

*James C. Child*  
35  
THE

PUBLIC STATUTES

OF THE

STATE OF MINNESOTA.

(1849—1858.)

---

COMPILED BY  
MOSES SHERBURNE and WILLIAM HOLLINSHEAD, Esqrs.,  
COMMISSIONERS.

---

---

PUBLISHED BY STATE AUTHORITY.

---

SAINT PAUL:  
THE PIONEER PRINTING COMPANY.

1859.

CHAPTER 3.

STATUTES AND THEIR CONSTRUCTION.

SECTION

1. Laws of 1849, when to take effect.
2. Rules to be observed in the construction of statutes.
3. Statutes, when to take effect.
4. Original acts to be deposited with secretary.
5. Statutes, how promulgated.
6. Revised statutes entitled to be read in evidence.
7. Distribution of laws.
8. Registers of deeds to receive fifty copies.
9. Revised statutes to be returned to registers.
10. Copies to be deposited in the library.
11. Revised statutes, when to take effect.
12. Offenses committed not to be affected by repeal of statute.
13. Criminal prosecutions not to be affected by repeal of statute.
14. Certain acts not revived.
15. Repeal of statute not to declare certain statutes to be in force.
16. Repeal of statutes which are consolidated in revised statutes, not to affect appointments made nor offices held.
17. Offices abolished, when to cease.
18. Rule as to conflict between revised statutes and other acts.

SECTION

19. Rule as to conflict between different chapters of revised statutes.
20. Rule as to conflict between different sections of same chapter.
21. Certain chapters of revised statutes, when to take effect.
22. Certain acts repealed.
23. Laws of 1852, when to take effect.
24. Duties of clerks of the two houses on the passage of laws.
25. Duties of public printer.
26. Laws to be made to conform to original roll before publication.
27. When act shall take effect.
28. Commissioners appointed to compile public acts.
29. When to report.
30. Compilation of the statutes.
31. Compilation to be published within one year; quality and style of printing.
32. Copyright guaranteed to publisher; price of copies sold to state.
33. Publisher to give bond to state.
34. When act shall take effect.

An Act declaring the time at which the several acts passed at the present session of the Assembly shall take effect.

✓ [Passed October 11, 1849.]

(1.) SEC. I. *Be it enacted by the legislative assembly of the territory of Minnesota:* That all acts passed during the present session of the legislative assembly shall take effect from and after the first day of December, one thousand eight hundred and forty-nine: *provided,* that nothing herein contained shall prohibit the legislature from prescribing a different time by special enactment, at which any act shall take effect.

All acts take effect 1st December, 1849, unless, etc.

An Act prescribing rules for the Construction of Statutes.

✓ [Chapter 2, Revised Statutes.]

(2.) SEC. I. [As amended on page 5 of the amendments of 1852 to the revised statutes:] In the construction of all statutes, the following rules shall be observed, unless such construction will be inconsistent with the manifest intent of the legislature, or repugnant to the context of the same statute, that is to say:—

Rules to be observed in the construction of statutes.

1. All words and phrases shall be construed and understood according to the common and approved usage of the language; but technical words and phrases, and such others as may have acquired a peculiar and appropriate meaning in the law, shall be construed and understood according to such peculiar and appropriate meaning; and all clerical and typographical errors, omissions and defects, shall be disregarded when the intent and meaning are obvious.

Construction of words and phrases.

2. Every word importing the singular number only, may extend and be applied to one person or thing, as well as to several persons or things; and every word importing the plural number only, may extend and be

Clerical errors, &c., to be disregarded.

Rules to be observed in the construction of statutes.

applied to one person or thing, as well as to several persons or things; and every word importing the masculine gender only, may extend and be applied to females as well as to males.

3. All words purporting to give a joint authority to three or more public officers or other persons, shall be construed as giving such authority to a majority of such officers or other persons, unless it shall be otherwise expressly declared in the law giving the authority.

4. The word "grantors" may be construed as including every person from or by whom any freehold estate or interest passes in or by any deed; and the word "grantee" as including every person to whom any such estate or interest passes in like manner.

5. The word "highway" may be construed to include any road laid out by the authority of the United States, or of this territory, or of any town or county, and all bridges upon the same.

6. The words "insane person" shall be construed to include every idiot, non-compos, lunatic, and distracted person.

7. The word "issue," as applied to the descent of estates, shall be construed to include all the lawful lineal descendants of the ancestor.

