

CHAPTER 634

SPECIAL RULES RELATING TO EVIDENCE IN CRIMINAL CASES;
PRIVILEGES OF WITNESSES**634.01 EVIDENCE IN PROSECUTIONS FOR FORGERY OF TREASURY NOTES.**

HISTORY. R.S. 1851 c. 102 s. 9; P.S. 1858 c. 91 s. 9; G.S. 1866 c. 73 s. 91; G.S. 1878 c. 73 s. 101; G.S. 1894 s. 5764; R.L. 1905 s. 4741; G.S. 1913 s. 8460; G.S. 1923 s. 9900; M.S. 1927 s. 9900.

634.02 BANK NOTES.

HISTORY. R.S. 1851 c. 102 s. 8; P.S. 1858 c. 91 s. 8; G.S. 1866 c. 73 s. 90; G.S. 1878 c. 73 s. 100; G.S. 1894 s. 5763; R.L. 1905 s. 4742; G.S. 1913 s. 8461; G.S. 1923 s. 9901; M.S. 1927 s. 9901.

634.03 CONFESSION, INADMISSIBLE WHEN.

HISTORY. R.S. 1851 c. 132 s. 240; P.S. 1858 c. 118 s. 6; G.S. 1866 c. 73 s. 93; G.S. 1878 c. 73 s. 103; G.S. 1894 s. 5766; R.L. 1905 s. 4743; G.S. 1913 s. 8462; G.S. 1923 s. 9902; M.S. 1927 s. 9902.

If there be no evidence that a crime has been committed, it is improper to admit the confession of the accused. If introduced the prosecution is held to the production of proofs necessary to warrant conviction. *State v Laliyer*, 4 M 368 (277); *State v New*, 22 M 80; *State v Huebsch*, 146 M 35, 177 NW 779; *State v Wylie*, 151 M 379, 186 NW 707; *State v Winberg*, 196 M 135, 264 NW 578; *State v Briggs*, 122 M 493, 142 NW 823.

The jury may reject any part of a confession; but it is all-important that all parts of the confession be taken into consideration by the jury. *State v Laliyer*, 4 M 368 (277).

Evidence that the offense was committed by some person is all that is required in order that the confession of defendant may be sufficient warrant to convict. It is not necessary that such evidence be introduced before the confession is received. *State v Grear*, 29 M 221, 13 NW 140.

The *corpus delicti* in arson requires proof not alone of the fact the building burned but also that the fire originated through criminal agency. *State v McLarne*, 128 M 163, 150 NW 787.

The confession was not made under fear, duress, or expected favor. *State v Nordstrom*, 146 M 136, 178 NW 164.

Defendant claims no proof of the *corpus delicti* except defendant's admission. The *corpus delicti* was the existence of the disorderly house. *State v Nelson*, 157 M 506, 196 NW 279.

The statutory requirement of something more than defendant's confession to support conviction is satisfied when extrajudicial written confession is corroborated by judicial admission by word and conduct. *State v McClain*, 208 M 91, 292 NW 753.

Corpus delicti; proof of extrajudicial confession. 8 MLR 344.

634.04 UNCORROBORATED EVIDENCE OF ACCOMPLICE.

HISTORY. R.S. 1851 c. 132 s. 242; P.S. 1858 c. 118 s. 8; G.S. 1866 c. 73 s. 94; G.S. 1878 c. 73 s. 104; G.S. 1894 s. 5767; R.L. 1905 s. 4744; G.S. 1913 s. 8463; G.S. 1923 s. 9903; M.S. 1927 s. 9903.

The following persons have been held not to be accomplices:

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(1) A woman submitting to an abortion. *State v Owens*, 22 M 238; *State v Pearce*, 56 M 226, 55 NW 652, 57 NW 1065;

(2) A person purchasing beer on Sunday. *State v Baden*, 37 M 212, 34 NW 24; *State v Brand*, 124 M 408, 145 NW 39; *State v Tremont*, 160 M 314, 200 NW 93;

(3) A person paying money for the suppression of evidence of a crime. *State v Quinlan*, 40 M 55, 41 NW 299;

(4) A person giving or offering a bribe. *State ex rel v Sargent*, 71 M 28, 73 NW 626; *State v Durnam*, 73 M 150, 75 NW 1127; *State v Sweeney*, 180 M 450, 231 NW 225.

