

James C. Child
35
THE

PUBLIC STATUTES

OF THE

STATE OF MINNESOTA.

(1849—1858.)

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be an indictable offense, but the court before which a conviction is had on the indictment, in passing sentence, must take into consideration the punishment before inflicted.

(16.) SEC. XVI. 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. When a second warrant to issue.

(17.) SEC. XVII. 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. Illness an excuse for not producing party.

CHAPTER 82.

ATTORNEYS AND COUNSELLORS.

SECTION.

1. What attorneys and counsellors now in office may practice as such.
2. Who may be admitted to practice.
3. Application for admission and proof thereon.
4. Examination.
5. Order entitling him to admission.
6. Application to be made to supreme court.
7. General duties of attorneys
8. Punishment for deceit or collusion.
9. Not to permit other person to use his name.
10. Authority of an attorney.
11. Proceedings when he appears without authority.
12. Compelling attorney to produce authority.
13. Attorney how changed.
14. Notice of change.
15. When attorney dies, notice to be served on opposite party.
16. Lien of attorney, and its effects.
17. Proceedings to compel attorneys to deliver papers, &c.

SECTION.

18. Proceedings when attorney claims lien.
19. Attorney when and by whom suspended.
20. By whom proceedings may be instituted.
21. Accusation to be in writing.
22. Accusation what to contain.
23. Order for accused to appear and answer.
24. Accused to appear, or if not, how to proceed.
25. May object to, or deny accusation.
26. Objections how made.
27. If objection not sustained, must answer forthwith.
28. If accused plead guilty, court to pronounce judgment.
29. On judgment of suspension or removal, case may be made by accused; case how settled.
30. The judgment roll.
31. In what cases other courts may suspend, and their duty thereon.

[Chapter 93, Revised Statutes.]

(1.) SEC. I. The following persons are entitled to practice as attorneys and counsellors in all the courts of this territory: What attorneys and counsellors now in office may practice as such.

1. Those who were duly admitted as attorneys or counsellors of the supreme or district court before the passage of this chapter, and whose names are still on the rolls of attorneys of that court.

(2.) SEC. II. Any male person, of the age of twenty-one years, of good moral character, and who possesses the requisite qualifications of Who may be admitted to practice.

learning and ability, is entitled to admission to practice in all the courts of this territory.

Condition of admission to practice law.

(3.) SEC. III. [*As amended on page 13 of the laws of 1856:*] For the purpose of admission, he must apply to the supreme court or any district court of the territory, when in session, and must show first, that he is of the age of twenty-one years, which proof may be made by his own affidavit; and second, that he is a person of good moral character, which may be proved by certificate or other evidence satisfactory to the court.

Examination.

(4.) SEC. IV. The applicant must also be examined in open court, as to his qualifications of learning and ability, by the judges, or under their direction, at the term at which application for admission is made.

Order entitling him to admission.

(5.) SEC. V. If, upon the examination, he be found duly qualified, the court must direct an order to be entered, to the effect that the applicant is a citizen of the United States, of the age of twenty-one years, of good moral character, and possesses the requisite qualifications of learning and ability, to practice as an attorney and counsellor in all the courts of this territory; and upon the entry of the order, he is entitled to practice as such attorney and counsellor.

Must apply to supreme or district court.

(6.) SEC. VI. [*As amended on page 13 of the laws of 1856:*] No person can be admitted to practice as an attorney and counsellor, except on application to the supreme or any district court in form, and when so admitted, may practice in any of the courts of this territory.

General duties of attorneys.

(7.) SEC. VII. It is the duty of an attorney and counsellor:

1. To support the constitution and laws of the United States, and of this territory;

2. To maintain the respect due to the courts of justice and judicial officers;

3. To counsel or maintain such actions, proceedings, or defenses, only, as appear to him legal and just, except the defense of a person charged with a public offense;

4. To employ, for the purpose of maintaining the causes confided to him, such means only as are consistent with truth, and never to seek to mislead the judges by any artifice or false statement of fact or law;

5. To maintain inviolate the confidence, and at every peril to himself to preserve the secrets of his client;

6. To abstain from all offensive personality and to advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which he is charged.

7. Not to encourage either the commencement or the continuance of an action or proceeding from any motive of passion or interest; and,

8. Never to reject, for any consideration personal to himself, the cause of the defenseless or oppressed.

Punishment for deceit or collusion.

