

31700

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.

.....
1851

MINNESOTA TERRITORIAL STATUTES 1851

ANALYSIS.

	PAGE
Declaration of Independence, - - - - -	1
Constitution of the United States, - - - - -	5
Ordinance of July 13, 1787, - - - - -	16
Organic Act of Minnesota, - - - - -	22
CHAPTER 1. Of the division of the territory into counties, and their boundaries,	29
" 2. Of the statutes and legislative proceedings - - - - -	32
" " Of the publication and distribution of statutes, - - - - -	34
" 3. Of the legislature, - - - - -	36
" 4. Of territorial officers, - - - - -	38
" " Art. I. Of the territorial auditor, - - - - -	38
" " Art. II. Of the territorial treasurer, - - - - -	40
" " Art. III. Of the attorney general, - - - - -	41
" " Art. IV. Of the superintendent of common schools, - - - - -	42
" " Art. V. Of the delegate to congress, - - - - -	42
" " Art. VI. Of notaries public, - - - - -	43
" 5. Of elections, - - - - -	44
" " Qualifications and disabilities of electors, - - - - -	45
" " General election, - - - - -	45
" " Canvass by the judges, - - - - -	49
" " Judges and clerks of election, - - - - -	50
" " Of the canvass by the clerk of the board of county commissioners, - - - - -	50
" " Miscellaneous provisions, - - - - -	53
" 6. Of the manner of contesting the election of county, town, district, and precinct officers, - - - - -	54
" 7. Of counties, - - - - -	55
" 8. Of county officers, - - - - -	57
" " Art. I. Of county commissioners, - - - - -	58
" " Art. II. Of registers of deeds, - - - - -	62
" " Art. III. Of county treasurers, - - - - -	64
" " Art. IV. Of sheriffs - - - - -	66
" " Art. V. Of district attorneys, - - - - -	69
" " Art. VI. Of judges of probate, - - - - -	71
" " Art. VII. Of county surveyors, - - - - -	71
" " Art. VIII. Of coroners, - - - - -	73
" " Art. IX. Of assessors, - - - - -	76
" " Art. X. Of road supervisors, - - - - -	78
" " Art. XI. Of clerks of the district courts, - - - - -	83
" " Art. XII. Miscellaneous provisions concerning county officers, - - - - -	84
" 9. Of justices of the peace and constables, - - - - -	85
" 10. Of resignations, vacancies, and removals from office, - - - - -	87
" 11. Of fences, fence viewers, - - - - -	89
" " Of pounds and the impounding cattle, - - - - -	92
" 12. Of the assessment and collection of taxes, - - - - -	92
" " Property to be taxed, - - - - -	94
" " Where, and to whom property shall be assessed, - - - - -	95
" " Duties of assessors, - - - - -	96
" " Equalization of the assessment, and manner of assessing taxes, - - - - -	100
" " Collection and return of taxes, - - - - -	101

MINNESOTA TERRITORIAL STATUTES 1851

XII

ANALYSIS.

