

*James C. Child*  
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THE

PUBLIC STATUTES

OF THE

STATE OF MINNESOTA.

(1849—1858.)

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PUBLISHED BY STATE AUTHORITY.

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SAINT PAUL:  
THE PIONEER PRINTING COMPANY.

1859.

purpose of sale; any drug or medicine, or sell any drug or medicine knowing it to be adulterated, or offer the same for sale, he shall be punished by imprisonment in the county jail, not more than one year, or by fine not exceeding three hundred dollars, and such adulterated drugs and medicines shall be forfeited and destroyed by order of the court.

(4.) SEC. IV. If any person shall inoculate himself, or any other person, or shall suffer himself to be inoculated with the small pox, within this territory, with intent to cause the prevalence or spread of this infectious disease, he shall be punished by imprisonment in the territorial prison not more than three years, nor less than one year. For inoculating with small pox.

(5.) SEC. V. If any physician or other person, while in a state of intoxication, shall prescribe any poison, drug, or medicine, to another person, he shall be punished by imprisonment in the county jail not more than one year, or by fine not exceeding five hundred dollars. Physician prescribing when intoxicated.

(6.) SEC. VI. Every apothecary, druggist, or other person who shall sell and deliver any arsenic, corrosive sublimate, prussic acid, or any other active 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, shall be punished by a fine not exceeding one hundred dollars. Apothecary selling arsenic without labeling.

CHAPTER 98.

GENERAL PROVISIONS CONCERNING CRIMES AND PUNISHMENTS.

SECTION	SECTION
1. Accessory to felony before the fact how punished.	10. Allegation in indictment for embezzlement and evidence.
2. Accessory to felony before the fact how punished.	11. What deemed proof of ownership of property stolen, &c.
3. Accessory where and how tried.	12. Fines, &c., may be recovered by indictment in district court.
4. Accessory after the fact how punished.	13. Fines, &c., when recovered before justice.
5. Accessory after the fact how tried.	14. Plea of benefit of clergy and petit treason abolished.
6. On indictments for libel truth may be given in evidence, &c.	15. Constructive misdemeanor in office.
7. Offenses committed near boundary of county.	16. Punishments for attempts to commit offenses in violation of law.
8. Mortal wound in one county, and death in another.	17. Penalty for second offense.
9. Mortal wound without the territory, and death in the territory; trial where to be had.	18. Terms "felonious," "feloniously," "infamous crime," "personal property," "property," and "person," defined.

✓ [Chapter 109, Revised Statutes.]

(1.) SEC. I. Every person who shall be aiding in the commission of any offense which shall be a felony, or who shall be accessory thereto before the fact, by counseling, hiring, or otherwise procuring such felony to be committed, shall be punished in the same manner as is, or shall be prescribed for the punishment of the principal felon. Accessory to felony before the fact how punished.

(2.) SEC. II. Every person who shall counsel, hire, or otherwise pro- Accessory to felony before the

fact how punished.

cure any offense to be committed which shall be a felony, may be indicted and convicted as an accessory before the fact, either with the principal felon, or after the conviction of the principal felon; or he may be indicted and convicted of a substantive felony, whether the principal felon shall or shall not have been convicted, or shall or shall not be amenable to justice, and in the last mentioned case may be punished in the same manner as if convicted of being an accessory before the fact.

Persons, where tried.

(3.) SEC. III. [*Sections 3 and 4, as amended on page 25 of the amendments of 1852 to the revised statutes:*] Any person guilty of the offense in the preceding section, may be indicted, tried and punished in the same court and in the same county where the principal felon might be indicted and tried, although the offense of counseling, hiring, abetting, or procuring the commission of such felony, may have been committed elsewhere, either within or without the limits of this territory.

Accessory after the fact, how punished.

