

Iowa (Terr.) laws, statutes, etc. Revised 1842

REVISED STATUTES

OF THE

TERRITORY OF IOWA

Revised and Compiled by a Joint Committee of the
Legislature—Session 1842-'43

AND ARRANGED BY
THE SECRETARY OF THE TERRITORY

PUBLISHED BY AUTHORITY

IOWA CITY:
PRINTED BY HUGHES & WILLIAMS
1843

Reprinted by Authority of the Thirty-Fourth General Assembly

DES MOINES
EMORY H. ENGLISH, STATE PRINTER
E. D. CHASSELL, STATE BINDER
1911

S
US/IO

SEC. 9. In trials for misdemeanors, the court may permit the jury to separate for food and refreshment; but in trials for felonies, the jury shall not be separated until there is no prospect of their agreement to a verdict, and it shall be the duty of the court to provide them all suitable refreshments.

[162] CHAPTER 48.

COURTS.

AN ACT supplemental to an act regulating criminal proceedings.

SECTION.

1. Power of justices to issue warrants to search for counterfeits.

SECTION.

2. Proceeding to be had.

Be it enacted by the Council and House of Representatives of the Territory of Iowa:

SECTION 1. That when an affidavit is filed with a justice of the peace, stating that the affiant suspects and believes that counterfeit money, whether bank notes or coin, is concealed in any particular house or place, or about the person of anyone, and stating also that such affiant believes that such person knows it to be counterfeit, the justice if he thinks there is sufficient ground for such suspicion, shall issue his warrant to search for such property.

SEC. 2. That if such counterfeit money be found, then the same proceedings shall be had as is provided for in the second chapter of the act to which this is amendatory, providing for the arrest, examination, and entering into recognizance of prisoners in other cases.

Approved, February 17, 1842.

CHAPTER 49.

CRIMES AND PUNISHMENTS.

AN ACT defining crimes and punishments.

SECTION.

1. Murder defined.
2. Manner of killing.
3. Malice implied.
4. Time of death of the person injured, essential to constitute the crime.
5. Punishment for murder.
6. Manslaughter defined.
7. Voluntary manslaughter defined.
8. Must be the result of irresistible passion.
- [163] 9. Involuntary manslaughter defined.
10. Farther defined.

SECTION.

11. Time of death of person injured essential to constitute the crime.
12. Persons indicted for murder may be convicted of manslaughter.
13. Punishment for manslaughter.
14. Justifiable homicide defined.
15. Circumstances necessary to justify the act.
16. Killing another in self defense.
17. In what case an officer shall be justified.
18. Unavoidable necessity.

SECTION.

19. Excusable homicide defined, instances and action upon the same.
20. Assault with intent to commit bodily injury, and its punishment.
21. Duelling and its punishment.
22. Death ensuing therefrom adjudged murder.
23. Certain provision relative to trial for violation 21st section of this act.
24. Rape defined.
25. Forcible marriage or defilement and their punishment.
26. Seduction of females of a certain age and its punishment.
27. Rape in the case of a child and its punishment.
28. Bigamy defined and its punishment.
29. Incest defined and its punishment.
30. Perjury defined and its punishment.
31. Subornation of perjury and its punishment.
32. Directions relative to trial for perjury or subornation of perjury.
33. Arson defined.
34. Its punishment.
35. Death ensuing from arson offender guilty of murder.
36. Burglary defined and its punishment.
37. Robbery defined and its punishment.
38. Robbery with intent to kill and its punishment.
39. Assault with intent to commit robbery.
40. Larceny defined.
41. Farther defined.
42. Taking away with intent to steal made larceny.
43. Value of property stolen when in notes, bonds, bills, drafts, etc.
44. Punishment and civil suit.
45. Petit larceny defined and its punishment.
46. Buying or receiving stolen goods and its punishment.
47. Persons charged may be tried before arrest of principal.
48. Property received shall be restored to owner.
49. Forgery defined and its punishment.
50. Maiming and its punishment.
51. Intent to kill, wound or maim, and its punishment.
52. Defacing or counterfeiting public seals and its punishment.
53. Competent witnesses to prove a forgery of notes or bills of chartered companies.
54. Counterfeiting coin and its punishment.

SECTION.

55. Counterfeiting, altering or disposing of counterfeit or altered bills of any bank and its punishment.
56. Altering or disposing of or circulating altered coin and its punishment.
57. Engraving or having in possession plates for counterfeiting bank notes and its punishment.
58. Knowingly circulating or attempting to circulate base coin or counterfeit bank notes and its punishment.
59. Fraudulent conveyances and its punishment.
60. Poisoning with intent to injure or kill and its punishment.
61. False imprisonment defined and its punishment.
- [164] 62. Kidnapping and its punishment.
63. Destroying and effacing deeds, etc., and its punishment.
64. Punishment for misprison of felony.
65. Punishment of officers or other persons aiding prisoners charged with felony to escape.
66. Punishment for aiding in or procuring the commission of any offenses made criminal by this act.
67. Place of trial of persons committing an act in one county which produces death in another.
68. Punishment of jailor for inhumanity or oppression to prisoners.
69. Punishment of persons resisting any officer in the discharge of his duty. Proviso.
70. Punishment for rescue of persons convicted of crimes punishable with death or otherwise.
71. Fine for rescue of persons from civil process.
72. Punishment for aiding prisoners to escape from jail.
73. Punishment of officer for refusing to arrest, etc.
74. Fine for compounding criminal offenses.
75. Conspiracy and its punishment.
76. Discretion of judge as to the duration of confinement, etc., for crimes made punishable by imprisonment under this act.
77. Degree of the crime of murder how determined, and sentence.
78. Manner in which the punishment of death shall be inflicted.
79. Effects of sentence upon persons convicted of crime under this act, and of pardon by Governor.

