or Territory of the United States in which he may be found.

SEC. 394. That before appointing such agent the governor may require the district attorney to investigate the matter and report to him the material circumstances, together with his opinion upon the expediency of allowing the application. Governor may require report from district attorney.

SEC. 395. That the account of the agent, including his actual expenses incurred in performing the service, must be paid by the United States marshal, after being allowed by the district court, out of moneys appropriated to pay the expenses of United States courts. Payment of expenses of agent.

SEC. 396. That a person charged in any State or Territory of the United States with treason, felony, or other crime, who may flee from justice and be found in said District, must, on demand of the executive authority of the State or Territory from which he fled, be delivered up by the governor of said District, to be removed to the State or Territory making the demand. Fugitive from justice, when to be delivered up by governor.

SEC. 397. That when the person demanded is in custody in said District, either upon a criminal charge, an indictment for a crime, or a judgment upon a conviction thereof, he can not be delivered up until he is legally discharged from such custody; but if he be in custody upon civil process only, the governor may deliver him up or not before the termination of such custody, as he may deem most conducive to the public good. When fugitive not to be delivered, and when he may be.

SEC. 398. That before issuing a warrant for the delivery of a fugitive from justice, the governor may require the district attorney to ascertain and report to him whether such fugitive is in custody as mentioned in the last section, and if he be so upon civil process only, whether such custody be with the consent or procurement of the fugitive. Report of district attorney in relation to custody of fugitive.

SEC. 399. That when the governor finds that the demand is conformable to law, and the person demanded should be given up, either then or at some future time, if he be in custody, he must issue his warrant under the seal of the District, directed to the person who makes the demand, and authorizing him, either forthwith or at some future time therein designated, to take and transport the fugitive to the border line of said District at the expense of the person demanding the fugitive. When and to whom governor to issue warrant for arrest.

SEC. 400. That the executive warrant must also require all peace officers and magistrates, when requested by the person to whom the warrant is directed, to render all needful assistance in the execution thereof; and in so doing such officers or magistrates may exercise the same power and authority to prevent a rescue, an escape, or to effect a recapture, as if the fugitive was in arrest upon a charge of crime committed in said District. Executive warrant to direct officers and magistrate to aid in its execution.

SEC. 401. That a magistrate authorized to issue a warrant of arrest may issue a warrant for the arrest of a person charged as provided in section three hundred and ninety-six, of this Title who shall flee from justice and be found in said District. Magistrate may issue warrant for arrest of fugitive.

SEC. 402. That the proceedings for the arrest and commitment of the person charged are in all respects similar to those provided in this Act for the arrest and commitment of a person charged with a crime committed in said District, except that an exemplified copy of an indictment found, or other judicial proceedings had against him, in the State or Territory in which he is charged to have committed the crime, may be received as evidence before the magistrate. Proceeding for arrest and commitment of fugitive before magistrate.

SEC. 403. That if from the examination it appear that the person charged has committed the crime alleged, the magistrate must commit him to the proper custody for a time specified in the commitment, which the magistrate deems reasonable, to enable the arrest of the fugitive under the warrant of the executive authority of said District on the requisition of the executive authority of the State or Territory in which he committed the crime, or until he be legally discharged, unless he give bail as provided in the next section. When magistrate to commit, and for what time.

Magistrate may admit person arrested to bail.

SEC. 404. That the magistrate may admit the person arrested to bail by an undertaking, with sufficient sureties and in such amount as he deems proper, for his appearance before him at a time specified in the undertaking, and for his surrender to be arrested upon the warrant of the governor of said District.

Magistrate to give notice to governor of commitment.

SEC. 405. That immediately upon the commitment of the person charged, the magistrate must inform the governor of said District of the name of the person, the cause of the arrest, and his commitment; and the governor must thereupon give the like notice to the executive authority of the State or Territory having jurisdiction of the crime, to the end that a demand may be made for the arrest and surrender of the person charged.

Person arrested to be discharged unless taken under executive warrant.

SEC. 406. That the person arrested must be discharged from custody or bail unless, before the expiration of the time designated in the warrant or undertaking, he be arrested under the warrant of the governor of said District.

Person causing arrest liable for costs and expenses.

SEC. 407. That the person making the complaint to the magistrate is liable for the costs and expenses of the proceedings and for the support in the jail of the person so committed; and unless he advance to the jailer or other proper officer, from week to week during the commitment, a sum sufficient for his support, the jailer or other officer having such person in custody may, upon the order of the magistrate, discharge such person from custody.

CHAPTER FORTY.

OF JUSTICES OF THE PEACE AND CONSTABLES EX OFFICIO.

Sec.

408. Additional commissioners to be appointed by court.

Sec.

409. Additional deputy marshals.

Additional commissioners to be appointed by court.

SEC. 408. That in addition to the commissioners appointed by the President of the United States in pursuance of Acts of Congress now in force, or that may be hereafter enacted, the judge of the district court of said District may appoint commissioners, who shall reside at such places as he may designate in the order of appointment, and who shall perform the duties and exercise the powers conferred upon justices of the peace by this Act.

Additional deputy marshals.
Vol. 23, p. 25.

SEC. 409. That in addition to the deputies now provided for by the Act of Congress entitled "An Act providing a civil government for Alaska," approved May seventeenth, eighteen hundred and eighty-four, the United States marshal for said District shall appoint deputies, who shall reside at such places as the judge of the district court shall from time to time designate; and all United States deputy marshals shall be ex officio constables and executive officers of the commissioners' and justices' courts, and shall have the powers and discharge the duties of constables under the provisions of this Act.

CHAPTER FORTY-ONE.

OF JURISDICTION OF JUSTICES' COURTS.

Sec.

410. Criminal jurisdiction of a justice's court.

Criminal jurisdiction of a justice's court.

SEC. 410. That a justice's court has jurisdiction of the following crimes:

First. Larceny, where the punishment therefor may be imprisonment in the county jail or by fine.

