

CHAPTER 634

SPECIAL RULES RELATING TO EVIDENCE IN CRIMINAL CASES;
PRIVILEGES OF WITNESSES**634.03 CONFESSION, INADMISSIBLE WHEN.**

Charged with arson; evidence insufficient. *State v Jacobson*, 130 M 347, 153 NW 845; *State v McCauley*, 132 M 225, 156 NW 280.

An admission or confession by one paramour is not admissible against the other; and if both are tried together it is admissible against the maker only, and refusing to instruct that it is not evidence against the other is error. *State v Allison*, 175 M 218, 220 NW 563.

A stipulation in a law suit between the parties shown to have been voluntarily made and assented to, was properly admitted for impeachment of such parties when called as witnesses in a criminal trial, and as to the defendant such stipulation was properly received as a voluntary admission of any fact he stipulated that is material in the criminal trial. *State v Ruthkowski*, 180 M 378, 230 NW 818.

Although one accused of crime cannot be convicted upon his confession alone, he may be convicted when his confession is corroborated by testimony of an accomplice. The admission of evidence of the commission of another crime, under the circumstances in the instant case is not error. *State v Voss*, 192 M 127, 255 NW 843.

Whether a confession was made under such circumstances as to render it admissible as evidence is a question for the determination of the trial court, and its action will not be reversed on appeal unless manifestly contrary to the evidence. *State v Nelson*, 199 M 86, 271 NW 114.

The deputy fire marshal, as a witness for the state, testified as to conversation had with defendant in the hospital prior to the signing of a certain statement. This testimony went in without objection. It was not error, in view of other evidence to require the deputy to produce the original notes he made at the time. *State v Poelaert*, 200 M 39, 273 NW 641.

If an accused of subnormal mentality was kept in custody for an unreasonable time after arrest before arraignment, without communication with her parents, counsel, doctor, or priest, whose presence she had requested, and was subject to persistent questioning until a confession of guilt was obtained upon which a prosecution for murder could be grounded, it was a violation of due process which affected the testimonial trustworthiness of the confession so obtained. *State v Schabert*, 218 M 1, 15 NW(2d) 585.

The rebuttable statutory presumption under section 610.08, that children of seven and under 12 years of age are incapable of committing crime refers not to the mental age but to the physical or chronological age, and does not extend to a person of the physical age of 12 or more years even though such person is in fact of a mental age of less than 12 years. *State v Schabert*, 222 M 261, 24 NW(2d) 846.

Admissions and confessions distinguished. 6 MLR 524.

Corpus delicti in homicide cases; proof of extra-judicial confessions. 8 MLR 343.

Admissibility of extra-judicial confessions affected by illegal delay in arraignment. 28 MLR 73.

Use of confession obtained by coercion. 28 MLR 487.

634.04 UNCORROBORATED EVIDENCE OF ACCOMPLICE.

Corroborating testimony is sufficient and admissible if it tends in some degree to establish the accused's guilt. *State v Lemke*, 207 M 35, 290 NW 307; *State v Soltau*, 212 M 20, 2 NW(2d) 155.

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634.05 SPECIAL RULES RELATING TO EVIDENCE

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Conviction of subornation of perjury as evidence of the suborned. 10 MLR 167.

Conviction by jury on uncorroborated evidence of an accomplice. 12 MLR 179.

Admissibility of extrajudicial confession of third parties. 16 MLR 437.

634.05 IN PROSECUTIONS FOR LIBEL; RIGHT OF JURY.

It is only where a publication clearly defames a person that the court should instruct the jury that it is libelous as a matter of law. *Sharpe v Larson*, 67 M 428, 70 NW 1, 554; *Alwin v Liesch*, 86 M 281, 90 NW 404; *Morey v Barnes*, 212 M 156, 2 NW(2d) 829.

Truth as a defense; right of privacy. 12 MLR 426.

Newspaper libel. 13 MLR 21, 27.

Constitutionality of statute authorizing jury to determine law as well as facts. 15 MLR 830.

Truth as a defense to libel. 16 MLR 43.

UNIFORM ACT TO SECURE ATTENDANCE OF WITNESSES FROM WITHOUT STATE IN CRIMINAL CASES.

NOTE: Sections 634.06 to 634.09 are cited as "Uniform Act to secure the attendance of witnesses from without a state in criminal proceedings" released and recommended by the national conference of commissioners on Uniform State Laws in 1931. It became a law in Minnesota with the enactment of Laws 1935, Chapter 140. The following states have adopted the law: Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Idaho, Indiana, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Mississippi, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Puerto Rico, Rhode Island, South Dakota, Tennessee, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin and Wyoming. For decisions in other states see Volume 9, Uniform Laws Annotated.

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

Fresh pursuit, extradition, rendition of witnesses, interstate parole and probation. 31 MLR 699.

634.08 EXEMPTION FROM ARREST OR PROCESS.

Indicted for different offense of a defendant extradited from another state. 6 MLR 595.