RESCUE FROM CIVIL PROCESS.

SEC. 71. If any person or persons shall rescue or set at liberty any person in legal custody, on civil process, such person shall, on conviction, be fined in any sum not exceeding double the sum for which said civil process issued.

ASSISTING PERSONS IN JAIL TO ESCAPE, ETC.

SEC. 72. If any person shall aid or assist a prisoner, lawfully committed or detained in any jail, for any offense against this territory, or who shall be lawfully confined by virtue of any civil process, to make his or her escape from jail, though no escape be actually made, or if any person shall convey or cause to be delivered to such prisoner any disguise, instrument or arms, proper to facilitate the escape of such prisoner, any person so offending, although no escape or attempt to escape be actually made, shall, on conviction, be punished by fine not exceeding five hundred dollars nor less than one hundred dollars, and imprisonment in the penitentiary, at hard labor, for a term not exceeding two years.

OFFICER REFUSING TO ARREST, ETC.

SEC. 73. If any sheriff, coroner, keeper of a jail, constable, or other officer, shall wilfully refuse to receive or arrest any person charged with a criminal offense, then such sheriff, coroner, jailor, constable, or other officer, shall, on conviction, be fined not exceeding two hundred dollars nor less than fifty dollars, and imprisonment not exceeding six months in the common jail.

COMPOUNDING CRIMINAL OFFENSES.

SEC. 74. If any person shall take money, goods, chattels, lands or other reward or promise thereof, to compound any criminal offense, such person or persons, on conviction thereof, shall be fined in double the sum or value of the thing agreed for or taken, but no person shall be debarred from taking his goods or property from the thief or felon, [183] or receiving compensation for the private injury occasioned by the commission of any such criminal offense.

CONSPIRACY.

SEC. 75. If two or more persons shall conspire or agree, falsely and maliciously, to charge or indict any person for any criminal offense, each of the persons so offending, shall, on conviction, be fined in any sum not exceeding one thousand dollars and imprisonment not exceeding one year.

SEC. 76. That in all cases when any person shall be convicted of any offence by this act declared criminal, and made punishable by imprisonment in the penitentiary or county jail, the judge shall determine, from the nature of the case, for what period of time, within the respective periods prescribed by law, such convict shall be imprisoned, at hard labor, in the penitentiary, or confinement in the county jail, and shall moreover determine for what period of time (if any) such convict shall be kept in solitary confinement, in the cells of the penitentiary, without labor, and the court shall also render judgment against such convict for the costs of such prosecution, and award execution thereon against the goods and chattels, lands and tenements of said convict.

SEC. 77. That in all trials for murder, the jury before whom such trial is had, if they find the prisoner guilty thereof, shall ascertain in their verdict whether it be murder or manslaughter, and if such person be convicted, by

SEC. 41. That all prosecutions, under the provisions of this act, shall be by indictment before the district court, in the county where the offense shall have been committed, except in cases otherwise provided for by law, and all persons imprisoned under the same, shall be imprisoned in the jail of the proper county, except when otherwise provided by law.

PUNISHMENT BY IMPRISONMENT.

SEC. 42. In all cases of imprisonment for offenses under this act, it shall and may be lawful for the sheriff or keeper of every prison, to compel the prisoner to labor at some useful employment, within or without the prison, under such directions and regulations as may from time to time be given by the district courts within their respective counties, and if any such prisoners shall be ordered by the court aforesaid, to labor upon any public works without the prison, it shall be lawful and is made the duty of the sheriff or keeper of any such con-[193]-victs, to secure them, without cruelty, by ball and chain or block, and also to have a sufficient guard to prevent their escape.

PUNISHMENT BY FINE.

SEC. 43. In all cases of conviction under this act, the party convicted shall remain in confinement until all the costs attending his prosecution are paid, and his sentence has been fully complied with.

PROPERTY OF OFFENDER BOUND.

SEC. 44. The property, real and personal, of every person charged under this act, shall be bound at least so far as will be sufficient to pay to the extent of his condemnation.

EXECUTION TO ISSUE FOR FINES.

SEC. 45. It shall be the duty of the clerk of each court at the end of each term, to issue an execution and deliver the same to the sheriff of the county where the court is held, commanding him to collect each and every fine imposed during the term as in case of execution on civil process, and it shall be the duty of the sheriff to make due return of all executions, and pay over all moneys so collected, without delay, into the county treasury of the proper county, unless otherwise directed by this act.

SEC. 46. That all fines and forfeitures incurred under this act, shall be paid into the county treasury where the crime was committed.

SEC. 47. That in all cases under the provisions of this act, where the prosecutors name is endorsed and the bill found a true bill by the grand jury, the prosecutor or injured party may be admitted as a witness, and his credibility left to the jury.

SEC. 48. That the act, entitled an act, defining crimes and punishments, approved January 25, one thousand eight hundred and thirty-nine, be and the same is hereby repealed; provided, that any person or persons who may have committed any crime, punishable under the provisions of the act hereby repealed, prior to the taking effect of this act, shall be prosecuted and punished according to the act hereby repealed, in the same manner such person or persons might or ought to be prosecuted and punished if this act had not been passed.

Approved, February 16, A. D. 1843.