

MINNESOTA STATUTES 1953 ANNOTATIONS

610.47 CRIMES, GENERAL PROVISIONS

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not restore the civil rights of the convict until the board of pardons has eliminated the conditions. OAG June 30, 1948 (68-H).

Civil rights can be restored only by the governor of the state in accordance with the provisions of section 610.41. Military service and subsequent honorable discharge does not restore civil rights. OAG Feb. 25, 1952 (68-H).

One who has been convicted of a felony cannot, because of the provisions of section 340.13 and like provisions of a Minneapolis city ordinance, be granted a liquor license by the city of Minneapolis even though he has been paroled and restored to his civil rights. OAG Nov. 23, 1948 (218-G).

Person convicted of a felony and under the jurisdiction of the state board of parole and who has not been restored to civil rights was a citizen of the United States, but without the right to vote or hold public office, and the director of civil service in his discretion could permit such person to take a civil service examination if otherwise eligible therefor. OAG Feb. 9, 1950 (644-C).

610.47 INCRIMINATING TESTIMONY NOT TO BE USED

The privilege against self-incrimination is not applicable where there is a statutory immunity based on the disclosure. 34 MLR 696.

Where inference was strong that defendants were real objects of investigation being conducted by public examiner and that they objected for that reason to being required to testify, but they yielded to insistence of public examiner and gave testimony which was asserted to have been false, the constitutional privilege and statutory immunity, if any, was for past offenses, not for such offenses as might be committed while testifying under the immunity, and, hence, defendants could not successfully plead immunity from prosecution for testifying falsely before the public examiner. State v Nolan, 231 M 522, 44 NW(2d) 66.

This section does not apply to an examination conducted under section 215.16. State v Gensmer, 235 M 72, 51 NW(2d) 680.

610.49 CONVICT AS WITNESS

By statute a person convicted of a crime shall nevertheless be a competent witness, but the prior conviction may be shown to discredit his testimony. 36 MLR 735. State v Sauer, 42 M 258, 44 NW 115; Brase v Williams Sanatorium, 192 M 304, 256 NW 176.

610.52 ALIEN CONVICTS OR INSANE PERSONS, NOTICE TO UNITED STATES IMMIGRATION OFFICERS

Aliens; constitutional restraints on expulsion or exclusion. 37 MLR 440.

CHAPTER 611

RIGHTS OF ACCUSED

611.01 TO KNOW GROUND OF ARREST

Right to public trial; exclusion of public from the federal courtroom. 33 MLR 662.

Criminal jurisdiction of a state over defendant based upon presence secured by force or fraud. 37 MLR 91.

State jurisdiction not controlled by federal statute. 37 MLR 94.

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RIGHTS OF ACCUSED 611.07

Evidence defendants' other crimes; admissibility in Minnesota. The exclusion theory in practice. 37 MLR 608.

611.02 PRESUMPTION OF INNOCENCE; CONVICTION OF LOWEST DEGREE, WHEN

An instruction that reasonable doubt is "a doubt for which a juror who says he has such doubt about a defendant's guilt can give as a reason for entertaining" approved. 35 MLR 534.

Instructions to a jury on the law of circumstantial evidence are given solely to guide the jury in its evaluation of inculpatory circumstantial evidence and have no application to exculpatory circumstantial evidence, which the jury in determining whether defendant is guilty beyond a reasonable doubt must consider and evaluate wholly free of the restrictive limitations governing the use of inculpatory evidence. *State v Waltz*, 237 M 409, 54 NW(2d) 793.

Where the evidence, as in the case at bar, is competent and sufficient to sustain a conviction beyond a reasonable doubt, it is for the jury to judge the credibility of the witnesses, to find the facts, and draw inferences in the light of all the evidence, and its verdict must stand. Where there is both direct and circumstantial evidence, it is not error, in the absence of a request, to omit jury instructions as to circumstantial evidence, and a request for an instruction which is incorrect as applied to the facts of the case may properly be denied. *State v Waltz*, 237 M 409, 54 NW(2d) 793.

