GENERAL STATUTES

OF

MINNESOTA

1913

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COMPILED AND EDITED BY
FRANCIS B. TIFFANY

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PART IV

CRIMES, CRIMINAL PROCEDURE, IMPRISONMENT, AND PRISONS

CHAPTER 93

GENERAL PROVISIONS

8466. Crimes defined and classified—A crime is an act or omission forbidden by law, and punishable upon conviction by death, imprisonment, fine, or other penal discipline. Every crime which may be punished by death, or by imprisonment in the state prison or state reformatory, is a felony. Every crime punishable by fine not exceeding one hundred dollars, or by imprisonment in a jail for not more than ninety days, is a misdemeanor. Every other crime is a gross misdemeanor. (4747)

1. Definition of "crime," "offence," "misdemeanor"—The terms "crime," "offence" and "criminal offence" are all synonymous, and include any breach of law established for the protection of the public, as distinguished from an infringement of mere private rights, for which a penalty is imposed or punishment inflicted in any judicial proceeding (42–147, 43+845). The term "offence" in criminal law, is not identical in meaning with the word "act." It imports, in its legal sense, an infraction or transgression of a law—the wilful doing of an act which is forbidden by a law or omitting to do what it commands (26–507, 517, 5+959). It includes any punishable violation of law—the doing that which a penal law forbids or omitting to do what it commands—and hence includes all violations of municipal ordinances punishable by fine or imprisonment (34–1, 24+458). It includes misdemeanors (42–258, 44+115). It does not include violations of the military code (74–518, 77+424, 42 L. R. A. 749, 73 Am. St. Rep. 369). When an offence is not a felony it is necessarily a misdemeanor (39–153, 39+305).

2. Acts punishable under general law and ordinance—An act may be punishable under both the general law and a municipal ordinance and the punishment need not be the same (16–474, 426; 21–202; 26–507, 5+959; 36–62, 30+305; 42–147, 43+845; 50–128, 52+387; 77–540, 80+701; 84–367, 87+916). In such a case a conviction under the ordinance is not a bar to a prosecution under the general law (29–445, 13+913; 50–128, 52+387).

3. Acts punishable by federal and state authority—An act may be at the same time an offence against the United States and against the state (26–507, 5+959; 29–445, 13+913).

4. Acts constituting different offences—The same acts may constitute or be parts of different offences (10–407, 325); they may be offences under different statutes (69–423, 72+700).

5. Merger—There is no such thing as a merger of different offences (10–407, 325).

6. No common law offences—Prior to the Penal Code the common law as to crime was in force in this state except where abrogated or modified by statute (12–164, 99; 17–72, 50). The Code abolished all common law offences and now no act or omission is criminal except as prescribed by statute (38–368, 37+587; 39–153, 39+305; 71–28, 73+626). The common law may be referred to in aid of the construction of common law terms used in statutes (5–19, 6); but statutory definitions must control. The legislature has endeavored to do away with the refinements and technicalities of the common law and it is the duty of the courts to further the reform (2–124, 99; 5–19, 6; 38–368, 37+587).

8467. Meaning of words and terms—In the construction of Part IV, save when otherwise plainly declared or clearly apparent from the context, the following rules shall be observed:

1. Each of the words "neglect," "negligence," "negligent," and "negligently" shall import a want of such attention to the nature or probable consequences of the act or omission as an ordinarily prudent man usually exercises in his own business.

2. Each of the words "corrupt" and "corruptly" shall import a wrongful desire to acquire or cause some pecuniary or other advantage to himself or another, by the person to whom applicable.

3. "Malice" and "maliciously" shall import an evil intent, wish, or design to vex, annoy, or injure another person, or to maltreat or injure an animal.

4. The word "knowingly" imports a knowledge that the facts exist which constitute the act or omission a crime, and does not require knowledge of its unlawfulness.

5. Whenever an intent to defraud constitutes a part of a crime, it is not necessary to aver or prove an intent to defraud any particular person.

6. The word "vessel" includes ships, steamers, and every boat or structure adapted to navigation, either upon lakes, rivers, or artificial waterways.

7. The word "signature" includes any memorandum, mark, or sign written with intent to authenticate any instrument or writing, or the subscription of any person thereto.

