

Statutes  
1878

THE  
GENERAL STATUTES  
OF THE  
STATE OF MINNESOTA,

As Amended by Subsequent Legislation.

PREPARED BY  
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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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## CHAPTER XCI.

## CRIMES AND PUNISHMENTS, PRINCIPALS AND ACCESSORIES.

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§ 1. Crimes etc., how divided. Crimes and public offences are divided into:

- First.* Felonies; and,  
*Second.* Misdemeanors.

12 M. 164, 293.

§ 2. Definitions of felony and misdemeanor. A felony is a public offence punishable with death, or which is, or in the discretion of the court may be, punishable by imprisonment in the state prison. Every other public offence is a misdemeanor.

§ 3. Punishment of accessory before the fact. Whoever aids in the commission of any offence which is a felony, or who is accessory thereto before the fact, by counselling, hiring, or otherwise procuring such felony to be committed, shall be punished in the same manner as is prescribed for the punishment of the principal felon.

17 M. 241.

§ 4. Place of trial, etc., of accessory before the fact. Whoever counsels, hires, or otherwise procures the commission of any felony, 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 principal felon is neither indicted or tried, and although the offence of counselling, hiring, abetting or procuring the commission of such felony, was committed elsewhere, either within or without the limits of this state.

§ 5. Accessory after the fact, how punished. Whoever, after the commission of any felony, not standing in the relation of husband or wife, parent or child, by consanguinity or affinity to the offender, harbors, conceals, maintains or assists the principal felon or accessory before the fact, or gives 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 be punished by imprisonment in the county jail, not more than one year, or by fine not exceeding two hundred dollars, or both.

§ 6. Same—place of trial, etc. Whoever becomes an accessory after the fact to a felony may be indicted, convicted and punished, whether the principal felon has or has not been convicted previously, or is or is not amenable to justice, by any court having jurisdiction to try the principal felon, either in the county where such person became an accessory, or in the county where such principal felony was committed.

§ 7. Attempt to commit offence, how punished. Whoever attempts to commit an offence prohibited by law, and in such attempt does any act toward the commission of such offence, but fails in the perpetration, or is prevented or intercepted in executing the same, where no provision is made by law for the punishment of such attempt, shall be punished as follows:

*First.* If the offence so attempted to be committed is punishable with

death, the person convicted of such attempt shall be punished by imprisonment in the state prison not exceeding ten years;

*Second.* If the offence so attempted is punishable by imprisonment in the state prison for four years or more, or by imprisonment in a county jail, the person convicted of such attempt shall be punished by imprisonment in the state prison, or in a county jail, for a term not exceeding one-half the longest term of imprisonment prescribed upon a conviction for the offence so attempted;

*Third.* If the offence so attempted is punishable by imprisonment in a state 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;

*Fourth.* If the offence so attempted is 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 offence so attempted;

*Fifth.* If the offence so attempted is 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 offence so attempted.

§ 8. **Wilful neglect to perform official duty.** Where any duty is enjoined by law upon any public officer, or upon any person holding any public trust or employment, every wilful neglect to perform such duty, and every misbehavior in office, where no special provision is made for the punishment of such delinquency or malfeasance, is a misdemeanor punishable by fine and imprisonment.

§ 9. **Parties jointly indicted.** Upon an indictment against several defendants, any one or more may be convicted or acquitted.

§ 10. **Distinction between principals and accessory, abrogated.** The distinction between an accessory before the fact and a principal, and between principals in the first and second degree, in cases of felony, is abrogated; and all persons concerned in the commission of a felony, whether they directly commit the act constituting the offence, or aid and abet in its commission, though not present, shall be indicted, tried and punished as principals.

17 M. 241.

§ 11. **Proceedings when defendant is acquitted of part of offence charged.** Whenever any person indicted for a felony is acquitted, by verdict, of part of the offence charged in the indictment, and convicted of the residue thereof, such verdict may be received and recorded by the court; and thereupon the person charged shall be adjudged guilty of the offence, if any, which appears to the court to be substantially charged by the residue of such indictment, and shall be sentenced and punished accordingly.

3 M. 313 [427]; 8 M. 190 (220.)

§ 12. **Indictment for felonious assault—conviction of assault.** In all cases of indictment in the district court, for an assault with intent to commit any felony, the jury, in case they do not find the felonious intent charged, may convict of the assault; and the court shall sentence the person so convicted to be punished by imprisonment in the jail of the county, for a term not exceeding one year, or by fine not exceeding five hundred dollars.

4 M. 237 [321]; 21 M. 382; 22 M. 51.

§ 13. **Punishment for second or subsequent offence.** If any person convicted of any offence punishable by fine or imprisonment, or both, is discharged on payment of such fine, or expiration of such imprisonment, or both, or on being pardoned, and is subsequently convicted of a like offence, or, if the first offence was a felony, is subsequently convicted of any other felony, such person may, for such second or subsequent offence, 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 offence.