8. The word "land" or "lands," and the words "real estate," shall be construed to include lands, tenements and hereditaments, and all rights thereto and interests therein.

9. The word "month" shall be construed to mean a calendar month, unless otherwise expressed; and the word "year," a calendar year, unless otherwise expressed; and the word "year" alone shall be equivalent to the expression "year of our Lord."

10. The word "oath" shall be construed to include "affirmation" in all cases where by law an affirmation may be substituted for an "oath;" and in the like cases the word "sworn" shall be construed to include the word "affirmed."

11. The word "person" may extend and be applied to bodies politic and corporate, as well as to individuals.

12. The words "preceding" and "following," when used by way of reference to any section of any statute of this territory, shall be construed to mean the section next preceding or next following that in which such reference is made, unless when some other section is expressly designated in such reference.

13. In all cases in which the seal of any court or public office shall be required by law to be affixed to any paper issuing from such court or office, the word "seal" shall be construed to include an impression of such official seal made upon the paper alone, as well as an impression made by means of a wafer or of wax affixed thereto.

14. The word "town" may be construed to include all cities and districts, unless such construction would be repugnant to the provisions of any act specially relating to such cities or districts.

15. The term "will" shall be construed to include codicils as well as wills.

16. The words "written" and "in writing" may be construed to include printing, engraving, lithographing, and any other mode of representing words or letters: *provided, however,* that in all cases where the written signature of any person is required by law, it shall always be the proper handwriting of such person, or in case he is unable to write, his proper mark.

Statutes, when to take effect.

(3.) SEC. II. Every statute which does not expressly prescribe the time when it shall go into operation, shall take effect throughout the territory on the thirtieth day next after that on which it shall be approved by the governor, or otherwise become a law, according to the provisions of

the organic act of this territory: *provided*, that no general law shall take effect until published.

(4.) SEC. III. The original acts of the legislative assembly shall be deposited, immediately after they shall have been passed, with and kept by the secretary of the territory, and shall be promulgated in the manner following, to wit:

Original acts to be deposited with the secretary.

(5.) SEC. IV. The secretary of the territory, immediately after any general law of the legislative assembly shall have been deposited with him, shall furnish a copy thereof to the person authorized to print the laws, who shall immediately publish the same in a newspaper printed at the seat of government of the territory.

Statutes, how promulgated.

SEC. V. TO X. INCLUSIVE. [*These sections are obsolete.*]

(6.) SEC. XI. [*Refers to the revised statutes of 1851.*] Such edition so prepared shall be entitled to be read in evidence in any court of justice, or in any other place where the laws of the territory may be required within this territory.

Revised statutes to be read in evidence.

(7.) SEC. XII. [*As amended by laws of 1856 on page 6:*] All laws hereafter to be printed by authority of this territory shall be distributed by the secretary as follows: to the territorial librarian for the use of the library, twenty copies; to the Minnesota University three copies, and one copy to each of the incorporate colleges, library and scientific institutions in this territory. The following public officers shall be entitled to one copy each, namely: the governor, each member of the council and house of representatives, and the officers of the same, each of the judges of the supreme court, the United States district attorney, the marshal of the territory, the attorney general, the auditor of the territory, the treasurer of the territory, each district attorney, the masters in chancery, the judges of probate, the adjutant general, the quartermaster general, each county treasurer, each register of deeds, the board of commissioners in each county, notaries public, the sheriffs, the coroners, the justices of the peace, the clerk of the supreme court, the clerks of the district courts, the delegate in congress, secretary of the United States, the secretary of each state and territory of the Union, for the use of each state and territory, to the library of congress: *provided*, that no person who shall hold more than one of the abovenamed offices shall be entitled to more than one copy.

Distribution of laws, who entitled to copies.

(8.) SEC. XIII. Whenever the printing and publication of the laws shall have been completed, the secretary, as soon as may be, shall deliver or transmit to the register of deeds in each of the organized counties, fifty copies thereof for distribution among the several officers of their respective counties, and of the counties thereto attached for judicial purposes; and it shall be the duty of the said register to keep a correct statement of the name and office of the several persons who may receive copies thereof, and also to take a receipt for the same, when delivered; in case fifty copies shall not supply the officers authorized to receive a copy of the laws in any county, the register shall inform the librarian, who shall immediately forward the number to make up the deficiency.

