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THE
REVISED STATUTES,
OF THE
TERRITORY OF MINNESOTA,

PASSED AT THE SECOND SESSION OF THE
LEGISLATIVE ASSEMBLY,

COMMENCING JANUARY 1, 1851.

PRINTED AND PUBLISHED PURSUANT TO LAW, UNDER THE SUPERVISION OF M. S. WILKINSON.

SAINT PAUL:

JAMES M. GOODHUE, TERRITORIAL PRINTER.

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1851

CHAPTER 92.

OF THE PUNISHMENT OF CONTEMPTS.

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Contempts defined.

SEC. 1. The following acts or omissions, in respect to a court of justice, or proceedings therein, are deemed to be contempts of the authority of the court:

1. Disorderly, contemptuous, or insolent behavior toward the judge while holding the court, tending to interrupt the due course of a trial, or other judicial proceeding:

2. A breach of the peace, boisterous conduct, or violent disturbance, tending to interrupt the due course of a trial, or other judicial proceeding:

3. Misbehavior in office, or other willful neglect or violation of duty by an attorney, counsel, clerk, sheriff, coroner or other person appointed or elected to perform a judicial or ministerial service:

4. Deceit or abuse of the process or proceedings of the court by a party to an action or special proceedings:

5. Disobedience of any lawful judgment, order, or process of the court:

6. Assuming to be an officer, attorney, counsel of a court, and acting as such without authority:

7. Rescuing any person or property, in the custody of an officer by virtue of an order or process of such court:

8. Unlawfully detaining a witness or party to an action while going to, remaining at, or returning from the court where the action is on the calendar for trial:

9. Any other unlawful interference with the process or proceedings of a court:

10. Disobedience of a subpoena duly served; or refusing to be sworn or answer as a witness:

11. When summoned as a juror in a court, improperly conversing with a party to an action to be tried at such court, or with any other person in relation to the merits of such action, or receiving a communication from a party, or other person in respect to it, without immediately disclosing the same to the court:

12. Disobedience by an inferior tribunal, magistrate, or officer, of the lawful judgment, order, or process of a superior court, or proceeding in an action or special proceeding contrary to law, after such action or special proceeding shall have been removed from the jurisdiction of such inferior tribunal, magistrate, or officer.

Disobedience of the lawful orders or process of a judicial officer, is also deemed to be a contempt of the authority of such officer.

SEC. 2. Every court of justice, and every judicial officer, has power to punish contempts by fines or imprisonment, or both; but when the contempt is not one of those mentioned in the first or second subdivisions of the last section, it must appear that the right or remedy of a party to an action nor special proceeding, was defeated or prejudiced thereby, before the contempt can be punished by imprisonment, or by a fine exceeding fifty dollars. Contempts of justices' courts are punishable in the manner provided by statute.

What courts and judicial officers may punish.

SEC. 3. When a contempt is committed in the immediate view and presence of the court or officer, it may be punished summarily, for which an order must be made, reciting the facts as occurring in such immediate view and presence, adjudging that the person proceeded against is thereby guilty of a contempt, and that he be punished as therein described; such punishment, however, cannot exceed that prescribed by section twelve; where the contempt is not committed in the immediate view and presence of the court, an affidavit must be presented to the court or officer, of the facts constituting the contempt.

Contempts in presence of court, how punished.

SEC. 4. In cases other than those mentioned in the last section, the court or officer may either issue a warrant of arrest, to bring the person charged, to answer; or without a previous arrest may, upon notice or upon an order to show cause, grant a warrant of commitment; but no warrant of commitment can be issued without such previous arrest to answer, or upon such notice or order to show cause.

In other cases how to proceed.

SEC. 5. If the party charged, be in the custody of an officer by virtue of a legal order or process, civil or criminal, except upon a sentence for felony, an order may be made for the production of such person, by the officer having him in custody, that he may answer, and he shall thereupon be produced and held until an order be made for his disposal.

If party imprisoned he may be brought up.