(4.) SEC. IV. Every person not standing in the relation of husband or wife, parent or child, by consanguinity or affinity to the offender, who after the commission of any felony, shall harbor, conceal, maintain or assist any principal felon or accessory before the fact, or shall give such offender any other aid, knowing that he has committed a felony, or has been accessory thereto before the fact, with intent that he shall avoid or escape from detection, arrest, trial, or punishment, shall be deemed an accessory after the fact, and shall be punished by imprisonment in the county jail, not more than one year, or by fine not exceeding two hundred dollars, or both.

Accessory after the fact how tried.

(5.) SEC. V. Every person who shall become an accessory after the fact to any felony, either at common law or by any statute made, or which shall hereafter be made, may be indicted, convicted, and punished, whether the principal felon shall or shall not have been convicted previously, or shall or shall not be amenable to justice by any court having jurisdiction to try the principal felon, and either in the county where such person shall have become an accessory, or in the county where such principal felony shall have been committed.

On indictments for libel, truth may be given in evidence, &c.

(6.) SEC. VI. In all criminal prosecutions or indictments for libel, the truth may be given in evidence; and if it shall appear to the jury that the matter charged as libelous be true, and was published with good motives and justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact.

Offenses committed near boundary of county.

(7.) SEC. VII. Offenses committed on the boundary lines of two counties, or within one hundred rods of the dividing line between them, may be alleged in the indictment to have been committed in either of them, and may be prosecuted and punished in either county.

Mortal wound in one county and death in another.

(8.) SEC. VIII. If any mortal wound shall be given, or other violence or injury shall be inflicted, or any poison shall be administered in one county, by means whereof death shall ensue in another county, the offense may be prosecuted in either county.

Mortal wound without the territory and death in the territory, trial where to be had.

(9.) SEC. IX. If any such mortal wound shall be inflicted, or other violence or injury done, or poison administered, either within or without the limits of this territory, by means whereof death shall ensue in any county thereof, such offense may be prosecuted and punished in the county where such death may happen.

Allegation in indictment for embezzlement and evidence.

(10.) SEC. X. In any prosecution for the offense of embezzling the money, bank notes, checks, drafts, bills of exchange, or other security for money, of any person, by a clerk, agent, or servant of such person, it shall be sufficient to allege generally in the indictment, an embezzlement of money to a certain amount without specifying any particulars of such embezzlement, and on the trial evidence may be given of any such embez-

zlement committed within six months next after the time stated in the indictment, and it shall be sufficient to maintain the charge in the indictment, and shall not be deemed a variance if it shall be proved that any money, bank note, check, draft, bill of exchange, or other security for money of such person, of whatever amount, was fraudulently embezzled by such clerk, agent, or servant, within the said period of six months.

(11.) SEC. XI. In the prosecution of any such offense committed upon, or in relation to, or in any way affecting any real estate, or any offense committed in stealing, embezzling, destroying, injuring, or fraudulently receiving or concealing any money, goods, or other personal estate, it shall be sufficient, and shall not be deemed a variance, if it be proved on trial that at the time when such offense was committed, either the actual or constructive possession, or the general or special property, in the whole or any part of such real or personal estate, was in the person or community alleged in the indictment or other accusation, to be the owner thereof.

What deemed proof of ownership of property stolen, &c.

(12.) SEC. XII. [As amended on page 25 of the amendments of 1852 to the revised statutes:] All fines and forfeitures imposed as a punishment for any offense, or for the violation or neglect of any duty imposed by statute, may be prosecuted for and recovered by indictment in the district court; or when the amount or value thereof does not exceed one hundred dollars, the same may be prosecuted for by complaint before a justice of the peace, who shall have jurisdiction thereof concurrently with the district court, except in cases of felony; and in all cases of the imposition of a fine pursuant to statute, as punishment for any offense, the offender may be committed till the same is paid, or he is otherwise discharged according to law.

Fines for violation of duty, where prosecuted.

May be prosecuted before justice of the peace.

(13.) SEC. XIII. When any fine shall be imposed upon any person upon conviction upon an indictment or presentment of a grand jury, or when such fine has been imposed by a justice of the peace, in cases where justices of the peace have jurisdiction, such fine when the same shall be collected, shall in all cases be paid into the county treasury of the county where the conviction was had, unless otherwise provided by law.