8. The word "writing" shall include printing.

9. The word "property" includes both real and personal property, things in action, money, bank bills, and every other thing of value.

10. The word "oath" includes an affirmation; the word "bond," an undertaking; words in the present include the future tense; and in the masculine include the feminine and neuter genders; and in the singular include the plural; and in the plural, the singular.

11. The word "person" includes a corporation or joint-stock association. Whenever it is used to designate a party whose property may be the subject of any offence, it also includes the state, or any other state, government, or country which may lawfully own property within the state.

12. The term "real property" includes every estate, interest, and right in lands, tenements, or hereditaments.

13. The term "personal property" includes every description of money, goods, chattels, effects, evidences of rights in action, and all written instruments by which any pecuniary obligation, right, or title to property, real or personal, is created, acknowledged, transferred, increased, defeated, discharged, or diminished, and every right and interest therein. (4748)

Subd. 5 (27–309, 7+264; 43–196, 45+152; 67–176, 69+815). Subd. 10 (66–296, 68+1094). Subd. 11 (78–524, 81+532). Subd. 12 (91–482, 98+463). Subd. 13 (89–244, 94+686).

8468. Rules of construction—The rule that a penal statute is to be strictly construed shall not apply to any provision of Part IV of the Revised Laws, but every such provision shall be construed according to the fair import of its terms, to promote justice and effect the purpose of the law. (4749)

A criminal offence should not be created by an uncertain or doubtful construction (1–292, 226). A statute is ineffectual to make criminal an act otherwise innocent, unless it clearly appears that such act is within the prohibition of the statute, the statute being reasonably construed for the purpose of arriving at the expressed intention of the legislature. It is not enough that the case is within the apparent reason and policy of the statute (29–216, 12+703; 37–433, 34+904). A criminal statute is to have a reasonable construction and such as is best suited to accomplish the purposes to be arrived at, consistently with the meaning of the language used (33–102, 22+442, 53 Am. Rep. 12. See 29–216, 12+703; 80–216, 83+141; 82–342, 85+12). The construction cannot be contrary to the language used (24–247, 31 Am. Rep. 344), except in case of manifest mistake (29–216, 12+703; 82–71, 84+650). At common law penal statutes are construed strictly (1–292, 226; 26–191, 2+492; 29–216, 12+703. See 95–106, 103+728).

8469. Persons punishable—The following persons are liable to punishment:

1. A person who commits in the state any crime, in whole or in part.

2. A person who commits out of the state any offence which, if committed within it, would be larceny under the law, and is afterward found in the state with any of the stolen property.

3. A person who, being out of the state, causes, procures, aids, or abets another to commit a crime in the state.

4. A person who, being out of the state, abducts or kidnaps, by force or fraud, any person, contrary to the laws of the place where the act is committed, and brings, sends, or conveys such person into this state.

5. A person who, being out of the state, and with intent to cause within it a result contrary to its laws, does an act which, in its natural and usual course, results in an act or effect contrary to such laws. (4750)

8470. Defence of self or another, when justifiable—An act otherwise criminal is justifiable when done to protect the doer, or another whom he is bound to protect, from imminent personal injury, whenever such act appears to be only what is reasonably necessary to prevent the injury. (4751)

83–141, 144, 85+946; 96–318, 104+971, 2 L. R. A. (N. S.) 49. See §§ 8623, 8634.

8471. **Defence of duress by married woman**—It is no defence for a married woman charged with crime that the alleged act was committed by her in the presence of her husband. (4752)

8472. **Duress—How constituted**—Whenever any crime, except murder, is committed or participated in by two or more persons, any one of whom participates only under compulsion by another engaged therein, who by threats creates a reasonable apprehension in the mind of such participator that in case of refusal he is liable to instant death, such threats and apprehension constitute duress which will excuse such participator from criminal liability. (4753)

8473. **Presumption of responsibility**—Save as hereinafter specified, every person is presumed to be responsible for his acts, and the burden of rebutting such presumption is upon him. Children under the age of seven years, idiots, imbeciles, lunatics, or insane persons are incapable of committing crime. Children of seven and under twelve years of age are presumed incapable of committing crime, but this presumption may be removed by proof that they have sufficient capacity to understand the act or neglect, and to know that it was wrong. Whenever in legal proceedings it becomes necessary to determine the age of a child, he may be produced for inspection, to enable the court or jury to determine the age thereby; and the court may also direct his examination by one or more physicians, whose opinion shall be competent evidence upon the question of his age. (4754)

1. Insanity—Insanity is a matter of defence which the accused must prove by a fair preponderance of evidence; it is not enough for him to raise a reasonable doubt of his sanity (2–123, 99; 12–538, 448; 13–341, 315; 34–430, 26+397).