(8.) SEC. VIII. An attorney or counsellor who is guilty of deceit or collusion, or consents thereto, with intent to deceive a court or judge, or a party to an action or judicial proceeding, is punishable for a misdemeanor, and shall also forfeit to the party injured, treble damages, recoverable in a civil action.

Not to permit other person to use his name.

(9.) SEC. IX. If an attorney and counsellor knowingly permit a person not his general law partner to sue out process, or to prosecute or defend an action or proceeding in his name, he and every person who so uses his name, shall severally forfeit to the party against whom the process was issued, on the action or proceeding prosecuted or defended, the sum of fifty dollars, recoverable in a civil action.

AUTHORITY OF AN ATTORNEY AND ITS DURATION.

(10.) SEC. X. An attorney and counsellor has authority :

1. [*As amended on page 18 of the amendments of 1852 to the revised statutes :*] To bind his client in any of the proceedings, in an action or special proceeding by his agreement duly made, or entered upon the minutes of the court; but the court shall disregard all agreements and stipulations in relation to the conduct of, or any of the proceedings, in an action or special proceeding, unless such agreement or stipulation be made in open court, or in presence of the clerk, and entered in the minutes by him, or signed by the party against whom the same is alleged, or his attorney;

Authority of an attorney.
Stipulations between attorneys must be in writing.

2. To receive money claimed by his client in an action or special proceeding during the pendency thereof, or within one year after judgment, and upon the payment thereof, and not otherwise, to discharge the claim or acknowledge satisfaction of the judgment.

But this section does not prevent a party employing a new attorney to issue an execution upon a judgment, or to take other proceedings prescribed by the statute for its enforcement; and when he does so, the authority of the former attorney ceases.

(11.) SEC. XI. If it be alleged by a party for whom an attorney appears, that he does so without authority, the court may at any stage of the proceedings relieve the party for whom the attorney has assumed to appear from the consequences of his acts; it may also summarily upon motion, compel the attorney to repair the injury to either party consequent upon his assumption of authority.

Proceedings when he appears without authority.

(12.) SEC. XII. The court or a judge may, on motion of either party, and on showing reasonable grounds therefor, require the attorney for the adverse party, or for any one of several adverse parties, to produce or prove the authority under which he appears, and until he does so, may stay all proceedings by him on behalf of the party for whom he assumes to appear.

Compelling attorney to produce authority.

CHANGE OF ATTORNEY.

(13.) SEC. XIII. The attorney in an action or special proceeding, may be changed at any time before judgment or final determination, as follows:

Attorney how changed.

1. Upon his own consent, filed with the clerk or entered upon the minutes; or,

2. Upon the order of the court, or a judge thereof, on the application of the client, or for other sufficient cause; but no such change can be made until the charges of such attorney have been paid by the party asking such change to be made.

(14.) SEC. XIV. When an attorney is changed, as provided in the last section, written notice of the change, and of the substitution of a new attorney, or of the appearance of the party in person, must be given to the adverse party; until then, he is bound to recognize the former attorney.

Notice of change..

(15.) SEC. XV. When an attorney dies, or is removed, or suspended, or ceases to act as such, a party to an action for whom he was acting as attorney, must, at least thirty days before any further proceedings against him, be required by the adverse party, by written notice, to appoint another attorney or to appear in person.

When attorney dies, notice to be served on opposite party.

LIEN OF ATTORNEYS.

Lien of attorney
and its effects.

(16.) SEC. XVI. An attorney has a lien for his compensation, whether specially agreed upon or implied, as provided in this statute:

1. Upon the papers of his client, which have come into his possession in the course of his professional employment;
2. Upon money in his hands belonging to his client;
3. Upon money in the hands of the adverse party in an action or proceeding, in which the attorney was employed from the time of giving notice of the lien to that party;
4. Upon a judgment to the extent of the costs included therein, or if there be a special agreement, to the extent of the compensation specially agreed on, from the time of giving notice to the party against whom the judgment is recovered. This lien is, however, subordinate to the rights existing between the parties to the action or proceeding.

SUMMARY POWER OF THE COURT OVER ATTORNEYS.

Proceedings to
compel attorneys
to deliver papers,
&c.

(17.) SEC. XVII. When an attorney refuses to deliver over money or papers, to a person from or for whom he has received them in the course of professional employment, whether in an action or not, he may be required by an order of the court in which an action, if any, was prosecuted, or if no action was prosecuted, then by order of the supreme court, to do so within a specified time, or show cause why he should not be punished for a contempt.

Proceedings
when attorney
claims lien.