Second. Assault, or assault and battery, not charged to have been committed with intent to commit a felony, or in the course of a riot, or with a dangerous weapon, or upon a public officer in the discharge of his duties.

Third. Of any misdemeanor punishable by imprisonment in the county jail, or by fine, or by both.

CHAPTER FORTY-TWO.

CRIMINAL ACTION IN JUSTICES' COURTS.

<p>Sec. 411. Proceedings in criminal action, how governed. 412. Criminal action, how commenced; person injured must appear or be subpoenaed. 413. Complaint to be deemed indictment. 414. Warrant of arrest. 415. Warrant, requisitions of. 416. Defendant, when must plead. 417. Defendant may plead same pleas as in indictment. 418. Issue, how tried. 419. Order to summon jury. 420. When jurors required to appear. 421. Officer to summon persons qualified to serve as jurors. 422. Order for jury, how served. 423. Deficiency in jurors, how supplied. 424. Challenges. 425. Verdict of jury, how given. 426. Judgment of conviction.</p>	<p>Sec. 427. Judgment of acquittal, entry of. 428. Judgment against prosecutor for costs. 429. Judgment against prosecutor, how enforced. 430. Judgment of conviction, entry of. 431. Entry of judgment and copy of, as evidence. 432. Judgment of conviction. 433. Payment of fine and costs. 434. Money paid on judgment of conviction. 435. Action to be tried within one day, unless, etc. 436. Defendant may give bail. 437. Undertaking of bail, form of. 438. Proceeding if defendant do not give bail. 439. Form of commitment. 440. Proceeding when crime not within jurisdiction of justice.</p>
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SEC. 411. That a criminal action in a justice's court is commenced and proceeded in to final determination, and the judgment therein enforced, in the manner hereinbefore provided, except as in this chapter otherwise specially provided. Proceedings in criminal action, how governed.

SEC. 412. That in a justice's court a criminal action is commenced by the filing of the complaint therein, verified by the oath of the person commencing the action, who is thereafter known as the private prosecutor; and no judgment of conviction or acquittal can be given in a criminal action in justice's court unless the person injured appear or be subpoenaed to attend the trial as a witness. Criminal action, how commenced; person injured must appear or be subpoenaed.

SEC. 413. That the complaint is to be deemed an indictment within the meaning of the provisions of chapter seven, title two, of this Act, prescribing what is sufficient to be stated in such pleading and the form of stating it. Complaint to be deemed indictment.

SEC. 414. That upon the filing of the complaint the justice must issue a warrant of arrest for the defendant named therein. Warrant of arrest.

SEC. 415. That a warrant of arrest in a criminal action is issued, directed, and executed in all respects as the warrant provided for in chapter thirty-two, title two, of this Act, except that it must be made returnable only before the justice who issues it. Warrant, requisitions of.

SEC. 416. That when the defendant is brought before the justice, the complaint must be read to him, and he must be required to plead thereto. Defendant, when must plead.

SEC. 417. That the defendant may plead the same plea as upon an indictment. His plea must be oral and entered in the docket. If the defendant refuse to plead, the justice must enter the fact, together with the plea of not guilty on his behalf. Defendant may plead same pleas as in indictment.

SEC. 418. That upon a plea other than a plea of guilty, if the defendant do not then demand a trial by jury, the justice must proceed to try the issue. Issue, how tried.

SEC. 419. That if a trial by jury be demanded, the justice must make an order in writing, directed to the United States marshal or any deputy, commanding him to summon twelve persons to serve as jurors in the action, at a time and place to be named therein. Order to summon jury.

SEC. 420. That the order shall require the jurors to appear before the justice forthwith, or at some future time to which the trial of the issue may be postponed. When jurors required to appear.

SEC. 421. That the officer serving the order for a jury must do so impartially by selecting only such persons as he knows, or has good reason to believe, are qualified according to law to serve as jurors in the court to which they are summoned and in the particular action for which they are selected. Officer to summon persons qualified to serve as jurors.

Order for jury, how served.

SEC. 422. That the officer must serve the order by giving notice to each person selected of the time and place he is required to appear, and for what purpose, and return the same according to the direction therein, with the names of the persons summoned, verified by his own certificate.

Deficiency in jurors, how supplied.

SEC. 423. That if a sufficient number of jurors do not appear at the time and place required, or if any of those appearing are peremptorily challenged, or upon a challenge for cause found disqualified, the justice must order the proper officer to summon a sufficient number of other qualified persons, until the jury is completed.

Challenges.

SEC. 424. That each party is entitled to take challenges for cause, and to two peremptory challenges.

Verdict of jury, how given.

SEC. 425. That when the jury have agreed upon a verdict, they must deliver the same to the justice publicly, who shall enter it in his docket.

Judgment of conviction.

SEC. 426. That when the defendant pleads guilty, or is convicted, either by the justice or the jury, the justice must give judgment thereon for such punishment as may be prescribed by law for the crime.

Judgment of acquittal, entry of.

SEC. 427. That when the defendant is found not guilty, either by the justice or a jury, he must be immediately discharged; and if it appear to the justice that the prosecution was malicious or without probable cause, he must make an entry to that effect in his docket.

Judgment against prosecutor for costs.

SEC. 428. That upon making the entry prescribed in the last section, the justice must give judgment against the private prosecutor for the costs and disbursements of the action, and require him to pay the same or give satisfactory security therefor, by a written undertaking, with one or more sureties, to be approved by the justice, to pay the same to the justice within thirty days from the date of such judgment.

Judgment against prosecutor, how enforced.

SEC. 429. That the judgment may be enforced against the prosecutor, if he do not pay the same or give the required security therefor, in all respects as a judgment for a fine in a criminal action; but if he give the required security therefor, said judgment may be enforced, at the expiration of the thirty days, against the prosecutor and his sureties in the undertaking in all respects as a judgment for money in a civil action.

Judgment of conviction, entry of.

SEC. 430. That when a judgment of conviction is given, either upon a plea of guilty or upon a trial, the justice must enter the same in the docket substantially as follows:

"Justice's court for the precinct of _____, District of Alaska, division No. _____

"The United States of America v. A B

(day of the month and year).