2. Intoxication—Irresponsible intoxication is a matter of defence which the accused must prove by a fair preponderance of evidence (29–221, 13+140; 93–38, 100+638).

3. Children—The testimony of a child over twelve years of age that he did not know that it was wrong to do the act constituting the crime will not, in the absence of any evidence as to his general mental capacity, tend to overcome the presumption of capacity to commit crime (53–541, 55+741). A child over twelve years of age is criminally liable (86–224, 90+360, 1133, 57 L. R. A. 639, 91 Am. St. Rep. 345).

8474. **Intoxication or criminal propensity no defence**—No act committed by a person while in a state of voluntary intoxication shall be deemed less criminal by reason of his condition, but whenever the actual existence of any particular purpose, motive, or intent is a necessary element to constitute a particular species or degree of crime, the fact of his intoxication may be taken into consideration in determining such purpose, motive, or intent. A morbid propensity to commit prohibited acts existing in the mind of a person who is not shown to have been incapable of knowing that such acts were wrong shall constitute no defence. (4755)

1. Intoxication—No act committed by a person while in a state of voluntary intoxication is less criminal by reason of his having been in such condition (11–154, 95; 21–22; 29–221, 13+140; 93–38, 100+638). Thus it has been held that intoxication is no defence to a charge of double voting (21–22). But whenever the actual existence of any particular purpose, motive, or intent is a necessary element to constitute a particular species or degree of crime, the jury may take into consideration the fact that the accused was intoxicated at the time, in determining the purpose, motive, or intent with which he committed the act. Thus intoxication has been held admissible on a charge of assault with intent to do great bodily harm (11–154, 95; 21–22; 25–161; 28–426, 10+472, 41 Am. Rep. 296; 29–221, 13+140); on a charge of larceny (21–22. See 74–460, 462, 77+302); on a charge of murder (13–341, 315; 21–22; 29–221, 13+140); and on a charge of passing counterfeit money (21–22). Intoxication cannot be considered by the jury unless it was of such a degree that the accused did not know what he was doing or could not distinguish right from wrong (11–154, 95; 13–341, 315; 25–161; 74–460, 462, 77+302). Where it appeared that a killing was intentional, or as a matter of revenge, it was held immaterial that the accused was intoxicated (13–341, 315). In no case can a defendant, by proof of intoxication, rebut the legal presumption that he knows and intends his voluntary acts (21–22).

2. Criminal propensity—13–341, 315; 41–365, 43+62.

8475. **Criminal responsibility of insane persons**—No person shall be tried, sentenced, or punished for any crime while in a state of idiocy, imbecility, lunacy, or insanity, so as to be incapable of understanding the proceedings or making a defence; but he shall not be excused from criminal liability except upon proof that at the time of committing the alleged criminal act he

was laboring under such a defect of reason, from one of said causes, as not to know the nature of his act, or that it was wrong. (4756)

2–123, 99; 8–44, 26; 10–223, 178, 88 Am. Dec. 70; 13–341, 315; 41–365, 43+62; 53–541, 55+741; 96–351, 105+265. Insanity is defense to action for divorce for cruel treatment, if acts were committed when defendant was laboring under such defect of reason as not to know nature of his acts or that they were wrong (119–139, 137+387).

8476. Conviction of lesser crime, when—Upon the trial of an indictment, the defendant may be convicted of the crime charged therein, or of a lesser degree of the same crime or of an attempt to commit the crime so charged, or of an attempt to commit a lesser degree of the same crime. In an indictment for an assault with intent to commit a felony, the jury, in case they do not find the intent charged, may convict of assault, and the court may sentence the defendant to imprisonment in the county jail for not more than one year, or to pay a fine not exceeding five hundred dollars. (4757)

See note to § 9213. Cited (119–107, 137+295).

