courts within this state, as provided by law, unless the judge thereof shall so direct by writing under his hand, and filed with the clerk of said court.

Sec. 8. No information shall be filed against any person for any offense, until such person shall have had a preliminary examination therefor, as provided by law, be- When informa-tion may be filed fore a justice of the peace, or other examining magistrate or officer, unless such person shall waive his right to such examination. Provided however, That informations may be filed without such examination against fugitives from justice, and any fugitive from justice, against whom an information may be filed may be demanded by the governor of this state, of the executive authority of any other state or territory, or of any foreign government, in the same manner, and the same proceedings may be had thereon as provided by law in cases of demand upon indictment filed.

Sec. 9. This act shall take effect and be in force from and after the proclamation by the governor, of the ratifi- When act to take effect. cation by the people, of the legislative proposition to amend section seven (7), of article (1), of the constitution of this state.

Approved March 6, 1868.

CHAPTER LXXXVIII.

An Act to prescribe the penalty for the crime of murder in the first degree.   March 5, 1868.

Section 1. Penalty of death as a punishment for crime, abolished—exceptions.
   2. Upon the trial of a person indicted for murder in the first degree, jury to decide what punishment may be inflicted, if found guilty.
   3. How punished when jury fail to prescribe penalty of death.
   4. Not applicable to any offense committed prior to passage of this act.
   5. Repeal of inconsistent acts.
   6. When act to take effect.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. The penalty of death as a punishment for
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Death penalty. abolished—exceptions.

crime, is hereby abolished in this state, except in the cases provided for in section two of this act, and hereafter the penalty for the crime of murder in the first degree shall be as prescribed in sections two and three of this act.

SEC. 2.   Whenever upon the trial of any person upon an indictment for murder in the first degree, the jury shall

Jury to decide what punishment may be inflicted.

have agreed upon a verdict of guilty of such offense, such jury may also determine in the same manner, that the person so convicted shall be punished by death, and if they so determine, shall render their verdict accordingly; and in such case the person so convicted shall be punished by death, as prescribed by section two, of chapter ninety-four, of the general statutes, for the punishment of murder in the first degree.

SEC. 3.   Whoever shall be convicted of murder in the

How punished when jury fail to prescribe death penalty.

first degree if the jury upon whose conviction the penalty is inflicted, shall not by their verdict prescribe the penalty of death, shall be punished by imprisonment, at hard labor in the state prison during the remainder of the term of his natural life, with solitary confinement upon bread and water diet for twelve days in each year during the term, to be apportioned in periods of not exceeding three days duration each, with an interval of not less than fourteen days intervening each two successive periods.

SEC. 4.   The provisions of this act shall not apply nor

Not to apply to offenses committed prior to the passage hereof.

extend to any act done, nor offense committed prior to the passage hereof, but the provisions of law now in force and applicable to the crime of murder in the first degree, as well in respect to the penalty affixed to the commission of such crime, as in all other respects, shall be and remain in full force and effect as to any such offense heretofore committed.

SEC. 5.   All acts and parts of acts contravening the

Repeal of inconsistent acts.

provisions of this act, are hereby repealed.

When act to take effect.

SEC. 6.   This act shall take effect from and after its passage and approval.

Approved March 5, 1868.