(18.) SEC. XVIII. If, however, the attorney claim a lien upon the money or papers, under the provisions of this chapter, the court may:

1. Impose as a condition of making the order, that the client give security in a form and amount to be directed, to satisfy the lien when determined in an action; or,
2. Summarily to inquire into the facts on which the claim of a lien is founded, and determine the same; or,
3. Direct the trial of the controversy by a jury, or refer it, and upon the verdict or report, determine the same, as in other cases.

REMOVAL OR SUSPENSION OF ATTORNEYS AND COUNSELLORS.

Attorney when
and by whom
suspended.

(19.) SEC. XIX. An attorney and counsellor may be removed or suspended by the supreme court, at a general term thereof, for either of the following causes, arising after his admission to practice:

1. Upon his being convicted of felony, or of a misdemeanor involving moral turpitude, in either of which cases the record of his conviction is conclusive evidence;
2. Upon its being shown to the satisfaction of the court, that he has knowingly signed a frivolous pleading, or has been guilty of any other deceit or willful misconduct in his profession;
3. For a willful disobedience or violation of the order of a court, requiring him to do or forbear an act connected with or in the course of his profession;
4. For a willful violation of any of the provisions of section seven.

By whom pro-
ceedings may be
instituted.

(20.) SEC. XX. The proceedings to remove or suspend an attorney and counsellor, as provided in the last section, must be taken by the court of its own motion for matter within its knowledge, or may be taken upon the information of another.

- (21.) SEC. XXI. If the proceeding be upon the information of another, the accusation must be in writing, and must be presented to the court. Accusation to be in writing.
- (22.) SEC. XXII. The accusation must state the matter charged, and must be verified by the oath of the person making it, or of some other person, to the effect that the charges therein contained are true. Accusation what to contain.
- (23.) SEC. XXIII. After receiving the accusation, the court must, if in its opinion the case requires it, make an order requiring the accused to appear and answer the accusation at a specified time in the same or a subsequent term, and must cause a copy of the order and of the accusation to be served upon the accused, within a prescribed time before the day appointed in the order. Order for accused to appear and answer.
- (24.) SEC. XXIV. The accused must appear at the time appointed in the order, and answer the accusation, unless for sufficient cause the court assign another day for that purpose. If he do not appear, the court may proceed and determine the accusation in his absence. Accused to appear, or if not, how to proceed.
- (25.) SEC. XXV. The accused may answer the accusations, either by objecting to its sufficiency, or by denying its truth. May object to, or deny accusation.
- (26.) SEC. XXVI. If he object to the sufficiency of the accusation, the objection must be in writing, but need not be in any specified form, it being sufficient if it present intelligibly the grounds of the objection. If he deny the truth of the accusation, the denial may be oral and without oath, and must be entered upon the minutes. Objections how made.
- (27.) SEC. XXVII. If an objection to the sufficiency of the accusation be not sustained, the accused must answer it forthwith. If objection not sustained must answer forth with.
- (28.) SEC. XXVIII. If the accused plead guilty, or refuse to answer the accusation, the court must proceed to judgment of removal or suspension. If he deny the matters charged, the court must immediately, or at such time as it may appoint, proceed to try the accusation. If accused plead guilty, court to pronounce judgment.
- (29.) SEC. XXIX. In case of a judgment of suspension or removal, the accused may within ten days after it is pronounced, make a case setting forth the evidence, and other proceedings in the matter upon the hearing thereof, which must be settled by the court in the same manner as a case in a civil action; when settled it must be filed by the clerk of the court by which the judgment was given. On judgment of suspension or removal, case may be made by accused. Case how settled.
- (30.) SEC. XXX. The following papers must be annexed together, and filed by the clerk within two days after the filing of the case, or within such further time as the court or judge thereof may prescribe:
1. The accusation;
 2. The objections or answers thereto;
 3. The case mentioned in the last section;
 4. A copy of the entries upon the minutes of the court, relating to the accusation and the proceedings thereon, including the order of suspension or removal.
- (31.) SEC. XXXI. Any court, except a justice's court, may suspend an attorney and counsellor from practicing therein, for any of the causes mentioned in section nineteen, for a period not beyond the adjournment of the next general term of the supreme court in the territory; the order of suspension must state the cause thereof, and must be entered upon the minutes, and a certified copy thereof transmitted by the court by which it is made to the next general term of the supreme court in the territory, which may proceed thereon against the person suspended, in the manner provided in this chapter. The judgment roll. In what cases other courts may suspend, and their duties thereon.