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# GENERAL STATUTES OF MINNESOTA

## SUPPLEMENT 1917

CONTAINING THE AMENDMENTS TO THE GENERAL STATUTES  
AND OTHER LAWS OF A GENERAL AND PERMANENT  
NATURE, ENACTED BY THE LEGISLATURE  
IN 1915, 1916, AND 1917

WITH NOTES OF ALL APPLICABLE DECISIONS

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WEST PUBLISHING CO.

1918

## CHAPTER 91

## CONTEMPTS

**8353. Direct contempts defined—**

128-153, 150+383.

**8355. Power to punish—Limitation—**

The maximum sentence that may be imposed for a direct contempt by the Minneapolis municipal court is a fine of \$20 or two days' imprisonment in the county jail (125-304, 146+1102). Contempt, ↪72.

**8363. Punishment—**

The maximum sentence that may be imposed by the Minneapolis municipal court for a direct contempt is a fine of \$20 or two days' imprisonment in the county jail (125-304, 146+1102). Contempt, ↪72.

## CHAPTER 92

## WITNESSES AND EVIDENCE

## WITNESSES

**8369. Definition—**

130-256, 153+324; 130-256, 153+593.

**8370. Subpoena, by whom issued—**

131-116, 154+750.

**8373. Contempt—**

131-116, 154+750.

**8375. Competency of witnesses—**

**Subd. 1—**Under this section a wife is not a competent witness against her husband in a prosecution for adultery (131-97, 154+735). Witnesses, ↪58(1).

Where one accused of murder attempted to create the impression by his testimony that his wife was unduly intimate with a witness for the prosecution, and that the wife and the witness had plotted to secure defendant's conviction, it was not improper to ask defendant, on cross-examination, if he would consent to his wife testifying for the state (128-422, 151+190). Witnesses, ↪76(3), 277(1).

Action of county attorney in calling wife as a witness against her husband was not misconduct requiring a new trial, though defendant notified the county attorney before the indictment that he would object to the evidence of the wife (128-187, 150+793, Ann. Cas. 1915D, 360). Criminal Law, ↪700.

**Subd. 4—**A patient may waive his right to prevent his physician giving testimony which is privileged under this subdivision; and if he fails to object to a question which necessarily calls for testimony which is privileged, after a fair opportunity is given him to object, he waives the right to object (131-209, 154+960). Witnesses, ↪221.

This subdivision merely prescribes a rule of evidence, and does not prevent action for money had and received to recover money paid by the patient to the physician in consideration of the latter's guaranty to cure him of a certain disease, which consideration fails (123-468, 143+1133). Money Received, ↪6(6).

The physician is in no position to urge the statute as a bar to the action, where he has been allowed to testify fully in regard to the transactions involved (123-468, 143+1133). Witnesses, ↪219(5).

Where waiver of the privilege under this subdivision was procured by fraud, it is error to allow the privilege to be claimed; and hence the trial court's finding that such waiver, executed by a juror whose sanity during the trial was challenged on a motion for a new trial, was procured by misrepresentation, should be sustained (123-173, 143+322). Witnesses, ↪219(4).

The testimony of a physician as to the instructions given his patient, and as to whether the patient obeyed them, is within the privilege conferred by this section (124-466, 145+385). Witnesses, ↪211(2).

A patient does not waive his privilege by bringing an action to recover for the injuries for which the physician treated him, unless the action is against the physician for malpractice. Neither does he waive such privilege by presenting evidence in support of his claim.