Fines, &c., when recovered before justice.

(14.) SEC. XIV. The plea of benefit of clergy, and the distinction between murder and petit treason, are abolished, and the last named offense shall be prosecuted and punished as murder in the second degree.

Plea of benefit of clergy and petit treason abolished.

(15.) SEC. XV. (a) Where any duty is or shall be enjoined by law, upon any public officer, or upon any person holding any public trust or employment, every willful neglect to perform such duty, and every misbehavior in office where no special provision shall have been made for the punishment of such delinquency or malfeasance, shall be a misdemeanor punishable by fine and imprisonment.

Constructive misdemeanor.

(16.) SEC. XVI. Every person who shall attempt to commit an offense prohibited by law, and in such attempt shall do any act towards the commission of such offense, but shall fail in the perpetration thereof, or shall be prevented or intercepted in executing the same, upon conviction thereof shall, in cases where no provision is made by law for the punishment of such attempt, be punished as follows:

Punishment for attempt to commit an offense, prohibited by law.

1. If the offense attempted to be committed, be such as is punishable by death of the offender, the person convicted of such attempt shall be punished by imprisonment in the territorial prison not exceeding ten years.

Where imprisoned.

2. If the offense so attempted, be punishable by imprisonment in the territorial prison for four years or more, or by imprisonment in a county

Term of imprisonment.

(a) Sections 15, 16, 17 and 18 are added on pages 25 and 26 of the amendments of 1852 to the revised statutes.

jail, the person convicted of such attempt shall be punished by imprisonment in the territorial prison, or in a county jail, as the case may be, for a term not exceeding one half the longest term of imprisonment prescribed, upon a conviction for the offense so attempted.

May be imprisoned in county jail.

3. If the offense so attempted, be punishable by imprisonment in a territorial prison for any term less than four years, the person convicted of such attempt shall be punished by imprisonment in a county jail, not more than one year.

May be fined ; when.

4. If the offense so attempted be punishable by fine, the offender convicted of such attempt, shall be liable to a fine not exceeding one half of the largest amount which may be imposed upon a conviction for the offense so attempted.

May be punished by both fine and imprisonment.

5. If the offense so attempted, be punishable by imprisonment and by fine, the offender convicted of such attempt, may be punished by both imprisonment and fine not exceeding one half of the longest time of imprisonment, and one half of the greatest fine, which may be imposed upon a conviction for the offense so attempted.

Penalty for second offense.

(17.) SEC. XVII. If any person convicted of any offense punishable by fine or imprisonment, or both, shall be discharged on payment of such fine, or expiration of such imprisonment, or both ; or on being pardoned, and shall subsequently be convicted of a like offense ; or if the first offense were a felony, shall subsequently be convicted of any other felony, such person may for such second or subsequent offense, on conviction, be punished by fine or imprisonment, or both, not exceeding double the amount, or extent of that which might have been inflicted or imposed for the first offense according to law.

The term "felonious" defined.  
 "Infamous crime" defined.  
 "Personal property" defined.

(18.) SEC. XVIII. The term "felonious" in any statute, means "criminal ;" the term "feloniously" means "criminally." The term "infamous crime" in any statute, includes every offense punishable with death or imprisonment in the territorial prison. The term "personal property" when used in any part of this act relating to crimes and punishments, or criminal proceedings, includes goods, chattels, effects, moneys, evidences of rights in action, and all written instruments by which any pecuniary obligation, or any right or title to property, real or personal, shall be created, acknowledged, transferred, increased, defeated, discharged or diminished ; and the term "property," when so used, includes personal property as thus defined, and also every estate, interest and right in lands, tenements and hereditaments. The term "person," as used in this act, to designate the party whose rights or property may be the subject of any offense, shall be construed to include in United States, this territory, or any county, town, state, government, or county which may lawfully own any property within this territory, and all public and private corporations, as well as individuals.

"Property" defined.

"Person" defined.