"The above-named A B having been brought before me, C D, a commissioner and ex officio justice of the peace, in a criminal action, for the crime of (briefly designate the crime), and the said A B having thereupon pleaded 'not guilty' (or as the case may be), and been duly tried by me (or by a jury, as the case may be), and upon such trial duly convicted, I have adjudged that he be imprisoned in the county jail _____ days and that he pay the cost of the action, taxed at _____ dollars (or that he pay a fine of _____ dollars and such costs and be imprisoned in such jail until such fine and costs be paid, not exceeding _____ days, as the case may be).

"C D,

"Commissioner and ex officio Justice of the Peace."

If the defendant has pleaded guilty, instead of the paragraph commencing "and the said A B," and ending "upon such trial duly convicted," the entry must state substantially as follows: "And the said A B having been thereof duly convicted upon a plea of guilty."

Entry of judgment and copy of, as evidence.

SEC. 431. That an entry of judgment and the transcript thereof, made or filed as in the last two sections provided, is conclusive evidence of the facts stated therein.

Judgment of conviction.

SEC. 432. That the judgment must be executed by the United States marshal or any deputy, upon receiving a certified copy of the entry of judgment, and such copy shall also be deemed an execution against

the property of the defendant for the purpose of collecting the amount of any fine or costs mentioned therein.

SEC. 433. That if the fine and costs, or any part thereof, be paid before commitment, they must be paid to the justice, and thereafter to the officer in whose custody the defendant may be at the time of such payment, which officer must immediately pay the same to the justice. Payment of fine and costs.

SEC. 434. That any money paid to the justice upon a judgment in a criminal action must first be applied to the costs of the action, and the remainder, by such justice, paid to the clerk of the proper division of the district court, to be deposited as provided by law. Money paid on judgment of conviction.

SEC. 435. That when the defendant is brought before the justice upon the warrant of arrest, the action must be tried within one day thereafter, unless continued for cause. Action to be tried within one day, unless, etc.

SEC. 436. That at any time before the commencement of the trial, or during the progress thereof, the justice must admit the defendant to bail if he require it, and take bail of him accordingly. Defendant may give bail.

SEC. 437. That the bail must be given by a written undertaking, executed by one or more sufficient sureties, approved by the justice, in substantially the following form: Undertaking of bail, form of.

“Justice’s court for the precinct of _____, District of Alaska, division No. _____

“A criminal action having been commenced on the _____ day of _____, eighteen hundred and _____, in the justice court aforesaid, against A B, for the crime of (designating it generally), and he having been duly admitted to bail by the justice of said court in the sum of _____ dollars,

“We, C D, of (stating his place of residence and occupation), and E F, of (stating the like as to him), hereby undertake that the above-named A B shall appear at the time and place fixed for the trial of the above-mentioned action, in whatever court it may be prosecuted, and shall at all times render himself amenable to the orders and process of the court, and if convicted shall appear for judgment and surrender himself in execution thereof; or if he fail to perform either of those conditions, that we will pay to the United States the sum of _____ dollars (inserting the sum in which the defendant is admitted to bail).”

SEC. 438. That if the defendant do not give bail when brought before the justice upon the warrant of arrest, or during the progress of the trial, he must be continued in the custody of the officer, or, if the court be held in the vicinity of a jail, be committed to jail, to answer the action as the justice may direct. Proceeding if defendant do not give bail.

SEC. 439. That the commitment must be signed by the justice, with his name of office, and may be substantially as follows: Form of commitment.

“Justice’s court for the precinct of _____, District of Alaska, division No. _____

“In the name of the United States of America.

“To the United States marshal or any deputy:

“An order having this day been made by me that A B be committed for trial in a criminal action against said A B for the crime of (designating it generally), you are hereby commanded to receive him into your custody, and detain him accordingly, or until he be otherwise legally discharged.

“Dated at _____, this _____ day of _____, eighteen hundred and _____.

“C D,

“Commissioner and ex officio Justice of the Peace.”

SEC. 440. That if, in the progress of the trial, it shall appear to the magistrate that the defendant has committed a crime not within the jurisdiction of a justice’s court, such magistrate must dismiss the action, and state in the entry the reasons therefor, and hold the defendant upon the warrant of arrest, and proceed to examine the charge as upon an information of the commission of crime. Proceeding when crime not within jurisdiction of justice.

CHAPTER FORTY-THREE.

OF APPEALS IN CRIMINAL ACTIONS.

Sec.

441. Appeal in criminal action, when taken.

442. Appeal, how taken.

443. Undertaking for appeal.

444. Appeal taken by defendant only.

445. Justice must transmit transcript.

446. Undertaking for stay of proceedings.

Sec.

447. Allowance of appeal and return of execution.

448. Qualification and justification of sureties.

449. Appeal, when perfected and how tried.

450. Judgment in the appellate court.

451. Defective undertaking, how cured.

452. Errors of law, how reviewed.

Appeal in criminal action, when taken.

SEC. 441. That an appeal may be taken from a judgment of conviction given in a justice's court, in a criminal action, to the district court, except when the same is given on a plea of guilty, as prescribed in this chapter, and not otherwise.

Appeal, how taken.

SEC. 442. That an appeal may be taken within thirty days from the date of the entry of the judgment by serving a notice upon the district attorney or upon the private prosecutor in the action and filing the original, with the proof of service indorsed thereon, with the justice, and by giving the undertaking for the costs of the appeal as hereinafter provided.

Undertaken for appeal.

SEC. 443. That the undertaking of the appellant must be given, with one or more sureties approved by the justice, to the effect that the appellant will pay all costs and disbursements that may be awarded against him on the appeal.

Appeal taken by defendant only. Justice must transmit transcript.

SEC. 444. That an appeal can only be taken by the defendant.

