

Statutes  
1878

THE  
GENERAL STATUTES  
OF THE  
STATE OF MINNESOTA,

As Amended by Subsequent Legislation.

PREPARED BY  
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FOURTH EDITION.

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WITH SUPPLEMENTS,  
CONTAINING ALL THE GENERAL LAWS IN FORCE UP TO THE END OF  
THE LEGISLATIVE SESSION OF 1883.

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1883.

ter an order dismissing said appeal; and upon the filing of a certified copy of such order in the office of clerk of the court from which such appeal was taken, will be restored to and have full jurisdiction over the action in which such appeal was taken, in the same manner, and to all intents and purposes, and shall proceed thereon, as if no appeal had been taken. (1876, c. 47, § 1.)

\*§ 22. Death of party after submission of case to appellate court. In all cases where an appeal has been taken to the supreme court, and, after the case [has] been submitted to the supreme court, but before the entry of judgment thereon in such court, either party to such appeal dies, and the surviving parties to such action, or the legal representative or successor in interest of said deceased party or either of them, shows by affidavit filed therein that such death has occurred, it shall be the duty of the clerk of the supreme court to substitute the name of the person so shown to be the legal representative or successor in interest of such deceased party; and the action shall thereupon proceed, and all subsequent proceedings had, and judgment be entered therein, for or against such legal representative or successor in interest, or such jointly or alone, as the case may be. (Id. § 2.)

CHAPTER LXXXVII.  
CONTEMPTS.

SECTION.

1. Different kinds of contempts.
2. Power to punish—how exercised.
3. Contempts summarily punished.
- 4-8. Arrest of person charged—bringing up person imprisoned—letting to bail—custody of person arrested—bail, how given.
- 9-10. Return of warrant—penalty for failure—proceedings against officer in such case.
- 11-14. Proceedings at hearing—punishment of

SECTION.

- person found guilty—indemnity to person injured—imprisonment of person until he performs act required.
15. Indictment and punishment of person in contempt.
16. Issue of second warrant—action on recognizance—damages.
17. Officers excused from producing party, when.

§ 1. What acts and omissions are contempts. The following acts or omissions, in respect to a court of justice, or proceedings therein, are contempts of the authority of the court:

*First.* Disorderly, contemptuous or insolent behavior toward the judge, while holding the court, tending to interrupt the due course of a trial, or other judicial proceeding;

*Second.* A breach of the peace, boisterous conduct, or violent disturbance, tending to interrupt the due course of a trial, or other judicial proceeding;

*Third.* Misbehavior in office, or other wilful neglect or violation of duty, by an attorney, counsel, clerk, sheriff, coroner, or other person appointed or elected to perform a judicial or ministerial service;

*Fourth.* Deceit or abuse of the process or proceedings of the court, by a party to an action or special proceeding;

*Fifth.* Disobedience of any lawful judgment, order or process of the court;

*Sixth.* Assuming to be an officer, attorney, counsel of a court, and acting as such without authority;

*Seventh.* Rescuing any person or property, in the custody of an officer by virtue of an order or process of such court;

\*§ 23. See 1881 Sup't, p. 107.

*Eighth.* Unlawfully detaining a witness or party to an action, while going to, remaining at, or returning from the court where the action is on the calendar for trial;

*Ninth.* Any other unlawful interference with the process or proceedings of a court;

*Tenth.* Disobedience of a subpoena duly served, or refusing to be sworn or answer as a witness;

*Eleventh.* When summoned as a juror in a court, neglecting to attend or serve as such, or improperly conversing with a party to an action to be tried at such court, or with any other person in relation to the merits of such action, or receiving a communication from a party or other person in respect to it, without immediately disclosing the same to the court;

*Twelfth.* Disobedience, by an inferior tribunal, magistrate or officer, of the lawful judgment, order or process of a superior court, or proceeding in an action or special proceeding contrary to law, after such action or special proceeding is removed from the jurisdiction of such inferior tribunal, magistrate or officer. Disobedience of the lawful orders or process of a judicial officer is also a contempt of the authority of such officer.

§ 2. **Power to punish contempts—how exercised.** Every court of justice, and every judicial officer, has power to punish contempts, by fines or imprisonment, or both; but when the contempt is one of those mentioned in the first or second subdivisions of the last section, it must appear that the right or remedy of a party to an action or special proceeding was defeated or prejudiced thereby, before the contempt can be punished by imprisonment, or by a fine exceeding fifty dollars.

