

Statutes
1878

THE
GENERAL STATUTES
OF THE
STATE OF MINNESOTA,

As Amended by Subsequent Legislation.

PREPARED BY
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EDITED AND PUBLISHED UNDER THE AUTHORITY OF CHAPTER 67 OF THE LAWS
OF 1878, AND CHAPTER 67 OF THE LAWS OF 1879.

FOURTH EDITION.

WITH SUPPLEMENTS,
CONTAINING ALL THE GENERAL LAWS IN FORCE UP TO THE END OF
THE LEGISLATIVE SESSION OF 1883.

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1883.

§ 8. **Recognizance on appeal, when allowed, etc.** If, upon appeal or writ of error, a party is admitted to bail, he may recognize to the state of Minnesota in such sum as the judge shall order, with sufficient sureties, for his personal appearance at the supreme court of the then next term thereof, and to enter and prosecute his exceptions with effect, and abide the sentence thereon, and in the meantime keep the peace, and be of good behavior; and the judge may, in his discretion, allow any person so to recognize, charged with an offence not punishable with death.

§ 9. **Defendant committed, when—copy of record to be filed, etc.** If any person, so appealing or taking a writ of error, does not so recognize, he shall be committed to prison to await the decision of the supreme court; and, in that case, the clerk of the court in which the conviction was had, shall file a certified copy of the record and proceedings in the case in the supreme court, and the court shall have cognizance thereof, and consider and decide the questions of law, and shall render judgment or make such order thereon as law and justice require; and if a new trial is ordered, the cause shall be remanded to the said district court for such new trial.

3 M. 169 (246.)

§ 10. **Dismissal of appeal—not to preclude another.** If any of the provisions herein made requisite to the taking of an appeal or a writ of error are not complied with, the supreme court may dismiss the same; but no discontinuance or dismissal of an appeal or writ of error in the supreme court shall preclude the party from suing out another writ of error, or taking another appeal, in the same cause, within the time limited by law.

*§ 11. **Certifying proceedings to supreme court—stay.** If upon the trial of any person who shall be convicted in any district court, or in the court of common pleas of Ramsey county, or if, upon any demurrer to an indictment, or to a special plea or pleas to an indictment, or upon any motion upon or relating to an indictment, any question of law shall arise, which, in the opinion of the judge of such court, shall be so important or so doubtful as to require the decision of the supreme court, he shall, if the defendant desire it or consent thereto, report the case, so far as may be necessary to present the question or questions of law arising therein, and certify the said report to the supreme court of the state; and thereupon all proceedings in said cause shall be stayed until the decision of said supreme court shall be made. (1870, c. 76, § 1.)

23 M. 29, 31.

*§ 12. **Same—to stay other cases, when.** Other criminal causes in said court involving or depending upon the same questions may, if the defendants desire or consent thereto, be stayed in like manner until the decision of the cause so certified. (*Id.*)

*§ 13. **Applicable to pending cases.** The two foregoing sections shall be construed to apply to any criminal causes now pending in the said courts, (*Id.*)

CHAPTER CXVIII.

JUDGMENTS IN CRIMINAL CASES AND THE EXECUTION THEREOF.

SECTION.

1-4. Judgment on conviction, how entered—judgment-roll—clerk to deliver transcript to sheriff—record to be certified to governor in capital cases—sentence not to be executed without warrant from governor—judge to send statement of testimony, etc., to governor.

5-9. Form of sentence to state prison—expiration of term—sentence where statute provides

SECTION.

no punishment—recognizance to keep the peace, etc.—proceedings on breach—sentence to jail of a different county.

10. Delay of warrant, or respite, where prisoner sentenced to death is insane, etc.

11-12. Death penalty, how inflicted and where—sheriff to be present—return of the warrant.

13. Street labor with ball and chain prohibited.

§ 1. Judgment on conviction, how entered—judgment roll. When judgment upon a conviction is rendered, the clerk shall enter the same upon the minutes, stating briefly the offence 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.

§ 2. Clerk to deliver transcript to sheriff. Whenever any person convicted of an offence 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.

§ 3. Capital cases—record to be certified to governor—executive warrant. 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.

§ 4. Same—judge to send statement to governor. 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.

§ 5. Form of sentence to state prison—expiration of term. 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.

§ 6. Sentence, when not provided by statute. 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 offence, not cruel or unusual, nor repugnant to the constitutional rights of the party.

§ 7. Recognizance to be given, when. Every court before whom any person is convicted upon an indictment for any offence 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.

§ 8. Proceedings on breach of recognizance. 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.

§ 9. Sentence, how executed where there is no jail in the county. 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 offence 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 offence was committed.

§ 10. **Governor may delay issuing warrant, when.** 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.

§ 11. **Punishment of death, how inflicted.** 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.

§ 12. **Execution of warrant in capital cases.** 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.

*§ 13. **Ball and chain, etc., prohibited.** That it shall be unlawful for the authorities of any city, village, town, or other municipal corporation, or other person, to require any person, as a punishment for crime, or the violation of any ordinance or municipal regulation, to labor upon the streets, parks, or other public works, with ball and chain attached; or to cause or require any such person, as a punishment for crime, to be held, tied or bound in public: *provided*, that this act shall not be so construed as to prevent any person under arrest being tied or bound, for the purpose of taking such person to or to and from any jail, prison, or other place used for holding in custody persons under arrest. (1874, c. 45, § 1.)

CHAPTER CXIX.

PARDONS.

SECTION.

1. **Governor may grant pardons—conditions and limitations—warrant to carry pardon into effect.**

SECTION.

2. **Officer executing warrant to make return, etc.**

§1. **Governor may grant pardons, when—warrant.** 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