SEC. 445. That if the defendant is in custody at the time the appeal is allowed, the justice must make the proper transcript and deliver it to the clerk of the district court by the first day of the next term thereof, or transmit the same to such clerk by mail or other safe conveyance by the first day of such term.

Undertaking for stay of proceedings.

SEC. 446. That an allowance of an appeal does not stay the proceedings on the judgment unless the defendant give the undertaking of bail on appeal as provided in section two hundred and nineteen, title two, of this Act.

Allowance of appeal and return of execution.

SEC. 447. That when an appeal is taken, the justice must allow the same, and make an entry thereof in his docket, stating whether the proceedings are thereby stayed or not; and when the proceedings are stayed, if an execution has been issued to enforce the judgment, the justice must recall the same by written notice to the officer holding the execution, and thereupon it must be returned, and all the property taken thereon and not sold released; and if the defendant is in custody, he must be discharged therefrom.

Qualification and justification of sureties.

SEC. 448. That all sureties in an undertaking under the provisions of this chapter must have the qualifications of bail upon arrest, and, if required by the adverse party, must justify before the justice in like manner.

Appeal, when perfected and how tried.

SEC. 449. That from the filing of the transcript with the clerk of the district court the appeal is perfected, and the action is to be deemed pending therein and for trial upon the issue tried in the justice's court. The appellate court has the same authority to allow an amendment of the pleadings, on an appeal in a criminal action, that it has on an appeal in a civil action.

Judgment in the appellate court.

SEC. 450. That when an appeal is dismissed, the appellate court must give judgment as it was given in the court below, and against the appellant, for the costs and disbursements of the appeal. When judgment is given in the appellate court against the appellant, either with or without trial of the action, it must also be given against the sureties in his undertaking according to the nature and effect thereof.

SEC. 451. That an appeal can not be dismissed on the motion of the appellee on account of the undertaking therefor being defective, if the appellant before the determination of the motion to dismiss will execute a sufficient undertaking and file the same in the appellate court, upon such terms as may be deemed just.

Defective undertaking, how cured.

SEC. 452. That no provision of this chapter in relation to appeals or right of appeal must be construed so as to prevent the defendant in a justice's court from having the judgment reviewed in the district court for errors in law appearing upon the face of such judgment or the proceedings connected therewith.

Errors of law, how reviewed.

CHAPTER FORTY-FOUR.

OF MISCELLANEOUS PROVISIONS IN RELATION TO CRIMINAL PROCEEDINGS IN JUSTICES' COURTS.

- Sec. 453. Qualification of bail.
- 454. Security for costs.
- 455. Who may act as attorney.
- 456. Special deputies.
- 457. Fees of officers, witnesses, jurors, interpreters, etc.
- 458. "District attorney" construed.
- 459. Increased bond of clerk and marshal.
- 460. Tax on business and trades.
- 461. Penalty for evasion of tax.
- 462. Limiting sale of intoxicating liquors and defining term "intoxicating liquor."
- 463. Who shall issue licenses.
- 464. Restrictions imposed before license will issue.
- 465. Before license issues applicants for must file petition.
- 466. No intoxicating liquor to be sold to minors. To whom licenses may be issued.
- 467. License to be issued for one year.
- 468. Two classes of licenses—wholesale and retail.
- 469. Licenses shall be framed.

- Sec. 470. Marshals and commissioners shall have privilege of examining premises, etc.
- 471. Druggists and apothecaries not to sell intoxicating liquors, etc.
- 472. Penalty for selling liquors without license.
- 473. Penalty for violation of provisions of license.
- 474. Prosecutions for violations of provisions of this Act shall be on information filed, etc.
- 475. Where liquor shall be sold.
- 476. When application for renewal of license must be made.
- 477. Provisions of this Act not to interfere with Federal internal-revenue laws.
- 478. Licensee not to allow female, minor, or person convicted of crime to sell, etc.
- 479. Interpretation of words "singular" and "plural."
- 480. When provisions of this Act shall take effect.

SEC. 453. That the qualifications of bail in criminal actions in justices' courts, and the justification thereof, shall be conducted in the manner hereinbefore provided for like proceedings in the district court.

Qualification of bail.

SEC. 454. That the justice may, in his discretion, require the private prosecutor in a criminal action to give security for costs and disbursements before filing or receiving a complaint therein.

Security for costs.

SEC. 455. That any person may act as attorney for another in a justice's court, except a person or officer serving any process in the action or proceeding other than the subpoena.

Who may act as attorney.

SEC. 456. That whenever it appears to a justice that any process or order authorized to be used or made by this Act will not be served for want of an officer, such justice may appoint any suitable person not being a party to the action to serve the same; such appointment may be made by an indorsement on the process or order in substantially the following form and signed by the justice, with his name of office: "I hereby appoint A B to serve the within process, or order," as the case may be.

Special deputies.

SEC. 457. That the judge of the district court or the judges of the respective divisions of the district court for the District of Alaska shall forthwith prepare, and, with the approval of the Attorney-General, promulgate necessary rules and regulations not in conflict with this Act or the general laws of the United States, for the guidance and control of the court commissioners acting as such, or acting as ex officio justices of the peace, probate judges, coroners, or civil magistrates within said District; and he or they shall also, with the approval of the Attorney-

Fees of officers, witnesses, jurors, interpreters, etc.

General, prepare and promulgate a bill of fees and rates of mileage and allowances for jurors, witnesses, interpreters, and other officers or persons designated to serve process, whose fees, mileage, or other allowances are not specially provided for by law, which said rules, regulations, rates of mileage, allowances, and fees so fixed, after they have been approved by the Attorney-General and promulgated by his authority, shall have the force and effect of law and the same may be modified or changed with the approval of the Attorney-General: *Provided*, That in no case shall the fees, mileage, and allowances prescribed be in excess of double the fees, mileage, and allowances allowed for like services in the State of Oregon.

Proviso.
Limit.

"District attorney"
construed.

SEC. 458. That wherever the words "district attorney" occur in this Act they shall be construed to mean the United States attorney for said District, or any division thereof.