Where conviction of a crime rests upon circumstantial evidence, all the circumstances approved must be consistent with the hypothesis that the accused is guilty and inconsistent with any rational hypothesis except that of his guilt. *State v Pankrat*, M, 57 NW(2d) 635.

611.03 CONVICTION

Admissibility of confessions obtained by enforcement officers. 36 MLR 271, 274.

611.033 COPY OF CONFESSION OR ADMISSION

HISTORY. 1951 c 263 s 1; 1951 c 284 s 1.

611.04 DISMISSAL

The only time it is necessary to impanel a grand jury is to consider evidence of the commission of a crime involving punishment by life imprisonment in the state prison. OAG Oct. 29, 1952 (260-B).

611.06 DEFENDANT ENTITLED TO BLANK SUBPOENAS

HISTORY. RS 1851 c 132 s 265; PS 1858 c 118 s 31; GS 1866 c 92 s 11; GS 1878 c 92 s 11; GS 1894 s 6282; RL 1905 s 4788; GS 1913 s 8512.

611.07 COUNSEL FOR DEFENSE

HISTORY. 1869 c 72 s 1; 1876 c 56 s 1; GS 1878 c 92 s 12; GS 1894 s 6283; RL 1905 s 4789; GS 1913 c 8513; 1917 c 496 s 1; 1947 c 430 s 1; 1953 c 475 s 1.

Due process is the sentencing of a criminal; right of offender to be informed of pre-sentence information in open court. 34 MLR 470.

The provisions of section 611.07 are applicable to misdemeanors under statutes or municipal ordinances relating to the selling of intoxicating liquor without a license. *State v Martin*, 223 M 414, 27 NW(2d) 158.

The United States constitution does not require a state to provide the expenses of an appeal for an indigent defendant in a criminal case, and the constitution and statutes of Minnesota neither compel nor authorize such procedure. *State v Lorenz*, 235 M 221, 50 NW(2d) 270.

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Where a lawyer is assigned to defend indigent accused persons the court fixes the amount of his compensation which shall not exceed \$25 a day for the actual number of days employed. OAG July 30, 1947 (799-K).

An attorney appointed by the court is entitled to be paid the compensation determined by the court when he serves an accused by procuring a dismissal of a felony charge and submits a plea of guilty to a gross misdemeanor. OAG May 18, 1950 (779-K).

611.11 NO PRESUMPTION FROM FAILURE TO TESTIFY

When an investigation by the grand jury embraced evasions of income taxes and the question propounded to the president of the corporation with reference to expenditures made from a certain corporate account indicated that some payments therefrom might have been made to the president, the questions disclose sufficient reasonable cause for the witness to apprehend danger of incrimination if he answered or explained his failure to answer, to entitle the witness to assert his privilege against self-incrimination. *Kiewel v United States*, 204 F(2d) 1.

611.13 PUBLIC DEFENDER, RAMSEY COUNTY

HISTORY. Amended, 1951 c 657 s 1; 1953 c 84 s 1.

CHAPTER 612

OFFENSES AGAINST SOVEREIGNTY

612.01 TREASON

HISTORY. GS 1866 c 93 s 1, 2, 4; GS 1878 c 93 s 1, 2, 4; Penal Code s 35; GS 1894 s 6319; RL 1905 s 4793; GS 1913 s 8517.

612.04 WILFUL NEGLECT OF OFFICIAL DUTY

HISTORY. RS 1851 c 109 s 15; 1852 Amend p 25 c 122; PS 1858 c 98 s 15; GS 1866 c 91 s 8; GS 1878 c 91 s 8; GS 1894 s 6266; RL 1905 s 4796; GS 1913 s 8520.

612.06 FALSE REPORTS DECLARED UNLAWFUL

HISTORY. 1917 c 463; 1919 c 93 s 1.

612.07 INSUBORDINATION DECLARED UNLAWFUL

HISTORY. 1917 c 463; 1919 c 93 s 2.

The right of free speech and the right to remain silent must yield to national interest, justifiably thought to be of larger importance. The excluding of Communists from a bargaining process is legal where the Congress advises that the Communistic influence is a threat of substantive evil to the national interest. *National Maritime Union v Herzog*, 78 F Supp 146.