Register of deeds to receive fifty copies.

(9.) SEC. XIV. The copy delivered to any person shall have stamped or written thereon the name of the office held by such person, and shall be again deposited in the office of said register, on the expiration of his term of office, by the person to whom the same may have been delivered; and any person failing to deposit the said copy in pursuance hereof shall forfeit the sum of ten dollars, to be recovered by the said register in his own name, by action of debt in any court of competent jurisdiction, for the use of the proper county.

Copies of revised statutes to be returned to register of deeds.

(10.) SEC. XV. The several copies of the laws remaining after distribution among the several counties, as contemplated in this chapter, shall

Copies to be deposited in the library.

be deposited in the territorial library, and the librarian shall furnish each of the officers and persons other than the county officers hereinbefore designated with a copy thereof on demand, and shall take a receipt therefor when delivered.

An Act prescribing the time when the Revised Statutes shall take effect.

[Passed March 31, 1851.] *RS 1831 c. 137*

Revised statutes when to take effect.

(11.) SEC. I. *Be it enacted by the legislative assembly of the territory of Minnesota:* All the provisions contained in the act for revising and consolidating the general statutes of the territory, passed at the present session of the legislative assembly, shall take effect and go into operation, except as otherwise specially provided in the said act, from and after the first day of September, one thousand eight hundred and fifty-one, and from and after the day last mentioned, all acts and parts of acts, unless heretofore repealed, whether enacted by the legislative assembly of the late territory of Wisconsin, or of the territory of Minnesota, shall be repealed except as hereinafter particularly provided.

SEC. II. III. IV. [*Obsolete.*]

No offense committed, &c., to be affected by repeal of statute.

(12.) SEC. V. No offense committed, and no penalty or forfeiture incurred previous to the time when any statutory provision shall be repealed, shall be affected by such repeal, except that when any punishment, forfeiture, or penalty shall have been mitigated by these revised statutes, such provisions shall apply to, and control any judgment to be pronounced after the said statutes shall take effect, for any offense committed before that time.

Criminal prosecution not to be affected by repeal of statute.

(13.) SEC. VI. No prosecution for any offense, or the recovery of any penalty or forfeiture, pending at the time any statutory provision shall be repealed, shall be effected by such repeal, but the same shall proceed in all respects as if such provision had not been repealed; except that all such proceedings had after the time when the said revised statutes shall take effect, shall be conducted in accordance with, and be subject to the provisions of the revised statutes.

Certain acts not revived, &c.

(14.) SEC. VII. All statutes and parts of statutes, which were repealed, or abrogated by, or which were repugnant to any law hereby repealed, and which are not re-enacted and consolidated in the revised statutes, shall continue to be repealed, and shall be deemed abrogated.

Repeal of statute not to declare certain statutes to be in force.

(15.) SEC. VIII. The repeal by this chapter, of any statute, or part of a statute heretofore repealed, shall not be construed as a declaration or implication that such statute has been in force at any time since such first repeal.

Repeal of statutes which are consolidated in revised statutes not to affect appointments made or offices held.

(16.) SEC. IX. The repeal by this chapter, of any statutory provisions which are consolidated and re-enacted in the revised statutes, by virtue of which any appointment shall have been made, or any office held, shall not be construed to vacate such office, or in any way affect such appointment; but the said appointment shall continue, and the said office shall be held until the term of the said office shall expire under the provisions of the statutes under which such office is held. Such office shall be held subject, however, to the provisions of law in force, after the repeal of the said statutes.

Offices abolished, when to cease.

(17.) SEC. X. When any office is abolished by the repeal of any act, and such act is not consolidated, and re-enacted in the revised statutes, such office shall cease at the time such repeal shall take effect.

In case of conflicting provisions, revised statute to prevail.

(18.) SEC. XI. If the provisions of any law, passed at the present session of the legislative assembly, not incorporated in the chapters composing the revised statutes, shall contravene, or be inconsistent with the

provisions of such chapters, the provisions of such chapters shall prevail.

(19.) SEC. XII. If the provisions of different chapters of the revised statutes conflict with, or contravene each other, the provisions of each chapter shall prevail, as to all matters and questions growing out of the subject-matter of such chapter. In case of conflicting provisions, provision of each chapter.