CHAPTER	12.	Return of sheriff,	-	-	-	-	-	-	103
"	"	Sale of lands for unpaid taxes, &c.,	-	-	-	-	-	-	104
"	"	Miscellaneous provisions,	-	-	-	-	-	-	109
"	"	Of the territorial and county revenue,	-	-	-	-	-	-	111
"	13.	Of county roads,	-	-	-	-	-	-	112
"	14.	Of salvage,	-	-	-	-	-	-	115
"	15.	Of the public printing,	-	-	-	-	-	-	119
"	16.	Relief and support of the poor,	-	-	-	-	-	-	121
"	17.	Of the formation of uniform companies,	-	-	-	-	-	-	123
"	18.	Of the preservation of the public health	-	-	-	-	-	-	125
"	19.	Of county medical societies	-	-	-	-	-	-	126
"	20.	Of the sale of spirituous liquors	-	-	-	-	-	-	128
"	21.	To provide against the traffic in ardent spirits with the Indians	-	-	-	-	-	-	131
"	22.	Of the support of bastards	-	-	-	-	-	-	132
"	23.	Of public shows and exhibitions	-	-	-	-	-	-	134
"	24.	Of the law of roads and the regulations of public carriages	-	-	-	-	-	-	135
"	25.	Of strays, lost money and goods	-	-	-	-	-	-	136
"	26.	Of the disposition of unclaimed property	-	-	-	-	-	-	138
"	27.	Of marks and brands and filing chattel mortgages	-	-	-	-	-	-	140
"	28.	Of the University of Minnesota	-	-	-	-	-	-	142
"	29.	Of common schools	-	-	-	-	-	-	144
"	30.	Of the protection of hedges, fences, fruit and ornamental trees	-	-	-	-	-	-	148
"	31.	Of recording town plots	-	-	-	-	-	-	149
"	32.	Of weights and measures	-	-	-	-	-	-	152
"	33.	Of seals,	-	-	-	-	-	-	153
"	34.	Of bills of exchange and promissory notes,	-	-	-	-	-	-	154
"	35.	Of the interest of money,	-	-	-	-	-	-	155
"	36.	Of religious societies,	-	-	-	-	-	-	156
"	37.	Of cemetery associations,	-	-	-	-	-	-	159
"	38.	Of libraries and lyceums,	-	-	-	-	-	-	162
"	39.	Of the incorporation of plank and turnpike road companies,	-	-	-	-	-	-	163
"	40.	Of corporations for manufacturing, mining, lumbering, agricultural, mechanical and chemical purposes,	-	-	-	-	-	-	175
"	41.	Of the incorporation of villages,	-	-	-	-	-	-	179
"	42.	General provisions relating to corporations,	-	-	-	-	-	-	193
"	43.	Of the nature and qualities of estates in real property, and the alienation thereof,	-	-	-	-	-	-	197
"	44.	Of uses and trusts,	-	-	-	-	-	-	202
"	45.	Of powers,	-	-	-	-	-	-	205
"	46.	Of alienation by deed, of the proof and recording of conveyances and the cancelling of mortgages,	-	-	-	-	-	-	210
"	47.	Of recording contracts relating to land,	-	-	-	-	-	-	215
"	48.	Of the appointment of commissioners to take the acknowledgement of deeds &c., in other states,	-	-	-	-	-	-	216
"	49.	Of estates in dower, by the curtesy, and general provisions concerning real estate,	-	-	-	-	-	-	217
"	50.	Of title to real property by descent,	-	-	-	-	-	-	221
"	51.	Of the sale of lands of minors and other persons under guardianship and securing the proceeds to their use,	-	-	-	-	-	-	224
"	52.	Of the sale of lands for the payment of debts by executors, administrators and guardians,	-	-	-	-	-	-	227
"	53.	Of wills of real and personal estate,	-	-	-	-	-	-	235
"	54.	Of letters testamentary, &c.	-	-	-	-	-	-	241
"	55.	Of the administration and distribution of the estates of intestates,	-	-	-	-	-	-	243
"	56.	Of the inventory and collection of the effects of deceased persons,	-	-	-	-	-	-	246
"	57.	Of the payment of debts and legacies of deceased persons,	-	-	-	-	-	-	249
"	58.	Of rendering accounts by executors and administrators,	-	-	-	-	-	-	257
"	59.	Of the partition and distribution of estates,	-	-	-	-	-	-	259

MINNESOTA TERRITORIAL STATUTES 1851

ANALYSIS.