Increased bond of
clerk and marshal.

SEC. 459. That whenever the business of the courts in the District of Alaska shall make it necessary, in the opinion of the Attorney-General, for the clerk or marshal to furnish greater security than the official bond now required by law, a bond in a sum not to exceed seventy-five thousand dollars shall be given when required by the Attorney-General, who shall fix the amount thereof.

Tax on business and
trades.

SEC. 460. That any person or persons, corporation or company prosecuting or attempting to prosecute any of the following lines of business within the District of Alaska shall first apply for and obtain license so to do from a district court or a subdivision thereof in said District, and pay for said license for the respective lines of business and trade as follows, to wit:

Abstract offices, fifty dollars per annum.

Banks, two hundred and fifty dollars per annum.

Boarding houses having accommodations for ten or more guests, twenty-five dollars per annum.

Brokers (money, bill, note, and stock), one hundred dollars per annum.

Billiard rooms, twenty-five dollars per table per annum.

Bowling alleys, twenty-five dollars per annum.

Breweries, five hundred dollars per annum.

Bottling works, two hundred dollars per annum.

Cigar manufacturers, twenty-five dollars per annum.

Cigar store or stand, twenty-five dollars per annum.

Drug stores, fifty dollars per annum.

Public docks, wharves, and warehouses, one hundred dollars per annum.

Electric light plants, furnishing light or power for sale, three hundred dollars per annum.

Fisheries: Salmon canneries, four cents per case; salmon salteries, ten cents per barrel; fish-oil works, ten cents per barrel; fertilizer works, twenty cents per ton.

Freight and passenger transportation lines, propelled by mechanical power on inland waters, one dollar per ton per annum on net tonnage, custom-house measurement, of each vessel.

Gas plants, for heat or light, for sale, three hundred dollars per annum.

Hotels, fifty dollars per annum.

Halls, public, ten dollars per annum.

Insurance agents and brokers, twenty-five dollars per annum.

Jewelers, twenty-five dollars per annum.

Mines: Quartz mills, three dollars per stamp per year.

Mercantile establishments: Doing a business of one hundred thousand dollars per annum, five hundred dollars per annum; doing a business of seventy-five thousand dollars per annum, three hundred and seventy-five dollars per annum; doing a business of fifty thousand dollars per annum, two hundred and fifty dollars per annum; doing a business of twenty-five thousand dollars per annum, one hundred and twenty-five dollars per annum; doing a business of ten thousand dollars per annum, fifty dollars per annum; doing a business of under ten

thousand dollars per annum, twenty-five dollars per annum; doing a business of under four thousand dollars per annum, ten dollars per annum.

Meat markets, twenty dollars per annum.

Manufactories not enumerated herein, same classification and license charges as mercantile establishments.

Physicians, itinerant, fifty dollars per annum.

Planing mills, fifty dollars per annum when not part of a sawmill.

Pawnbrokers, three hundred dollars per annum.

Peddlers, twenty-five dollars per annum.

Patent medicine venders (not regular druggists), fifty dollars per annum.

Railroads, one hundred dollars per mile per annum on each mile operated.

Restaurants, twenty-five dollars per annum.

Real-estate dealers and brokers, fifty dollars per annum.

Ships and shipping: Ocean and coastwise vessels doing local business for hire plying in Alaskan waters, one dollar per ton per annum, on net tonnage, custom-house measurement of each vessel.

Sawmills, ten cents per thousand feet on the lumber sawed.

Steam Ferries, one hundred dollars per year.

Toll-road or trail, two hundred dollars per annum.

Tobacconists, twenty-five dollars per annum.

Tramways, ten dollars for each mile or fraction thereof, per annum.

Transfer companies, fifty dollars per annum.

Taxidermists, twenty dollars per annum.

Theaters, one hundred dollars per annum.

Waterworks furnishing water for sale, fifty dollars per annum.

SEC. 461. That any person, corporation, or company doing or attempting to do business in violation of the provisions of the foregoing section, or without having first paid the license therein required, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined, for the first offense, in a sum equal to the license required for the business, trade, or occupation; and for the second offense, a fine equal to double the amount of the license required; and for the third offense, three times the license required and imprisonment for not less than thirty days nor more than six months: *Provided*, That each day business is done or attempted to be done in violation of the preceding section shall constitute a separate and distinct offense: *And provided further*, That any person, firm, or corporation hitherto engaged in any business within the said District of Alaska mentioned in the last preceding section, or that may engage in such business at any time prior to the first day of July, anno Domini eighteen hundred and ninety-nine, shall not be deemed to have violated the provisions of this section and the last preceding section if, in the opinion of the court or judge thereof, such person, firm, or corporation shall not have had reasonable time and opportunity to apply for license as hereinbefore required.

Penalty for doing business without license.

Provisos.
Each day to constitute distinct offense.

Opportunity to apply for license.

SEC. 462. That no person, corporation, or company shall sell, offer for sale, or keep for sale, traffic in, barter, or exchange for goods in said District of Alaska any intoxicating liquors, except as hereinafter provided; but this shall not apply to sales made by a person under provisions of law requiring him to sell personal property. Wherever the term "intoxicating liquors" is used in this Act, it shall be deemed to include whisky, brandy, rum, gin, wine, ale, porter, beer, hoochinoo, and all spirituous, vinous, malt, and other fermented or distilled liquors.

Limiting sale of intoxicating liquors and defining term "intoxicating liquor."

SEC. 463. That the licenses provided for in this Act shall be issued by the clerk of the district court or any subdivision thereof, in compliance with the order of the court or judge thereof duly made and entered; and the clerk of the court shall keep a full record of all applications for license and of all recommendations for and remonstrances against the granting of licenses and of the action of the court thereon. The clerk of the court shall be entitled to receive from each applicant for a license a fee of five dollars, and no other or additional compensa-

Who shall issue licenses.

