

THE *J. Rogers*
GENERAL STATUTES

OF THE

STATE OF MINNESOTA:

REVISED BY COMMISSIONERS APPOINTED UNDER AN ACT APPROVED FEBRUARY 17, 1868, AND
ACTS SUBSEQUENT THERETO, AMENDED BY THE LEGISLATURE,
AND PASSED AT THE SESSION OF 1866.

TO WHICH

THE CONSTITUTION OF THE UNITED STATES, THE ORGANIC ACT, THE
ACT AUTHORIZING A STATE GOVERNMENT, AND THE
CONSTITUTION OF THE STATE OF MINNESOTA,

ARE PREFIXED;

AND A LIST OF ACTS PREVIOUSLY REPEALED,

A GLOSSARY, AND INDEX, ARE ADDED.

Edited and Published under the authority of Chapters 15 and 16 of
the Laws of 1866.

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CHAPTER CXVIII.

JUDGMENTS IN CRIMINAL CASES, AND THE EXECUTION THEREOF.

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Judgment upon conviction, how entered—what papers constitute judgment roll.

SECTION 1. When judgment upon a conviction is rendered, the clerk shall enter the same upon the minutes, stating briefly the offense for which the conviction was had, and immediately annex together, and file the following papers, which constitute the judgment roll:

First. A copy of the minutes of challenge interposed by the defendant to the panel of the grand-jury, or to an individual grand-juror, and the proceedings and decisions thereon;

Second. The indictment, and a copy of the minutes of the plea, or demurrer;

Third. A copy of the minutes of any challenge interposed to the panel of the trial jury, to an individual juror, and the proceedings and decision thereon;

Fourth. A copy of the minutes of the trial;

Fifth. A copy of the minutes of the judgment;

Sixth. The bill of exceptions, if there is one.

Clerk to deliver transcript of conviction and sentence to sheriff.

SEC. 2. Whenever any person convicted of an offense is sentenced to pay a fine, or costs, or to be imprisoned in the county jail, or state prison, the clerk of the court shall, as soon as may be, make out and deliver to the sheriff of the county, or his deputy, a transcript from the minutes of the court, of such conviction and sentence, duly certified by such clerk, which shall be a sufficient authority for such sheriff to execute such sentence; and he shall execute the same accordingly.

In capital case certified copy of whole record shall be transmitted to the governor—sentence not to be executed till governor issues warrant.

SEC. 3. When any person is convicted of any crime, for which sentence of death is 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 is issued by the governor, under the seal of the state, with a copy of the record thereto annexed, commanding the sheriff to cause the execution to be done, and the sheriff shall thereupon cause to be executed the judgment and sentence of the law upon such convict.

Judge shall send statement of testimony, &c., to governor.

SEC. 4. The judge of the court at which a conviction requiring judgment of death is had, shall immediately after conviction, transmit to the governor, by mail, a statement of the conviction and judgment, and of the testimony given at the trial.

SEC. 5. In every case in which punishment in the state prison is awarded against any convict, the form of the sentence shall be, that he be punished by confinement at hard labor: *provided*, that whenever practicable, the term of imprisonment shall be so fixed that it will expire between the first day of April and the first day of November.

Form of sentence

SEC. 6. In any case of legal conviction where no punishment is provided by statute, the court shall award such sentence as is according to the degree and aggravation of the offense, not cruel or unusual, nor repugnant to the constitutional rights of the party.

Court to award sentence, when.

SEC. 7. Every court before whom any person is convicted upon an indictment for any offense not punishable with death, or by imprisonment in the state prison, or county jail, may, in addition to the punishment prescribed by law, require such person to recognize, with sufficient sureties, in a reasonable sum, to keep the peace or to be of good behavior, or both, for any term not exceeding two years, and to stand committed until he shall so recognize.

May require party convicted to give recognizance when.

SEC. 8. In case of the breach of the conditions of any such recognizance, the same proceedings shall be had, that are by law prescribed in relation to recognizances to keep the peace.

Proceedings in case of breach of recognizance.

SEC. 9. Whenever it appears to the court, at the time of passing sentence upon any convict who is to be punished by confinement in the state prison, or county jail, that there is no jail in the county in which the offense was committed, suitable for the confinement of such convict, the court may order the sentence to be executed in any county in this state, in which there is a jail suited to that purpose; 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.

When there is no jail in any county, sentence shall be executed, how.

SEC. 10. If it appears 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 thinks 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 appears to the satisfaction of the governor that such female is no longer quick with child.

Governor may delay issuing warrant, when—shall forbear to issue warrant, when.

SEC. 11. The punishment of death shall, in all cases, be inflicted by hanging the convict by the neck, until he is 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.

Punishment of death, how inflicted.

SEC. 12. Whenever the punishment of death is inflicted upon any convict, in obedience to a warrant from the governor, the sheriff of the county shall be present at the execution, unless 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.

Duty of sheriff in executing warrant in capital case.