XIII

CHAPTER 60.	Of probate bonds and the prosecution of them,	-	-	263
"	61. Of the conveyance of real estate by executors and administrators in certain cases,	-	-	264
"	62. Of fraudulent conveyances and contracts relative to lands,	-	-	266
"	63. Of fraudulent conveyances and contracts relative to goods, chattels and things in action,	-	-	268
"	64. General provisions relating to fraudulent conveyances and contracts,	-	-	269
"	65. Of marriage,	-	-	270
"	66. Of divorce,	-	-	272
"	67. Of guardians and wards,	-	-	277
"	68. Of masters and apprentices,	-	-	281
"	69. Of courts of justice,	-	-	285
"	" Art. I. Of courts in general, and supreme court,	-	-	285
"	" Art. II. The district courts,	-	-	287
"	" Art. III. Of probate courts,	-	-	290
"	" Art. IV. Of courts of justices of the peace,	-	-	296
"	" Jurisdiction of justices of the peace,	-	-	299
"	" Commencement of suits, service and return of process,	-	-	300
"	" Pleadings and trial,	-	-	302
"	" Set offs,	-	-	304
"	" Of witnesses and depositions,	-	-	305
"	" Of trial by jury,	-	-	306
"	" Judgments, and the filing transcripts thereof, and the stay of executions,	-	-	307
"	" Of execution and proceedings thereon,	-	-	309
"	" Replevin,	-	-	310
"	" Of proceedings by attachment,	-	-	311
"	" Of the removal of causes by certiorari, and proceedings thereon,	-	-	313
"	" Concerning appeals,	-	-	315
"	" Of proceedings for contempts before justices of the peace,	-	-	317
"	" General provisions concerning justices of the peace,	-	-	318
"	" Of forms in civil actions in justices courts,	-	-	319
"	" Of the jurisdiction of justices in criminal cases, and the proceedings therein,	-	-	321
"	" Miscellaneous provisions in criminal cases,	-	-	324
"	" Of forms of writs, &c., in criminal proceedings,	-	-	325
"	70. Of civil actions,	-	-	328
"	" Of the forms of actions,	-	-	330
"	" Of the time of commencing actions,	-	-	330
"	" Of the parties to civil actions,	-	-	333
"	" Of the place of trial of civil actions,	-	-	334
"	" Of the manner of commencing actions	-	-	334
"	" Of the pleadings in civil actions,	-	-	336
"	" The complaint,	-	-	337
"	" The demurrer,	-	-	337
"	" The answer,	-	-	337
"	" The reply,	-	-	338
"	" General rules of pleading,	-	-	338
"	" Mistakes in pleadings and amendments,	-	-	340
"	" Arrest and bail,	-	-	341
"	" Claim and delivery of personal property,	-	-	344
"	" Attachment,	-	-	346
"	" Of the trial and judgment in civil cases,	-	-	349
"	" Judgment upon failure to answer,	-	-	350
"	71. Issues and mode of trial,	-	-	350
"	" Issues,	-	-	352
"	" Trial by jury,	-	-	353
"	" Conduct of the trial,	-	-	354

MINNESOTA TERRITORIAL STATUTES 1851

XIV

ANALYSIS.

CHAPTER	71. The verdict, - - - - -	356
“	“ Trial by the court, - - - - -	356
“	“ Trial by referees, - - - - -	357
“	“ Provisions relating to trials in general; exceptions, - - - - -	358
“	“ New trials, - - - - -	359
“	“ General provisions, - - - - -	359
“	“ The manner of giving and entering judgment, - - - - -	360
“	“ The execution, - - - - -	361
“	“ Proceedings supplementary to the execution, - - - - -	368
“	72. Of the costs in civil actions, - - - - -	370
“	“ Of filing security for costs, - - - - -	373
“	73. Of the fees of certain officers and other persons, and general provisions relative to fees, - - - - -	375
“	“ Fees of clerks of the district courts, - - - - -	375
“	“ Fees of the clerk of the supreme court, - - - - -	377
“	“ Fees of commissioners to take testimony, - - - - -	377
“	“ Fees of judge of probate, - - - - -	378
“	“ Fees of executors and administrators, - - - - -	379
“	“ Fees of witnesses, - - - - -	379
“	“ Fees of sheriff in executing process issued out of the courts of law and equity and by judicial and other officers, and for other services, - - - - -	379
“	“ Fees of coroners, - - - - -	381
“	“ Fees of constables, - - - - -	381
“	“ Fees of notaries public, - - - - -	382
“	“ Fees of justices of the peace, - - - - -	382
“	“ Provisions in relation to fees in justices' courts, - - - - -	383
“	“ Fees of registers of deeds, - - - - -	384
“	“ Fees of appraisers, commissioners, and others, - - - - -	384
“	“ Fees of jurors, - - - - -	384
“	“ Fees to be allowed the party recovering judgment in chancery in case a solicitor shall have been employed, - - - - -	385
“	“ General provisions, - - - - -	386
“	74. Actions to determine conflicting claims to real property, and other provisions to actions concerning real property, - - - - -	388
“	“ Actions for nuisances, waste, and willful trespass on real property, - - - - -	391
“	75. Actions for the partition of real property, - - - - -	391
“	76. Actions respecting corporations, - - - - -	398
“	77. Of proceedings against corporations in chancery, - - - - -	399
“	78. Actions by or against executors, administrators, legatees, heirs, &c., - - - - -	403
“	79. Actions on official securities, and for fines and forfeitures, - - - - -	407
“	80. Actions to vacate charters and letters patent, and to prevent the usurpation of an office or franchise, - - - - -	410
“	81. Of the removal of actions to the supreme court, - - - - -	413
“	82. Of miscellaneous proceedings in civil actions and general provisions, - - - - -	417
“	82. Offer of the defendant to compromise the whole or a part of the action, - - - - -	418
“	“ Admission or inspection of writings, - - - - -	418
“	“ Motions and orders, - - - - -	419
“	“ Notices, filing and service of papers, - - - - -	420
“	“ General provisions, - - - - -	421
“	83. Of special proceedings, - - - - -	422
“	“ Writ of mandamus, - - - - -	423
“	“ Writs of prohibition, - - - - -	425
“	“ Of the writ of habeas corpus, - - - - -	425
“	84. Confession of judgment without action, - - - - -	433
“	“ Submitting a controversy without action, - - - - -	434
“	85. Of the foreclosure of mortgages by advertisement, - - - - -	434
“	86. Of proceedings for the collection of demands against boats and vessels - - - - -	437