§ 3. **Contempts summarily punished, when.** When a contempt is committed in the immediate presence of the court or officer, it may be punished summarily, for which an order shall be made, reciting the facts as occurring in such immediate view and presence, adjudging that the person proceeded against is thereby guilty of a contempt, and that he be punished as therein described; such punishment, however, cannot exceed that prescribed by section twelve. Where the contempt is not committed in the immediate view and presence of the court, an affidavit or other evidence shall be presented to the court or officer of the facts constituting the contempt.

§ 4. **Person charged may be arrested, when.** In cases other than those mentioned in the last section, the court or officer may either issue a warrant of arrest, to bring the person charged to answer, or, without a previous arrest, may, upon notice, or upon an order to show cause, which may be served by a sheriff or other officer in the same manner as a summons in an action, grant a warrant of commitment, impose a fine, or both, not exceeding the punishment prescribed by section twelve, and make such order thereupon as the case may require.

§ 5. **Person in prison may be brought up on order.** If the party charged is in the custody of an officer by virtue of a legal order or process, civil or criminal, except upon a sentence for felony, an order may be made for the production of such person by the officer having him in custody, that he may answer; and he shall thereupon be produced and held until an order is made for his disposal.

§ 6. **Person arrested may be let to bail, when.** Whenever a warrant of arrest is issued pursuant to this chapter, the court or officer shall direct whether the person charged may be let to bail for his appearance upon the warrant, or detained in custody without bail; and if he may be bailed, the amount in which he may be let to bail. The directions given in this respect shall be specified in the warrant.

§ 7. **Warrant of arrest, how executed.** Upon executing the warrant of arrest, the sheriff shall keep the person in actual custody, bring him before the court or offi-

cer, and detain him until an order is made in the premises, unless the person arrested entitle himself to be discharged, as provided in the next section.

§ 8. **Bail, how given.** When the warrant contains the direction to let the person arrested to bail, he shall be discharged from the arrest, upon executing and delivering to the officer, at any time before the return-day of the warrant, a recognizance, with two sufficient sureties, to the effect that the person arrested will appear on the return of the warrant, and abide the order of the court or officer thereupon, or pay, as may be directed, the sum specified in the warrant.

§ 9. **Return of warrant—penalty for failure.** The officer shall return the warrant of arrest, and the recognizance, if any, received by him from the person arrested, by the return-day specified therein. If he fails to make the return, a warrant of arrest, not bailable, may be issued against him, specifying therein the cause of issuing it.

§ 10. **Warrant under last section, how executed.** The officer to whom the warrant mentioned in the last section is delivered, shall execute it by arresting the person proceeded against, bringing him personally before the court or officer, and detaining him in custody until otherwise ordered.

§ 11. **Proceedings on hearing.** When the person arrested has been brought up, or appeared, the court or officer shall proceed to investigate the charge, by examining him and the witnesses for and against him, for which an adjournment may be had from time to time, if necessary.

§ 12. **Punishment of person found guilty.** Upon the evidence so taken, the court or officer shall determine whether the person proceeded against is guilty of the contempt charged; and if it is adjudged that he is guilty of the contempt, a fine shall be imposed upon him, not exceeding two hundred and fifty dollars, or he be imprisoned not exceeding six months, or both. But in the discretion of the court or officer, (in case of inability to pay the fine, or endure the imprisonment,) he may be relieved in such manner, and upon such terms, as may be just.

23 M. 411.

§ 13. **Indemnity to injured party ordered, when.** If an actual loss or injury to a party in an action or special proceeding, prejudicial to his right therein, is caused by the contempt, the court or officer, in addition to the fine or imprisonment imposed for the contempt, may order the person proceeded against to pay the party aggrieved a sum of money sufficient to indemnify him, and to satisfy his costs and expenses; which order, and the acceptance of money under it, is a bar to an action by the aggrieved party for such loss and injury.

§ 14. **Person imprisoned until he performs act, when.** When the contempt consists in the omission to perform an act which is yet in the power of the person to perform, he may be imprisoned until he performs it; and, in that case, the act shall be specified in the warrant of commitment.

§ 15. **Proceedings by indictment—punishment.** Persons proceeded against, according to the provisions of this chapter, are also liable to indictment for the same misconduct, if it is an indictable offence; but the court before which a conviction is had on the indictment, in passing sentence, shall take into consideration the punishment before inflicted.

§ 16. **Issue of second warrant—action on recognizance—damages.** When the warrant of arrest has been returned served, if the person arrested does not appear on the return-day, the court or officer may issue another warrant of arrest, or may order the recognizance to be prosecuted, or both. If the recognizance is 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.

§ 17. **Officer excused from producing party, when.** 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.