Whether the witness is an accomplice is for the jury. *State v Lawlor*, 28 M 216, 9 NW 698; *State v Price*, 135 M 159, 160 NW 677; *State v Lyons*, 144 M 351, 175 NW 689.

While the corroborating evidence must be such as tends to show some connection of the defendant with the acts constituting the crime charged, yet it is not necessary that there should be corroboration as to every probative fact. The statute does not require a case to be made out against the accused sufficient for his conviction before the testimony of an accomplice can be considered. The corroborating evidence must, independently of the testimony of the accomplice, tend to some degree to establish the guilt of the accused; but need not be sufficiently weighty or full, as, standing alone, to justify conviction. *State v Lawlor*, 28 M 216, 9 NW 698; *State v Brin*, 30 M 522, 16 NW 406; *State v Barrett*, 40 M 77, 41 NW 463; *State v Adamson*, 73 M 282, 76 NW 34; *State v Clements*, 82 M 434, 85 NW 234; *Clark v Clark*, 86 M 249, 90 NW 390.

Corroboration is not necessary under the bastardy act. *State v Nichols*, 29 M 357, 13 NW 153;

Nor in cases of prosecution for rape. *State v Connelly*, 57 M 482, 59 NW 479.

The test as to whether the witness is an accomplice is, could he himself have been indicted for the offense, either as principal or accessory. *State v Durnam*, 73 M 150, 75 NW 1127; *State v Gordon*, 105 M 217, 117 NW 483.

When evidence has a reasonable tendency to corroborate the testimony of an accomplice its weight is for the jury. *State v Clements*, 82 M 434, 85 NW 234.

If in the prosecution of a party for subornation of perjury, it is sought to establish the fact that perjury was committed by the person suborned, his testimony must be corroborated as to such fact. But the alleged fact that he was induced to commit the crime by the accused may be established by his uncorroborated testimony if he satisfies the jury beyond a reasonable doubt. *State v Renswick*, 85 M 19, 88 NW 22.

Corroboration need not be sufficient standing alone to make out a prima facie case. *State v Whitman*, 103 M 92, 114 NW 363.

A confession may be sufficient corroboration. Where it is shown that the reputation of a witness for truth is bad, his evidence is not necessarily to be disregarded unless corroborated, but is to be given such weight as the jury believe it entitled to. *State v Christianson*, 131 M 276, 154 NW 1095.

The rule that a defendant cannot be convicted on the uncorroborated testimony of an accomplice, does not apply in a case involving the removal of a public officer. *Removal of Nash*, 147 M 383, 181 NW 570.

The evidence in question satisfied the requirements of General Statutes 1913, Section 8463 (section 634.04), relating to the corroboration of an accomplice, and justified the jury in returning a verdict of guilty. *State v Morris*, 149 M 41, 182 NW 721; *State v Workman*, 157 M 168, 195 NW 776; *State v Baker*, 161 M 1, 200 NW 815; *State v Oelschlegel*, 173 M 600, 218 NW 117; *State v Quinn*, 186 M 242, 243 NW 70; *State v Padares*, 187 M 622, 246 NW 369; *State v Jackson*, 198 M 111, 268 NW 924.

Unless a witness could be indicted, either as principal or accessory, for the offense with which the defendant is charged, he is not an accomplice within the meaning of section 634.04. *State v Dahl*, 151 M 318, 186 NW 580.

Where the court stated the law properly as to the necessity of corroboration, and properly defined accomplices, it was not error to decline to submit to the jury,

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the question whether a particular witness was an accomplice. *State v Hurst*, 153 M 526, 193 NW 680.

See, *State v Nelson*, 157 M 501, 196 NW 279.

Evidence to corroborate an accomplice must rest on other than his credit, but it need not be of itself sufficient to prove his guilt. *State v Korsch*, 168 M 355, 210 NW 10.

The testimony of an accomplice that he set the fire is corroborated, and it is not necessary to determine whether or not the testimony of an accomplice alone is sufficient to prove the corpus delicti. *State v Demopoulos*, 169 M 207, 210 NW 883.