Proviso.
Clerk's bond.

tion shall be paid such clerk for his services in connection with such license or the issue thereof: *And provided*, That the clerk of said court and each division thereof shall give bond or bonds in such amount as the Secretary of the Treasury may require and in such form as the Attorney-General may approve, and all moneys received for licenses by him or them under this Act shall be covered into the Treasury of the United States, under such rules and regulations as the Secretary of the Treasury may prescribe.

Restrictions imposed before license will issue.

SEC. 464. That before any license is granted, as provided in this Act in relation to intoxicating liquor, it shall be shown to the satisfaction of said court that a majority of the white male and female residents over the age of eighteen years other than Indians within two miles of the place where intoxicating liquor is to be manufactured, bartered, sold and exchanged, or bartered, sold and exchanged, have, in good faith, consented to the manufacture, barter, sale and exchange, or the barter, sale, and exchange of the same, and the burden shall be upon the applicant or applicants to show to the satisfaction of said court that a majority of the white male citizens have consented thereto, and no license shall be granted in the absence of such evidence: *Provided*, That when it is made to appear that a majority of said white male and female residents over the age of eighteen years other than Indians of any one place have consented to the manufacture, barter, sale and exchange, or the barter, sale and exchange of intoxicating liquor, no further proof of the consent of the citizens of the place where said intoxicating liquor is to be manufactured, bartered, sold and exchanged, or bartered, sold and exchanged will be required for twelve months thereafter.

Proviso.
Consent to issue by residents.

Before license issues applicants for must file petition.

SEC. 465. That every person applying for a license to sell intoxicating liquors in said District shall file with the clerk of the court a petition for such license, and such petition shall be considered and acted upon by the court in the order in which the same was filed and numbered. Said petition shall contain:

Contents of petition.

First. The name and residence of the applicant, and how long he has resided there.

Second. The particular place for which license is desired, designating the same by reference to street, locality, or settlement, in such manner that the exact location at which such sale of liquor is proposed may be clearly and definitely determined from the description given.

Third. The statement that the applicant is a citizen of the United States, or has declared his intention to become such; that he is not less than twenty-one years of age, and that such applicant has not been, since the passage of this Act, adjudged guilty of violating the laws governing the sale of intoxicating liquors or laws for the prevention of crime in said District.

Fourth. If any false statement is made in any part of said petition or affidavit the petitioner or petitioners shall be deemed guilty of perjury, and, upon conviction thereof, his license shall be revoked and he shall be subject to the penalties provided by law for that crime.

Fifth. That he intends to carry on such business for himself and not as an agent of any other person, and that if so licensed he will carry on such for himself and not as the agent of any other person.

Sixth. That he intends to superintend in person the management of the business licensed, and that if so licensed he will so superintend in person the management of the business so licensed.

No sale of liquor to minors, etc.

SEC. 466. That under the license issued in accordance with this Act no intoxicating liquors shall be sold, given, or in any way disposed of to any minor, Indian or intoxicated person, or to an habitual drunkard.

License to be issued for one year.

SEC. 467. That no license under this Act shall be issued for a greater period than one year, and no license can be transferred by the licensee to any other person except with the written consent of the court by authority whereof the same shall issue, upon application thereto in writing.

SEC. 468. That the liquor licenses authorized and provided for by this Act shall be of two classes—wholesale liquor licenses and barroom licenses. Every applicant for a liquor license shall deposit the amount of the license fee with the clerk of the court at the time of filing his application for the license. If, upon consideration of the application for license by the court as provided for in this Act, the court should determine to grant the license prayed for, it shall notify the clerk and the applicant for such license in writing and the applicant shall thereupon receive his license. The fee for a wholesale license shall be two thousand dollars per annum and for a barroom or retail license in towns or settlements of one thousand five hundred population or upward one thousand five hundred dollars per annum; in towns, camps, or settlements of more than one thousand and less than one thousand five hundred population, one thousand dollars per annum. In towns, camps, or settlements of less than one thousand population, five hundred dollars per annum: *Provided*, That the words towns, camps, or settlements as herein used shall be construed to embrace the population within a radius of two miles of the site of the place wherein business is to be done under the license. A retail or barroom license shall be required for every hotel, tavern, boat, barroom, or other place in which intoxicating liquors are sold by retail. A wholesale liquor license shall only authorize the licensee to sell distilled, malt, or fermented liquors, wines, and cordials in quantities not less than one gallon, not to be drunk upon the premises where sold; and no such license shall be granted until it is satisfactorily shown that the place where it is intended to carry on such business is properly arranged for selling such liquors as merchandise. Every place where distilled, malt, or fermented wines, liquors, or cordials are sold in quantities as prescribed for retail dealers by section thirty-two hundred and forty-four, Revised Statutes of the United States, to be drunk upon the premises, shall be regarded as a barroom; and the possession of malt, distilled, fermented, or any intoxicating liquors, with the means and appliances for carrying on the business of dispensing the same to be drunk where sold, shall be prima facie evidence of a barroom within the meaning of this Act, and the license therefor shall be known as a barroom license: *Provided*, That no license shall be granted for the sale of liquors at either wholesale or retail in any other than a substantial building which shall have cost for construction not less than five hundred dollars.

Two classes of licenses—wholesale and retail.

Provisos.
"Towns," etc., defined.

R. S., sec. 3244, p. 622.

Building where sold.

SEC. 469. That every person receiving a license to sell under this Act shall frame it under glass and place it in a conspicuous place in his chief place of sale of such liquor, so that anyone entering such place of sale may easily read such license.

License to be displayed.

SEC. 470. That all applicants for license and persons holding licenses shall allow the clerk of the court, or any United States marshal or deputy United States marshal, or any United States commissioner, full opportunity and every facility to examine at any time during business hours the premises where intoxicating liquor is sold, and for which a license has been asked or has been granted.

Examination of premises.

