

THE  
REVISED CODES

OF THE  
STATE OF NORTH DAKOTA

1895

*TOGETHER WITH*

THE CONSTITUTION OF THE UNITED STATES AND OF THE  
STATE OF NORTH DAKOTA

*WITH THE AMENDMENTS THERETO*

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*BY AUTHORITY OF THE LEGISLATIVE ASSEMBLY*

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BISMARCK, NORTH DAKOTA  
TRIBUNE COMPANY, PRINTERS AND BINDERS  
1895

**§ 7093. Keeping gunpowder. Other explosives.** Every person guilty of making or keeping gunpowder, saltpeter, guncotton, nitroglycerine or dynamite or any compound of the same, or any fulminate or substance which is intended to be used by exploding or igniting the same, in order to produce a force to propel missiles or to rend apart substances, within any city or village, in any quantity or amount prohibited by law, or by any ordinance of said city or village, in consequence whereof any explosion occurs whereby any human being is killed, is guilty of manslaughter in the second degree. § 260, Pen. C. am'd.

**§ 7094. Setting spring gun, trap or device.** Every person who sets any spring or other gun or trap or device operating by the firing or exploding of gunpowder or any other explosive, and leaves or permits the same to be left, except in the immediate presence of some competent person, shall be deemed to have committed a misdemeanor; and the killing of any person by the firing of a gun or other device so set shall be deemed to be manslaughter in the first degree.

**§ 7095. Arson. Night time. Destroying life.** Every person who willfully and maliciously burns, in the night time, the dwelling house of another or of which he is a lessee or tenant, whereby the life of any person is destroyed, or who, in the night time, willfully and maliciously sets fire to any other building, owned by himself or another, by the burning whereof such dwelling house shall be burnt in the night time, whereby the life of any person is destroyed, shall be deemed guilty of murder in the second degree.

**§ 7096. Killing. Death within one year. Aiding suicide.** To make the killing either murder or manslaughter in prosecutions for homicide, it is requisite that the party dies within a year and a day after the stroke received or the cause of death administered, in the computation of which the whole of the day on which the act was done shall be reckoned the first. No prosecution for aiding suicide shall be maintained unless the death of the person aided ensues within one year, computed as above.

**§ 7097. Homicide, when excusable.** Homicide is excusable § 262, Pen. C. in the following cases:

1. When committed by accident and misfortune, in lawfully correcting a child or servant or in doing any other lawful act, by lawful means, with usual and ordinary caution and without any unlawful intent.

2. When committed by accident and misfortune in the heat of passion, upon any sudden and sufficient provocation or upon a sudden combat; provided, that no undue advantage is taken, nor any dangerous weapon used and that the killing is not done in a cruel or unusual manner.

**§ 7098. Homicide by officers, when justifiable.** Homicide § 263, Pen. C. is justifiable when committed by public officers and those acting by their command in their aid and assistance, either:

1. In obedience to any judgment of a competent court; or,  
2. When necessarily committed in overcoming actual resistance to the execution of some legal process or to the discharge of any other legal duty; or,

3. When necessarily committed in retaking felons who have been rescued or who have escaped, or when necessarily committed in arresting felons fleeing from justice.