

CHAPTER XLVII.

OF PROCEEDINGS FOR CONTEMPT.

(This Chapter is Chapter LXXXVII. of the Statutes of 1866.)

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SECTION 1. *What acts or 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 willful 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.

*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.

A failure to plead is no contempt of court except where the object of the bill is to compel an answer, *Perrin v. Oliver*, 1 Minn. 202. Nor the reading and presentation of an affidavit for change of venue on ground of prejudice in the judge, etc., *ex parte Curtis*, 3 Minn. 274.

SEC. 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.

SEC. 3. *What contempts may be summarily punished.*—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.

SEC. 4. *Party 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.

SEC. 5. *If 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.

SEC. 6. *Party arrested may be let to bail or not, in discretion of court.*—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.

SEC. 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 officer, 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.

SEC. 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.

SEC. 9. *Officer shall return warrant—failing to do so, may himself be arrested.*—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.

SEC. 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.

SEC. 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.

Party not having the power to perform the act required cannot be punished, *Register v. State*, 8 Minn. 214.

SEC. 12. *Party found guilty may be fined or imprisoned.*—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.

SEC. 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.

SEC. 14. *Party 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.

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

SEC. 16. *Second warrant may issue, when—measure of damages in action on recognizance.*—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

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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.

SEC. 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.