MINNESOTA TERRITORIAL STATUTES 1851

ANALYSIS.

xv

CHAPTER 87.	Of forcible entries and unlawful detainers,	- -	439
"	88. Of actions by persons holding claims on United States land,	- -	444
"	89. Of the relief of insolvent debtors,	- -	445
"	90. Of the relief of persons confined in jail on civil process,	- -	449
"	91. Proceedings against garnishees,	- -	451
"	92. Of the punishment of contempts,	- -	454
"	93. Of attorneys and counsellors,	- -	457
"	" Authority of an attorney and its duration,	- -	458
"	" Change of attorney,	- -	459
"	" Lien of attorneys,	- -	459
"	" Summary power of the court over attorneys,	- -	459
"	" Removal or suspension of attorneys and counsellors,	- -	460
"	94. Of the court of chancery,	- -	461
"	" Writs of ne exeat,	- -	466
"	" The granting of injunctions, staying proceedings at law, &c.	- -	466
"	" The powers and proceedings of the court of chancery touching the foreclosure or satisfaction of mortgages,	- -	468
"	" Of appeals to the supreme court,	- -	470
"	95. Of evidence,	- -	771
"	" Of the issuing and service of subpoenas and the liabilities of wit- nesses thereon;	- -	471
"	" Of taking the testimonies of witnesses within this territory,	- -	473
"	" Of taking the testimony of witnesses out of this territory,	- -	475
"	" Of proceedings to perpetuate the testimony of witnesses without this territory,	- -	475
"	" Of proceedings to perpetuate the testimony of witnesses out of this territory,	- -	476
"	" Proceedings to perpetuate the testimony of witnesses within and without this territory, as against all persons,	- -	
"	" Of depositions taken in this territory, to be used in courts of other states and countries,	- -	478
"	" Of the competency of certain persons as witnesses,	- -	478
"	" Of the printed statutes of this territory, of the records and pro- ceedings of courts and the laws of other states and of foreign laws as evidence,	- -	479
"	" The exemplification of justices' judgments in other states,	- -	479
"	" Documentary evidence and the preservation thereof, &c.	- -	479
"	" Of the privilege of witnesses in certain cases,	- -	481
"	" Of the loss of instruments and proceedings thereon,	- -	481
"	" Of account books, instruments and justices' dockets as evidence,	- -	481
"	" Miscellaneous provisions,	- -	483
"	" Of administering oaths,	- -	483
"	96. Of arbitrations,	- -	484
"	97. Of laborers' and other liens,	- -	487
"	98. Of crimes and punishments,	- -	490
"	99. Of the rights of persons accused of crimes and offences,	- -	490
"	100. Of offences against the lives and persons of individuals,	- -	491
"	101. Of offences against property,	- -	499
"	102. Of forgery and counterfeiting,	- -	507
"	103. Of offences against public justice,	- -	510
"	104. Of offences against the public peace,	- -	513
"	105. Of offences against public policy,	- -	515
"	106. Of gaming,	- -	516
"	107. Of the recovery of money or goods lost by gaming,	- -	517
"	108. Of offences against chastity, morality and decency,	- -	518
"	" Of offences against the public health,	- -	521
"	109. General provisions concerning crimes and punishments,	- -	522
"	110. Of proceedings in criminal cases,	- -	524