SEC. 471. That druggists and apothecaries shall not be required to obtain license under the provisions of this Act, but they shall not sell intoxicating liquors, nor compound nor mix any composition thereof, except upon the written prescription of a reputable physician, nor more than once on any one prescription of the physician; and every druggist or apothecary shall keep a book for the special purpose, and enter therein the date of every sale of intoxicating liquor made by him, the person to whom sold, the kind, quantity, and price thereof, and purpose for which it was sold; and such book shall be at all times open to the inspection of the United States marshal or any deputy marshal, any United States commissioner, the collector of customs or any deputy collector of customs for the district of Alaska, and shall be produced when required; and any failure to comply with the provisions of this section shall render such druggist or apothecary so failing liable to the same penalties as if he had sold intoxicating liquors without a license.

Restrictions on druggists.

—record of sales.

Penalty for selling
liquors without li-
cense.

SEC. 472. That anyone engaging in the sale of intoxicating liquors, as specified in this Act, in the District of Alaska, who is required by it to have a license as herein specified, without first having obtained a license to do so as herein provided, or any person who shall engage in such sale in any portion of the District where the sale thereof is prohibited, upon conviction thereof shall be fined not less than one hundred dollars nor more than two thousand dollars, or be imprisoned for not less than one month nor more than one year; and upon every subsequent conviction of a like offense shall, in addition to the penalty above named, be imprisoned not less than two months nor more than one year.

Penalty for viola-
ting license.

SEC. 473. That any person, having obtained a license under this Act, who shall violate any of its provisions, shall, upon conviction of such violation, be fined not less than fifty dollars nor more than two hundred dollars, and upon every subsequent conviction of such violation during the year for which such license is issued shall be fined a like amount, and in addition to such fine shall pay a sum equal to twenty-five per centum of the amount of the fine imposed for the offense immediately preceding, and have his license revoked, and in case of nonpayment of the fines and penalties above named shall be imprisoned for a period of time not exceeding six months, or till the same are paid. That after second conviction no license shall thereafter be granted to said party: *Provided*, That no minor under sixteen years of age shall be allowed to enter any place where liquors are sold other than a hotel, without the consent of the parent or guardian of such minor.

Proviso.
Minors not admitted
where liquor sold.

Procedure.

SEC. 474. That prosecutions for violations of the provisions of this Act shall be on information filed in the district court or any subdivision thereof, or before a United States commissioner, by the United States marshal or any deputy marshal, or by the district attorney or by any of his assistants. Or such prosecution may be by and through indictment by grand jury, and it shall be the duty of either of said officers, on the representation of two or more reputable citizens, to file such information, or to present the facts alleged to constitute violations of the law to the grand jury.

Proximity to
schools, etc.

SEC. 475. That license for any of the purposes specified shall not be granted to any person to conduct such business within four hundred feet of a public schoolhouse, private school, or house of religious worship, except in such places of business as may have been located previous to the erection or occupation of such schoolhouse, private school, or house of religious worship owned or occupied in the District of Alaska, measured between the nearest entrance to each by the shortest course of travel between such place of business and the schoolhouse, private school, or house of religious worship.

Renewal of licenses,
etc.

SEC. 476. That all applicants who have had a license during the preceding year shall apply for a renewal of such license on or before November first of each license year, and shall be permitted to continue business until license shall be granted or refused by the court or judge thereof; but in all cases of refusal to grant license such proportion of the license fee as may have become due shall be deducted and retained from the sum deposited therefor as the time from the first day of November to the date of such refusal bears to the entire license year, and no other person shall be permitted to conduct said business until a license is issued therefor.

Internal revenue
laws unaffected.

SEC. 477. That nothing in this Act shall in any way repeal, conflict, or interfere with the public general laws of the United States imposing taxes on the manufacture and sale of intoxicating liquors for the purpose of revenue and known as the "Internal-Revenue laws."

Employment of
minors, etc., to retail
forbidden.

SEC. 478. That no licensee under a barroom license shall employ, or permit to be employed, or allow any female or minor or person convicted of crime, to sell, give, furnish, or distribute any intoxicating drinks or any admixture thereof, ale, wine, or beer to any person or persons. And no licensee in any place shall knowingly sell or permit to be sold in his establishment any intoxicating liquor of any kind to

Sale to minors.

any person under the age of twenty-one years, under the penalty, upon due conviction thereof, of forfeiting such license, and no person so forfeiting his license shall again be granted a license for the term of two years.

SEC. 479. That in the interpretation of this Act words of the singular number shall be deemed to include their plurals, and that words of the masculine gender shall be deemed to include the feminine, as the case may be.

Interpretation of words.

SEC. 480. That the provisions of this Act shall take effect and be in force on and after the first day of July, anno Domini eighteen hundred and ninety-nine.

When provisions of this act shall take effect.

SEC. 481. That in any case where a conviction occurs, except in a case of murder or rape, the court may, when in its opinion the facts and circumstances are such as to make the minimum penalty provided in this Act manifestly too severe, impose a less penalty, either of fine or imprisonment, or both: *Provided*, That in any such case the court shall cause the reasons for its action to be set forth at large on the record in the case.

Imposing less than minimum penalty.

Proviso. Reasons to be recorded.

APPENDIX.

Appendix.

Referred to in section forty of Title II of this Act, and containing the manner of stating the act constituting the crime.

NO. 1. IN AN INDICTMENT FOR MURDER.

Purposely and of deliberate and premeditated malice killed C D by (shooting him with a gun or pistol, or by administering to him poison, or by pushing him into the water, whereby he was drowned, or by throwing him from the window of a building, or by means unknown to the grand jury, as the case may be).

NO. 2. IN AN INDICTMENT FOR MURDER COMMITTED IN THE COMMISSION OR ATTEMPT TO COMMIT RAPE, ARSON, ROBBERY, OR BURGLARY.

Was engaged in the commission (or attempt to commit, as the case may be) of arson, by (stating it, as in an indictment therefor). And the said A C, while engaged in the commission (or attempt to commit, as the case may be) of such arson, by his act killed C D, by (striking him with a club, or by other means, or means unknown to the grand jury, to be stated as in number one).

NO. 3. IN AN INDICTMENT FOR MURDER IN THE SECOND DEGREE.