SEC. 6. Whenever a warrant of arrest is issued pursuant to this chapter, the court or officer must direct whether the person charged, may be let to bail for his appearance upon the warrant, or detained in custody without bail; and if he may be bailed, the amount in which he may be let to bail. The directions given in this respect, must be specified in the warrant.

Whether to be bailed or not, when directed.

SEC. 7. Upon executing the warrant of arrest, the sheriff must keep the person in actual custody, bring him before the court or officer, and detain him until an order be made in the premises, unless the person arrested entitle himself to be discharged, as provided in the next section.

Warrant of arrest how executed.

SEC. 8. When the warrant contains the direction to let the person arrested to bail, he must be discharged from the arrest, upon executing and delivering to the officer, at any time before the return day of the warrant, a written undertaking with two sufficient sureties, to the effect that the person arrested will appear on the return of the warrant, and abide the order of the court or officer thereupon, or pay as may be directed, the sum specified in the warrant.

Bail how given.

SEC. 9. The officer must return the warrant of arrest, and the undertaking, if any received by him from the person arrested, by the return day specified therein. If he fail to make the return, a warrant of arrest not bailable, may be issued against him, specifying therein the cause of issuing it.

Warrant to be returned.

SEC. 10. The officer to whom the warrant mentioned in the last section is delivered, must execute it, by arresting the person proceeded against, bringing him personally before the court or officer, and detaining him in custody until otherwise ordered.

Warrant how executed.

SEC. 11. When the person arrested has been brought up or appeared, the court or officer must proceed to investigate the charge, by

On appearance of party how to proceed.

examining him and the witnesses for or against him, for which an adjournment may be had from time to time, if necessary.

Party found guilty, fined or imprisoned.

SEC. 12. Upon the evidence so taken, the court or officer must determine whether the person proceeded against is guilty of the contempt charged, and if it be adjudged that he is guilty of the contempt, a fine must be imposed upon him, not exceeding two hundred and fifty dollars, or he must be imprisoned not exceeding six months, or both. But in the discretion of the court or officer, (in case of inability to pay the fine, or endure the imprisonment,) he may be relieved in such manner, and upon such terms as may be just.

Indemnity to injured party also required.

SEC. 13. If an actual loss or injury to a party in an action or special proceeding, prejudicial to his right therein, have been caused by the contempt, the court or officer, in addition to the fine or imprisonment imposed for the contempt, may order the person proceeded against to pay to the party aggrieved a sum of money sufficient to indemnify him, and to satisfy his costs and expenses; which order, and the acceptance of money under it, is a bar to an action by the aggrieved party for such loss and injury.

Imprisonment in certain cases.

SEC. 14. When the contempt consists in the omission to perform an act which is yet in the power of the person to perform, he may be imprisoned until he shall have performed it; and in that case the act must be specified in the warrant of commitment.

Party liable to indictment.

SEC. 15. Persons proceeded against, according to the provisions of this chapter, are also liable to indictment for the same misconduct, if it be an indictable offence, but the court, before which a conviction is had on the indictment, in passing sentence, must take into consideration the punishment before inflicted.

When a second warrant to issue.

SEC. 16. When the warrant of arrest has been returned served, if the person arrested do not appear on the return day, the court or officer may issue another warrant of arrest, or may order the undertaking to be prosecuted, or both. If the undertaking be prosecuted, the measure of damages in the action, is the extent of the loss or injury sustained by the aggrieved party, by reason of the misconduct for which the warrant was issued, and the costs of the proceedings.

Illness an excuse for not producing party.

SEC. 17. Whenever, by the provisions of this chapter, an officer is required to keep a person arrested in actual custody, and to bring him before a court or officer, the inability, from illness or otherwise, of the person to attend, is a sufficient excuse for not bringing him up; nor can the officer be required to confine a person arrested on a warrant, in a prison, or otherwise to restrain him of personal liberty, except so far as may be necessary to secure his personal attendance.