(20.) SEC. XIII. If conflicting provisions be found in different sections of the same chapter, the provisions of the section which is last in numerical order, shall prevail, unless such construction be inconsistent with the meaning of such chapter. In case of conflict in one chapter, last section to prevail.

An Act prescribing the time when certain Chapters of the Revised Statutes shall take effect.

✓ [Laws of 1851.] *RS 1851 c. 136*

(21.) SEC. I. *Be it enacted by the legislative assembly of the territory of Minnesota:* The following chapters of the bill for revising and consolidating the general statutes of the territory, passed at the present session of the legislative assembly, shall take effect and be in force from and after the first day of May next, to wit: "Of the division of the territory into counties, and their boundaries, sections ninety-four, ninety-five, ninety-six, ninety-seven, ninety-eight, ninety-nine, one hundred, one hundred and one, and one hundred and two, of issues and modes of trial; of counties; of the assessment and collection of taxes; of regulating the sale of spirituous liquors; to provide against the traffic in ardent spirits with the Indians; of religious societies; of cemetery associations; of libraries and lyceums; of the incorporation of plank and turnpike road companies; of corporations for manufacturing, mining, lumbering, agricultural, mechanical, and chemical purposes; of the incorporation of villages; of general provisions relating to corporations; article ten of chapter eight. Certain chapters of revised statute when to take effect.

(22.) SEC. II. All acts and parts of acts now in force in this territory, which conflict, or are in any way repugnant to any of the chapters, or the provisions thereof in the preceding section, shall be repealed and cease to be in force from and after the first day of May, 1851. Certain acts repealed.

An Act prescribing the time when certain Acts shall take effect.

✓ [Passed March 6, 1852.] *c. 44*

(23.) SEC. I. *Be it enacted by the legislative assembly of the territory of Minnesota,* that all acts passed at the present session of the legislative assembly, shall take effect and go into operation from and after the first day of May, one thousand eight hundred and fifty-two, unless otherwise specially provided in said acts.

An Act to provide for the more speedy publication of the Laws of the Territory.

[Passed February 25, 1856.] *c. 18*

(24.) SEC. I. *Be it enacted by the legislative assembly of the territory of Minnesota:* It shall hereafter be the duty of the secretary of the council and chief clerk of the house of representatives, immediately upon the receipt of a message from the governor, notifying the approval of any bill which originated in their respective houses, to place in the hands of the territorial printer, the copy of said bill from which the enrolled copy was made. Duties of clerks of the two houses on the passage of laws.

(25.) SEC. II. Upon receipt of any such copy by the territorial printer, he shall forthwith cause the same to be published in some paper printed in the city of St. Paul. Duties of printer.

Laws to be made to conform to the original roll.

(26.) SEC. III. Every such law, before publication, shall be examined and made to conform to the enrolled copy of the same on file in the office of the secretary of the territory, and when so published, each paper in the territory may copy said law, and be allowed for the publication thereof, the same price as is or may be allowed for the publication of the laws of the congress of the United States, to be paid out of the monies appropriated to defray the expenses of the legislative assembly of this territory.

When in force.

SEC. IV. [*Obsolete.*]  
(27.) SEC. V. This act shall take effect and be in force from and after its passage.

An Act in relation to the Revision and Compilation of the Statutes.

[Passed March 13, 1858.] c. 7

Commissioners named; duties.

(28.) SEC. I. *Be it enacted by the legislature of the state of Minnesota:* That Moses Sherburne, Aaron Goodrich and William Hollinshead, are hereby appointed commissioners to compile, arrange and put into chapters, under appropriate heads, the public acts now in force, including the revised statutes and the public acts and laws passed since the revision of the statutes, and which may be passed by this legislature; and said commissioners shall not enter upon their duties until instructed in reference to the code of practice to be adopted by this state.

When to report.

(29.) SEC. II. *And be it further enacted,* that said commissioners report the result of their labors as this legislature may direct.

An Act to provide for the Publication of the General Statutes of the State.

[Passed August 12, 1858.] c. 37

Compilation of the statutes.