Purposely and maliciously killed C D by (shooting him with a gun or pistol, or by other means, to be stated as in number one).

NO. 4. IN AN INDICTMENT FOR MURDER IN THE SECOND DEGREE COMMITTED IN THE COMMISSION OR ATTEMPT TO COMMIT A FELONY.

Was engaged in the commission (or attempt to commit, as the case may be) of the following felony (stating it as in an indictment therefor).

And the said A B, while engaged in the commission (or attempt, as the case may be), by his act killed C D, by (striking him with a club, or by other means, to be stated as in number one).

NO. 5. IN AN INDICTMENT FOR MANSLAUGHTER.

Voluntarily killed C D by (shooting him with a gun or pistol, or by other means, to be stated as in number one).

NO. 6. MANSLAUGHTER BY ASSISTING ANOTHER TO COMMIT SELF-MURDER.

Purposely and deliberately assisted or procured one C D to commit self-murder, which crime the said C D then and there committed by (hanging himself by the neck until he was dead, or by other means, to be stated as in number one).

NO. 7. IN AN INDICTMENT FOR RAPE.

Forcibly ravished C D, a woman of the age of fourteen years or upwards, or carnally knew a female child under the age of fourteen years (as the case may be).

NO. 8. IN AN INDICTMENT FOR ARSON.

Willfully and maliciously set fire to (or burned) a dwelling house of another, namely, C D (or whose name is unknown to the grand jury).

NO. 9. IN AN INDICTMENT FOR ROBBERY.

Feloniously took a gold watch (or as the case may be) from the person of C D, and against his will, by violence to his person (or by putting him in fear of some immediate injury to his person).

NO. 10. ROBBERY, BEING ARMED WITH A DANGEROUS WEAPON.

Being armed with a dangerous weapon, did commit an assault upon one C D, with intent, if resisted, to kill or wound the said C D, and then and there feloniously took a gold watch (or as the case may be) from the person of the said C D, and against his will.

NO. 11. IN AN INDICTMENT FOR LARCENY.

Feloniously took and carried away a gold watch (or as the case may be), the personal property of C D (or of a person whose name is unknown to the grand jury), of the value of more than thirty-five dollars.

NO. 12. LARCENY IN A DWELLING HOUSE.

Feloniously took and carried away in a dwelling house (or other house, ship, or boat, as the case may be) a gold watch (or as the case may be), the personal property of C D (or of a person whose name is unknown to the grand jury).

NO. 13. IN AN INDICTMENT FOR BURGLARY.

Broke and entered a dwelling house in which there was at the time a human being, namely, one C D (or whose name is unknown to the grand jury, as the case may be), with intent to commit larceny (or other crime, describing it generally) therein, by forcibly bursting or breaking the wall (or an outer door, or a window, or a shutter of a window) of such house (or as the case may be).

NO. 14. BURGLARY AFTER ENTERING WITH INTENT TO COMMIT CRIME.

Having entered a dwelling house, in which there was at the time a human being, namely, one C D (or whose name is unknown to the grand jury, as the case may be), with intent to commit larceny (or other crime, describing it generally) therein, broke such dwelling house by forcibly bursting or breaking the wall (or by other means to be stated as in number thirteen), or (following the words therein) was armed with a dangerous weapon therein, or committed an assault upon C D, a person lawfully then in such house.

NO. 15. IN AN INDICTMENT FOR FORGERY.

Forged (or falsely made, altered, or counterfeited, or as the case may be) an instrument purporting to be (or being) the last will and testament of C D, devising certain property with intent to defraud or injure.

NO. 16.

Forged a certificate purporting to have been issued by J C, an officer duly authorized to make such certificate, of the acknowledgment of C D of the execution by him of a conveyance to E F of certain real property, with intent to defraud or injure.

NO. 17.

Counterfeited a gold (or silver) coin of the of Mexico, called a dollar, which was at that time current by law or usage within this district.

NO. 18. IN AN INDICTMENT FOR PERJURY.

On his examination as a witness, duly sworn to testify the truth, in the trial of an action at law in the court of , between C D, plaintiff, and E F, defendant, which court had authority to administer said oath, he testified falsely, that (stating the facts alleged to be false), the matters so testified being material, and the testimony being willfully false.

NO. 19. IN AN INDICTMENT FOR POLYGAMY.

Having a wife (or husband) then living, unlawfully married one C D, or simultaneously, or on the same day, unlawfully married C D and E F.

NO. 20. IN AN INDICTMENT FOR LIBEL.

Published or caused to be published in a newspaper called the the following libel concerning C D (stating the matter published).

Approved, March 3, 1899.

CHAP. 430.—An Act To amend the Act of Congress approved July eighth, eighteen hundred and ninety-eight, entitled "An Act to incorporate the Washington and University Railroad Company of the District of Columbia."

March 3, 1899.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section two of the Act of Congress approved July eighth, eighteen hundred and ninety-eight, entitled "An Act to incorporate the Washington and University Railroad Company of the District of Columbia," be, and the same is hereby, amended so as to read and be as follows:

"SEC. 2. That the company is authorized to construct and operate a street railway for carrying passengers along the following-named route: Beginning at or near the intersection of Wisconsin avenue or the Tenallytown road with Trenton street; thence westerly on Trenton street to Forty-fourth street; thence northerly on Forty-fourth street to Vallejo street; thence westerly on Vallejo street to Forty-seventh street; thence northerly on Forty-seventh street to Flint street; thence west on Flint street to Boundary avenue; thence southerly on Boundary avenue to Forty-eighth street; thence southerly on Forty-eighth street to Brandywine street; thence easterly on Brandywine street to Forty-seventh street, as shown upon the plans of the third section of highway extensions: *Provided,* That where this route lies within the lines of a proposed highway the company shall acquire a right of way not less than thirty feet wide in the center thereof, and all rights of way

District of Columbia.
Washington and
University Railroad.
Change of route.
Ante, p. 725.

Proviso.
To acquire right of
way in proposed high-
ways.