

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.

pose; and the expenses of supporting such convict, shall be borne, if such convict was sentenced to imprisonment in the county jail, by the county in which the offense was committed.

Sentence of death not to be executed except on the warrant of the governor.

(7.) SEC. CCXXIX. When any person shall be convicted of any crime, for which sentence of death shall be awarded against him, the clerk of the court, as soon as may be, shall make out and deliver to the sheriff of the county, a certified copy of the whole record of the conviction and sentence, and the sheriff shall forthwith transmit the same to the governor, and the sentence of death shall not be executed upon such convict, until a warrant shall be issued by the governor, under the seal of the territory, with a copy of the record thereto annexed, commanding the sheriff to cause execution to be done, and the sheriff shall thereupon cause to be executed the judgment and sentence of the law upon such convict.

Governor how to proceed where convict is insane or a female is quick with child.

(8.) SEC. CCXXX. If it shall appear to the satisfaction of the governor, that any convict who is under sentence of death, has become insane, the warrant for his execution may be delayed; or if such warrant has been issued, the execution thereof may be respited from time to time, so long as the governor shall think proper; and if any female convict, who is under sentence of death, shall be quick with child, the governor shall forbear to issue a warrant for the execution; or if such warrant has been issued, the execution thereof shall be respited, until it shall appear to the satisfaction of the governor, that such female is no longer quick with child.

Punishment of death how inflicted.

(9.) SEC. CCXXXI. The punishment of death shall, in all cases, be inflicted by hanging the convict by the neck, until he be dead; and the sentence shall at the time directed by the warrant, be executed at such place within the county as the sheriff shall select.

Who to be present at execution of sentence on convict.

(10.) SEC. CCXXXII. Whenever the punishment of death shall be inflicted upon any convict, in obedience to a warrant from the governor, the sheriff of the county shall be present at the execution, unless he shall be prevented by sickness, or other casualty; and he may have such military guard as he may think proper. He shall return the warrant with a statement under his hand, of his doings thereon, as soon as may be, after the said execution, to the governor, and shall also file in the clerk's office of the court where the conviction was had, an attested copy of the warrant and statement aforesaid, and the clerk shall subjoin a brief abstract of such statement to the record of conviction and sentence.

Warrant how to be returned.

CHAPTER 117.

PARDONS.

SECTION

1. Governor may grant pardons on petition.
2. In case of pardon or conviction, officer to

SECTION

- make return of warrant to the governor, and also file copy of same with the clerk.

[Chapter 131, Revised Statutes.]

(1.) SEC. CCXXXIII. In all cases in which the governor is authorized to grant pardons, he may upon the petition of the person convicted, grant a pardon, upon such conditions, and with such restrictions, and under such limitations, as he may think proper, and he may issue his warrant to all proper officers to carry into effect such constitutional pardon; which warrant shall be obeyed and executed instead of the sentence, if any, which was originally awarded.

Governor may grant pardons on petition.

(2.) SEC. CCXXXIV. Whenever any convict is pardoned by the governor, or his punishment is commuted, the officer to whom the warrant for that purpose is issued, after executing the same, shall make return thereof, under his hand with his doings thereon, to the governor, as soon as may be, and he shall also file with the clerk of the court, in which the offender was convicted, an attested copy of the warrant and return, a brief abstract of which the clerk shall subjoin to the record of his conviction and sentence.

In case of pardon or commutation, officer to make return of warrant to the governor, and also file copy of same with the clerk.

CHAPTER 118.

MISCELLANEOUS PROVISIONS RELATING TO CRIMES AND PUNISHMENTS.

SECTION

1. Defendant presumed innocent until proved guilty.
2. In case of doubt as to the degree of guilt, may be convicted of the lowest degree.
3. Joint defendants may have separate hearings in felonies, &c.
4. When the court may discharge one of several defendants to be a witness for the United States.
5. When co-defendant is discharged may be witness for co-defendant.
6. Confession not to be evidence if extorted by threats.
7. Penetration sufficient to sustain charge for rape.
8. Testimony of accomplice not sufficient without corroboration.
9. When juror must be sworn as a witness.
10. Court must decide questions of law.
11. Defendant may except questions of fact to be decided by jury.
12. Court must inform the jury that they are exclusive judges of the fact.
13. Jury may retire or decide in court.
14. When defendant appearing for trial may be committed.
15. Jury may take with them papers received in evidence.
16. Jury may take with them notes of the testimony.
17. When jury disagree as to testimony, may inquire of the court.
18. If juror be taken sick, jury may be discharged by the court.
19. When jury thus discharged, defendant may be again tried.

SECTION

20. When jury may find defendant not guilty of degree charged, &c.
21. Jury may find defendant guilty of any offense charged in indictment.
22. On indictment against several, jury may convict those guilty.
23. Jury may be polled.
24. Clerk must record the verdict.
25. If defendant be acquitted on grounds of insanity the jury must state that fact in the verdict.
26. Court may hear circumstances in aggravation or mitigation of sentence.
27. Such circumstances how introduced.
28. No other testimony can be received.
29. On conviction requiring sentence of death judge to send statement thereof to governor.
30. When bail must justify by affidavit.
31. Clerk must issue blank subpoenas for defendant.
32. When person held to answer if indictment be not found at next term prosecution to be dismissed.
33. If defendant on indictment be not tried, when prosecution to be dismissed.
34. When court may order the action to be continued.
35. If the court dismiss the action, defendant must be discharged.
36. When court may dismiss action after indictment.
37. Nolle prosequi is abolished.
38. When order for dismissal is a bar to another action.
39. Property stolen or embezzled how disposed of.