(30.) SEC. I. *Be it enacted by the legislature of the state of Minnesota:* That on the declination of all the commissioners heretofore appointed to compile and arrange the public statutes of the late territory and present state of Minnesota, to proceed with such compilation, the governor be and is hereby authorized to appoint a suitable person, learned in the law, to make such compilation, which shall include all laws of a general character which have been and shall be passed at the present session: *provided,* that all expenses attending the appointment so made shall be borne by the party publishing such compiled statutes, in accordance with the provisions of this act.

To be published within one year; quality and style of printing.

(31.) SEC. II. That the said statutes shall be so compiled and published, under the supervision and direction of the governor, within one year from the date of the passage of this act; that the compilation when made shall be subject to the examination and approval of the justices of the supreme court, and the same when so approved and published, shall be received in all places whatsoever as the laws of the state; and the quality of paper, and style of printing and binding, together with the arrangement thereof, shall be equal in all respects to Swan's revised statutes of Ohio, and shall be furnished with proper side-notes and references, and with a full and copious index.

Copyright guaranteed to publisher—price of copies sold to the state.

(32.) SEC. III. That the governor is hereby authorized and empowered to guaranty, and the same is hereby guaranteed, to the party so publishing said statutes under his supervision, the copyright thereof: *provided always,* that such party shall furnish to the secretary of state one hundred copies to be deposited in the state library, together with such number of copies as may be necessary to supply the various officers entitled to receive the laws, at a sum not exceeding three dollars per copy of five hundred pages;

and on the delivery of the same to the secretary of state, on the requisition of the governor, the auditor of state shall issue his warrant upon the state treasurer for the amount thereof; and there is hereby appropriated, out of any moneys in the treasury not otherwise appropriated, a sum sufficient to defray the cost of the number of copies so required.

(33.) SEC. IV. The party publishing said statutes under the direction of the governor, in consideration of being guarantied in the enjoyment of the copyright of same, shall execute to said governor a bond in the penal sum of ten thousand dollars, with good and sufficient sureties, conditioned that he will pay and sustain all the expenses incident to such publication, and forever save the state harmless of and [free] from all charges on account thereof. Publisher to give bond.

(34.) SEC. V. This act shall take effect and be in force from and after its passage.

## CHAPTER 4.

### THE LEGISLATURE.

#### SECTION.

1. No officer of the legislative assembly liable to arrest on civil process.
2. Each house may punish for contempt.
3. Persons guilty of contempt, also guilty of misdemeanor.
4. Who may administer oath of office to members of the legislative assembly.
5. Who may administer oaths to witnesses before committees.
6. Contested seats, how determined.
7. Officers of the house of representatives.
8. Secretary of the council and chief clerk of the house, their duties.
9. Journals to be prepared for printing.
10. Roll of members to be made.
11. Secretary and clerk to remain in office until the next session.
12. Compensation of officers to be certified by presiding officer of each house.
13. Either house may remove an officer.
14. Compensation of officers of each house.
15. Either house may request the opinion of supreme court.
16. Time of annual election for members of the legislature; how conducted.

#### SECTION.

17. Day of assembling of legislature—proviso as to the year 1859.
18. Term of office of senators—term of members of the house.
19. Repeal of acts contravening or inconsistent.
20. Act takes effect from passage.
21. Secretary of state to prepare the legislative halls for meeting of legislature.
22. Certificate of election from register of deeds to be *prima facie* evidence thereof for purposes of organizing the legislature.
23. Manner of organizing the senate.
24. Officers to be elected.
25. Term of office for officers of senate.
26. Organization of the house of representatives.
27. Officers of the house to be elected.
28. Oath of office to be taken by all officers.
29. Term of office for officers of house.
30. Appointment of messengers for both houses.
31. In elections for officers, a majority of votes cast necessary for a choice.
32. Proceedings to obtain a quorum of members.
33. Repeal of acts inconsistent.
34. Act takes effect on passage.

An Act defining the rights, powers, duties, and exemptions, of the two houses of the legislative assembly, their members and officers. (a)

✓ [Chapter 3, Revised Statutes.]

SEC. I. [*Repealed by laws of 1858, page 114.*]

(1.) SEC. II. [*As amended on page 30, of the amendments of 1852 to the revised statutes.*] No member of the council or house of representatives while going to, returning from, or in actual attendance upon the duties of his office, shall be liable to arrest upon civil process. Members exempt from arrest.

(a) Chapter 85, laws of 1858, page 276, *et seq.* changes, but does not repeal, this portion of the revised statutes, and it is therefore published.