Where there is in fact sufficient evidence to corroborate, the court may so instruct if the court also advise that the weight and sufficiency of the evidence is upon the jury. *State v Taran*, 176 M 175, 222 NW 906.

The evidence did not support the claim of defendant that a certain witness was an accomplice, and the trial court properly refused to so charge. *State v Murphy*, 181 M 303, 232 NW 335.

The court's charge relative to effect of corroborating evidence accurately stated. *State v Tsiolis*, 202 M 126, 277 NW 409.

The corroboration must tend to convict the person so charged and is insufficient if it merely shows the commission of the offense or the circumstances thereof. *State v Scott*, 203 M 56, 279 NW 832.

Allen who procured Arthur to submit to defendant was an accomplice, but Arthur upon whom the act was committed was not, as a matter of law. *State v Panetti*, 203 M 152, 280 NW 181.

The only direct evidence assuming to connect defendant with the crime committed was that of Bennett, who participated in the furtherance of the crime. The trial court should have charged the jury that Bennett was an accomplice. *State v Elsberg*, 209 M 167, 295 NW 913.

The uncorroborated testimony of an accomplice is sufficient to sustain a finding of probable cause for holding a prisoner to the district court to answer for a felony. *State ex rel v Tessmer*, 211 M 55, 300 NW 7; *State v Soltau*, 212 M 26, 2 NW(2d) 155.

Subornation of perjury; conviction upon evidence of the suborned. 10 MLR 167.

Jury may convict on uncorroborated testimony of an accomplice. 12 MLR 179.

634.05 IN PROSECUTIONS FOR LIBEL; RIGHT OF JURY.

HISTORY. R.S. 1851 c. 109 s. 6; P.S. 1858 c. 98 s. 6; G.S. 1866 c. 73 s. 95; G.S. 1878 c. 73 s. 105; G.S. 1894 s. 5768; R.L. 1905 s. 4745; G.S. 1913 s. 8464; G.S. 1923 s. 9904; M.S. 1927 s. 9904.

In prosecution for a criminal libel the jury have the right to determine the law as well as the facts involved, and may infer, in a case where the language of the libel complained of is scurrilous and abusive, that the same was published from an improper motive and with malicious intent. *State v Ford*, 82 M 452, 85 NW 217.

Even though the jury in a criminal libel prosecution, under our statute, has the right to determine the law and the fact, the function of the court is to instruct them as to the law applicable to the issues, including the right given them by statute. *State v Jacobs*, 166 M 279, 207 NW 648.

Proving the truth of a libelous charge. 13 MLR 27.

Constitutionality of statute giving the jury in a criminal case right to determine the law as well as the facts. 15 MLR 830.

Truth; a defense to libel. 16 MLR 43, 48.

634.06 SUBPOENA OF NON-RESIDENTS IN CRIMINAL CASES; SUMMONING OF WITNESSES IN THIS STATE TO TESTIFY IN ANOTHER STATE.

HISTORY. 1935 c. 140 s. 1; M. Supp. s. 9819-1.

This is a uniform act to secure attendance of witnesses from without the state in criminal cases; and has been adopted by the following states: Arizona,

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Arkansas, Colorado, Idaho, Indiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Puerto Rico, Rhode Island, South Dakota, Tennessee, Utah, Virginia, West Virginia, Wisconsin, and Wyoming.

The provisions of this act are only to apply to states which have made provision for commanding persons within their borders to attend and testify in criminal actions in this state. The passage of this act was recommended by the Minnesota crime commission in 1934. It was approved by the national conference of commissioners on uniform state laws in 1931. 20 MLR 809; Uniform Laws annotated 1934, Supplement p. 6.

634.07 WITNESS FROM ANOTHER STATE TO TESTIFY IN THIS STATE.

HISTORY. 1935 c. 140 s. 2; M. Supp. s. 9819-2.

634.08 EXEMPTION FROM ARREST OR PROCESS.

HISTORY. 1935 c. 140 s. 3; M. Supp. s. 9819-3.

634.09 UNIFORMITY.

HISTORY. 1935 c. 140 s. 4; M. Supp. s. 9819-4.