8477. Principal defined—Every person concerned in the commission of a crime, whether he directly commits the act constituting the offence, or aids and abets in its commission, and whether present or absent, and every person who directly or indirectly counsels, encourages, hires, commands, induces, or otherwise procures another to commit a crime, is a principal, and shall be indicted and punished as such. (4758)

This section abolishes the common law distinction between principals and accessories before the fact and under it all persons concerned in the commission of crime may be indicted and punished as principals (37–493, 35+373; 61–467, 63+1096; 84–357, 87+935; 85–19, 88+22). An accessory before the fact at common law defined (17–76, 54; 17–241, 218; 40–55, 41+299). One who gives a bribe is not an accomplice of the bribe-taker so that he can be convicted as a principal for bribery (71–28, 73+626). One who at common law would be accessory before the fact may be charged directly as principal, and evidence may be received to show that he procured the crime to be committed. Admission of such evidence is neither variance nor violation of Const. art. 1 § 6 (103–92, 114+363, 14 Ann. Cas. 309).

8478. Accessory defined—Every person not standing in the relation of husband or wife, parent or child, to the offender, who, after the commission of a felony, shall harbor, conceal, or aid such offender, with intent that he may avoid or escape from arrest, trial, conviction, or punishment, having knowledge or reasonable ground to believe that such offender has committed a felony or is liable to arrest, is an accessory to the felony. (4759)

In treason and misdemeanor there is no distinction between principals and accessories; all concerned in the commission of the offence are deemed principals, and indicted and punished accordingly (G. S. 1894, § 6312; 17–241, 218; 34–221, 25+395; 95–442, 104+556). See § 9134 note 7.

8479. Trial and punishment of accessories—Every accessory to a felony may be indicted, tried, and convicted either in the county where he became an accessory, or where the principal felony was committed, and whether the principal offender has or has not been convicted, or is or is not amenable to justice, or has been pardoned or otherwise discharged after conviction; and, except where a different punishment is specially prescribed by law, such accessory shall be punished by imprisonment in the state prison or county jail for not more than five years, or by a fine of not more than five hundred dollars, or by both. (4760)

8480. Certain duties of courts and juries—Whenever a crime is distinguished into different degrees, the jury, on conviction, shall find the degree of which the accused is guilty. Whenever a crime is declared to be punishable in a specified way, the court shall pass sentence imposing the prescribed punishment; and, whenever the punishment is left undetermined between certain limits, the court shall determine the same within the prescribed limits. (4761)

On an indictment for a crime of which there are several degrees a general verdict of "guilty" is sufficient. It is necessary for the verdict to specify the degree only when the jury find a verdict for a lesser degree than the one charged (3–427, 313; 8–220, 190).

8481. Punishment of felony when not fixed by statute—Whoever is convicted of a felony for which no punishment is specially prescribed by any statutory provision in force at the time of conviction and sentence shall be punished by imprisonment in the state prison or a county jail for not more

than seven years, or by a fine of not more than one thousand dollars, or by both. (4762)

69–508, 521, 72+799, 975; 90–526, 97+131.

8482. **Punishment of misdemeanors when not fixed by statute**—Whoever is convicted of a misdemeanor for which no punishment is prescribed by any statute in force at the time of conviction and sentence shall be punished by imprisonment in the county jail for not more than three months, or by a fine of not more than one hundred dollars. (4763)

39–153, 39+305; 71–28, 73+626; 89–343, 94+1077; 106–371, 119+56; 114–136, 130+79.

8483. **Punishment of gross misdemeanor when not fixed by statute**—Whoever shall be convicted of a gross misdemeanor for which no punishment is prescribed by any statute in force at the time of conviction and sentence shall be punished by imprisonment in the county jail for not more than one year, or by a fine of not more than one thousand dollars. (4764)

8484. **Crimes punishable under different provisions**—Any act or omission declared criminal and punishable in different ways by different provisions of law shall be punished under only one of such provisions, and a conviction or acquittal under any one shall bar a prosecution for the same act or omission under any other provision. (4765)

See note to § 8466.