MINNESOTA TERRITORIAL STATUTES 1851

XVI .

ANALYSIS.

CHAPTER 111. Of demanding fugitives from justice, - - - -	526
“ 112. Of proceedings to prevent the commission of crimes, - - - -	526
“ 113. Of arrests, - - - -	529
“ “ Of arrest by an officer without a warrant, - - - -	530
“ “ Of arrest by a private person, - - - -	530
“ “ Retaking after an escape or rescue, - - - -	531
“ 114. Of examination of offenders commitment for trial and taking bail, - - - -	531
“ 115. Of grand juries, - - - -	535
“ 116. Of the powers and duties of the grand jury, - - - -	538
“ 117. Presentment and proceedings thereon, - - - -	540
“ 118. Finding and presentation of an indictment, - - - -	542
“ 119. Of indictments, - - - -	542
“ 120. Arraignment of the defendant, - - - -	549
“ 121. Of setting aside the indictment, - - - -	551
“ 122. Of demurrers, - - - -	552
“ 123. Of pleas, - - - -	553
“ 124. Of the change of venue in criminal cases, - - - -	554
“ 125. The mode of trial; issues, - - - -	555
“ 126. Of petit or trial juries, - - - -	556
“ “ Of the formation of the trial jury, - - - -	556
“ 127. Criminal calendar, - - - -	557
“ 128. Of challenging jurors, &c., - - - -	558
“ 129. Of appeals, new trials, and exceptions in criminal cases, - - - -	563
“ 130. Of judgments in criminal cases, and the execution thereof, - - - -	565
“ 131. Of pardons, - - - -	566
“ 132. Miscellaneous provisions relating to crimes and punishments, and proceedings in criminal cases, - - - -	567
“ “ Of the judgment roll, - - - -	571
“ 133. Of prisons, their management and discipline, and of imprisonment for offences, - - - -	572
“ 134. Of the assignment of the judges of the several districts, - - - -	576
“ 135. Of printing and binding certain acts with the revised statutes, - - - -	576
“ 136. Of the taking effect and repeal of certain acts, - - - -	577
“ 137. Of the time when the revised statutes shall go into operation, and the repeal of acts now in force, - - - -	577
An act relating to the militia, - - - -	581
Of the appointment of militia officers and the other officers, - - - -	582
Of the enrollment of persons subject to military duty, - - - -	583
Of the organization, uniform and discipline of the militia, - - - -	584
Of the organization of the staff department, - - - -	586
Of the several parades and rendezvous of the militia, - - - -	587
Of courts of inquiry and courts martial, - - - -	581
Of regimental and battalion courts martial - - - -	592
General provisions applicable to courts-martial and courts of inquiry, - - - -	293
Of penalties, fines, fees, and expenditures, - - - -	594
Of the collection and application of penalties, fines and commutation money, - - - -	596
Of the compensation and fees of the members of court-martial, and other officers, - - - -	598
Of the duties of certain staff officers, and of various matters connected with their respective departments, - - - -	599
Of the commissary general, - - - -	599
An act providing for the appointment of a librarian, and for other purposes, - - - -	600
An act to provide for the erection of public buildings in the territory of Minnesota, - - - -	602
An act to amend an act entitled “ An act to provide for the erection of public buildings in the territory of Minnesota, - - - -	606
An act to authorize the establishment and regulation of ferries, - - - -	606