8485. **Acts punishable under foreign law**—An act or omission declared punishable by criminal law is not less so because it is also punishable under the laws of another state, government, or country, unless the contrary is expressly declared in such law. (4766)

8486. **Foreign conviction or acquittal**—Whenever, upon the trial of any person indicted for a crime, it appears that the offence was committed in another state or country, under such circumstances that the courts of this state had jurisdiction thereof, and that the defendant has already been acquitted or convicted on the merits, upon a criminal prosecution under the laws of such state or country, founded upon the act or omission in respect of which he is upon trial, such former acquittal or conviction is a sufficient defence. (4767)

8487. **Punishment for contempt**—A criminal act which at the same time constitutes contempt of court, and has been punished as such, may also be punished as a crime, but in such case the punishment for contempt may be considered in mitigation. (4768)

8488. **Sending letter, when complete**—Whenever the statute makes the sending of a letter criminal, the offence shall be deemed complete from the time it is deposited in any postoffice or other place, or delivered to any person, with intent that it shall be forwarded; and the sender may be indicted and tried in the county wherein it was so deposited or delivered, or in which it was received by the person to whom it was addressed. (4769)

8489. **Omission—When punishable**—No person shall be punished for omission to perform an act where it has been performed by another acting in his behalf, and competent by law to perform it. (4770)

8490. **Attempts—How punished**—An act done with intent to commit a crime, and tending, but failing, to accomplish it, is an attempt to commit that crime; and every person who attempts to commit a crime, unless otherwise prescribed by statute, shall be punished as follows:

1. If the crime attempted is punishable by death or life imprisonment, the person convicted of the attempt shall be punished by imprisonment in the state prison for not more than ten years.

2. In every other case he shall be punished by imprisonment in the state prison for not more than half of the longest term, or by fine of not more than half the largest sum, prescribed upon conviction for the commission of the offence attempted, or by both such fine and imprisonment; but this shall not protect a person who, in an unsuccessful attempt to commit one crime, does commit another and different one, from the prescribed punishment for the crime actually committed. (4771)

An attempt to commit a crime is an overt act or acts done with intent to commit the particular crime, and tending, but failing, to accomplish it (103–24, 114+88; 118–77, 136+311, 41 L. R. A. [N. S.] 439). Cited (119–107, 137+295).

8491. **Second offences, how punished**—Every person who, after having been convicted in this state of a felony or attempt to commit a felony, or, under the laws of any other state or country, of a crime which, if committed in this state, would be a felony, commits any crime in this state, upon conviction thereof shall be punished as follows:

1. If the subsequent crime is such that the offender, upon a first conviction, might be punished by imprisonment for life, he shall be sentenced to imprisonment in the state prison for life.

2. If the subsequent crime be such that upon a first conviction the offender might be punished by imprisonment for any term less than life, then he shall be sentenced to imprisonment for a term not less than the longest term, nor more than twice the longest term prescribed upon a first conviction. (4772)

8492. **Imprisonment on two or more convictions**—Whenever a person shall be convicted of two or more offences before sentence has been pronounced for either, the imprisonment to which he is sentenced upon the second or other subsequent conviction shall commence at the termination of the first or other prior term or terms of imprisonment to which he is sentenced; and whenever a person while under sentence for felony commits another felony, and is sentenced to another term of imprisonment, such latter term shall not begin until the expiration of all prior terms. (4773)

26–498, 5+374.

8493. **Life sentence, when—Effect**—Whenever the statute declares a crime punishable by imprisonment for not less than a specified number of years, and fixes no maximum limit, the court may sentence the offender to imprisonment during his natural life, or for not less than the minimum number of years prescribed. A person sentenced to imprisonment for life is thereafter civilly dead. (4774)

8494. **Sentence—How limited—Jail—Workhouse**—Whenever a convict is sentenced to the state prison for more than one year, unless the exact period be fixed by law, the court shall so limit the term that it will expire between the months of March and November. Whenever a sentence may be imprisonment in a county jail, the offender may be sentenced to and imprisoned in a workhouse, if there be one in the county where he is tried or where the offence was committed. The place of imprisonment shall be specified in the sentence. But convicts may be removed from one place of confinement to another when so provided by statute. (4775)

Provision as to expiration of term directory (26–494, 5+369).

8495. **Limit of fine when not specified**—Whenever a statute makes a crime other than a misdemeanor punishable by fine, and does not specify its amount, a fine of not more than five hundred dollars may be imposed; and, where the defendant shall be sentenced to pay a fine, the court may, as part of the judgment, order the defendant to be committed to the county jail until such fine is paid, not exceeding a reasonable time, to be graduated according to the amount of the fine. (4776)

In all cases where the defendant is sentenced and adjudged to pay a fine the court may, in its discretion, as part of the judgment, order that he be committed to the common jail of the county until the fine is paid, not exceeding a reasonable time, to be graduated according to the amount of the fine (26–494, 5+369; 38–143, 36+443; 43–490, 45+1098; 84–367, 87+916). Without express statutory authority the court cannot impose a fine and commit the convict to prison until the fine is paid so as to exceed the limit of imprisonment prescribed by statute for the offence (26–494, 5+369). A convict cannot be committed to state prison merely to enforce the payment of a fine and not by way of punishment for a crime; for such purpose imprisonment in the county jail is alone warranted (43–490, 45+1098). Enforcement of fines for contempt by confinement in jail (117–173, 134+509).

8496. **Suspension of sentence**—That the several courts of record of this state having jurisdiction to try criminal causes shall have power, upon the imposition of sentence against any person who has been convicted of the violation of a municipal ordinance or by-law, or of any crime for which the maximum penalty provided by law does not exceed imprisonment in the state prison for five years, to stay the execution of such sentence whenever the court shall be of the opinion that by reason of the character of such person, or the facts and circumstances of his case, the welfare of society does not

require that he shall suffer the penalty imposed by law for such offense so long as he shall thereafter be of good behavior. ('09 c. 391 § 1)

8497. **Same—Period of suspension—Probation**—Such stay shall originally be for a definite time; and during such time the person so sentenced may be placed upon probation under the supervision of a probation officer in counties where such officer is provided by law, and in other counties under the supervision of some discreet person who will accept such supervision and serve without pay, making report to the court as required. Provided, however, that nothing herein contained shall prevent the court from placing such persons under the supervision of a constable, sheriff or police officer specially detailed for that purpose. The court may make such terms and conditions of probation as are deemed suitable and may require a recognizance or other surety conditioned upon the performance of such terms and conditions and may enforce the same. On the expiration of the original period of probation the court may from time to time renew or extend the same for additional definite periods upon such conditions as are deemed proper, provided, the total period of such suspension of sentence shall not exceed one year except in case of conviction of a crime the maximum penalty for which is imprisonment for a term exceeding one year, and in such case such total period of suspension of sentence shall not exceed the term of such maximum penalty. The court may in its discretion suspend sentence indefinitely. The court may make such order in or out of term, and at any place within the judicial district in which the case was tried. ('09 c. 391 § 2)

8498. **Same—Revocation**—Before sentence has been indefinitely suspended the court shall have power, in the exercise of its discretion, to revoke the order staying sentence and releasing such person on probation, without notice and at any time or place mentioned in section two [8497] of this act, stating in such order of revocation the reasons therefor; in which case the sentence theretofore imposed shall be executed in all respects as though no proceedings under this act has been taken. ('09 c. 391 § 3)

8499. **Convicts protected—Forfeitures abolished**—Every convict sentenced to imprisonment shall be under the protection of the law, and any unauthorized injury to his person is punishable in the same manner as if he were not convicted or sentenced. A conviction for any crime does not work a forfeiture of any property, real or personal, or of any right or interest therein. All forfeitures in the nature of deodands, or in a case of suicide, or where a person flees from justice, are abolished. (4777)

8500. **Restoration to civil rights—Persons heretofore convicted**—All persons residing or having their domicile in the state of Minnesota, who have heretofore been convicted of a felony and sentenced by a court of this state to pay a fine or to be confined in a county jail, for such offense, and who have paid and satisfied such fine or served such sentence shall be restored to all their civil rights and to full citizenship, with full right to vote and hold office, the same as if such conviction and sentence had not taken place, in the manner hereinafter provided. Before such restoration to civil rights shall take effect, such person or persons shall apply to the district court where such person or persons may reside, and produce before the court two witnesses to testify to his or her general good character, and if said court shall be satisfied of such good character, an order shall be issued restoring such party to all civil rights, which order shall be filed with the clerk of said court; thereupon said restoration to civil rights shall take effect and be in full force. ('07 c. 34 § 1, amended '13 c. 187 § 1)

8501. **Same—Persons hereafter convicted**—All persons who shall hereafter be convicted of a felony in any court of this state and sentenced to jail or to pay a fine therefor and who shall serve such sentence or pay such fine, upon complying with the provisions of section 1 [8500] of this act, shall have all their civil rights restored as therein provided. ('07 c. 34 § 2, amended '13 c. 187 § 2)

8502. **Incriminating testimony not to be used**—In every case in the Revised Laws where it is provided that a witness shall not be excused from giving testimony tending to criminate himself, no person shall be excused from

testifying or producing any papers or documents on the ground that his testimony may tend to criminate him or subject him to a penalty or forfeiture; but he shall not be prosecuted or subjected to a penalty or forfeiture for or on account of any action, matter, or thing concerning which he shall so testify, except for perjury committed in such testimony. (4778)

8503. **Sentence of minor under sixteen**—Whenever a person under the age of sixteen years shall be convicted of crime, he shall be sentenced to pay a fine or to be committed to the state training school for boys and girls, and subjected to the discipline and control thereof until his majority, or for such shorter time as the court may determine. (4779)

8504. **Convict as witness**—Every person convicted of crime shall be a competent witness in any civil or criminal proceeding, but his conviction may be proved for the purpose of affecting the weight of his testimony, either by the record or by his cross-examination, upon which he shall answer any proper question relevant to that inquiry; and the party cross-examining shall not be concluded by his answer thereto. (4780)

A witness may be asked if he has not been convicted of a crime, either a felony or a misdemeanor, and if he denies it he may be contradicted (39–357, 40+263; 42–258, 44+115; 43–196, 45+152; 77–417, 80+358; 85–19, 88+22). He cannot be asked if he has been indicted (91–419, 98+334), or arrested (85–19, 88+22; 97–8, 105+974), or as to the punishment (77–417, 80+358). Cited and applied (105–217, 117+483, 15 Ann. Cas. 897).

8505. **Intent to defraud**—Whenever, by any of the provisions of Part IV, an intent to defraud is required in order to constitute an offence, it is sufficient if an intent appears to defraud any person, association, or body politic or corporate whatsoever. (4781)

27–309, 7+264; 43–196, 45+152; 67–176, 69+815.

8506. **Crimes on railway trains, boats, etc.**—The route traversed by any railway car, coach, train, or other public conveyance, and the water traversed by any boat, shall be criminal districts; and jurisdiction of all public offences which shall be committed on any such railway car, coach, train, boat, or other public conveyance, or at any station or depot upon such route, shall be in any county through which said car, coach, train, boat, or other public conveyance may pass during the trip or voyage, or in which the trip or voyage may begin or terminate. (4782)

Crime on boat (4–325, 241).

CHAPTER 94

RIGHTS OF ACCUSED

8507. **To know ground of arrest**—Every person arrested by virtue of process, or taken into custody by an officer, has a right to know from such officer the true ground of his arrest; and every such officer who shall refuse to answer relative thereto, or shall answer untruly, or neglect on request to exhibit to him, or to any person acting in his behalf, the precept by virtue of which such arrest is made, shall be punished by a fine not exceeding one thousand dollars, or by imprisonment in the county jail not exceeding one year. (4783)

See §§ 9064, 9067, 9070.

8508. **Presumption of innocence—Conviction of lowest degree, when**—Every defendant in a criminal action is presumed innocent until the contrary is proved, and in case of a reasonable doubt is entitled to acquittal; and when an offence has been proved against him, and there exists a reasonable doubt as to which of two or more degrees he is guilty, he shall be convicted only of the lowest. (4784)

1. Burden of proof on state—The state has the burden of proving beyond a reasonable doubt every essential element of the offence charged (10–407, 325; 22–514; 90–7, 95+578). The doubt entitling to acquittal must result from a consideration of all the evidence; each evidentiary fact need not be proved beyond a reasonable doubt (29–193, 12+524; 37–493, 35+493; 90–183, 96+330).

2. Definition of reasonable doubt—It is not desirable for the court to attempt an explanation of the term "reasonable doubt" unless requested by the jury. It is impossible to make the meaning of the expression more clear by any circumlocution (14–105, 75; 38–438,