

89022

# GENERAL STATUTES OF MINNESOTA

## SUPPLEMENT 1917

CONTAINING THE AMENDMENTS TO THE GENERAL STATUTES  
AND OTHER LAWS OF A GENERAL AND PERMANENT  
NATURE, ENACTED BY THE LEGISLATURE  
IN 1915, 1916, AND 1917

WITH NOTES OF ALL APPLICABLE DECISIONS

COMPILED BY

FRANCIS B. TIFFANY



WEST PUBLISHING CO.

1918

**8300. Notice—To whom given—**In criminal cases, if the prisoner is confined in a town, village, city or county jail, notice of the time and place at which the writ is returnable shall be given to the county attorney of the county from which the prisoner was committed, if such county attorney is within his county; if the prisoner is confined in a state institution, said notice shall be given to the attorney general, whose duty it shall be to appear for the person named as respondent in said writ; in other cases, like notice shall be given to any person interested in continuing the custody or restraint of the party seeking the aid of such writ. (Amended '15 c. 227 § 1)

**8311. Appeal to supreme court—**

An appeal from an order denying a writ and remanding the prisoner does not stay the criminal proceedings, so as to prevent commitment under the conviction (123-84, 142+1051). Habeas Corpus, [§113\(8\)](#).

An order discharging relator is appealable, though no stay was obtained in the court below (135-320, 160+858). Habeas Corpus, [§113\(3\)](#).

**8312. Hearing on appeal—**

135-320, 160+858; note under § 8311.

Relator, having made no application under this section, is in no position to invoke its provisions (124-456, 145+167). Habeas Corpus, [§113\(6\)](#).

## CERTIORARI

**8313. Within what time writ issued—**

If an appeal lies under § 8001, certiorari is not an available remedy (161+1055). Certiorari, [§5\(1\)](#).

Certiorari, based on stipulation, and not on judgment entered, dismissed (127-519, 148+1082).

It is not necessary that all the petitioners in a ditch proceeding sought to be reviewed on certiorari be named as respondents (161+714). Drains, [§37](#).

A writ issued to the judge of a district court, instead of to the district court, is not erroneous (161+714). Certiorari, [§45](#).

A judgment awarding compensation under the workmen's compensation act may be opened on sufficient showing of newly discovered evidence, even after the lapse of the 60-day period for review by certiorari (134-189, 158+825). Master and Servant, [§411](#).

Appealability of order denying motion to dismiss (see 129-300, 152+541). Certiorari, [§70\(1\)](#).

**8314. When served—**

On certiorari to review the action of respondent judge in a ditch proceeding, it was not necessary to serve a copy of the order allowing the writ. On certiorari to review the proceedings of respondent judge in a ditch proceeding, service of the writ upon the attorney for the petitioners in such proceeding was sufficient notice to them (161+714). Drains, [§37](#).

**8315. Surety for costs in civil case—**

161+714.

**8317. When dismissed—Costs—**

Appealability of order denying a motion to dismiss (see 129-300, 152+541). Certiorari, [§70\(1\)](#).

## CHAPTER 89

### ASSIGNMENTS FOR BENEFIT OF CREDITORS

**8326. Requisites—**

An assignment is the exercise of a common-law right, and the assignee derives his title and power of sale from the deed of assignment, and not under the statute; and absence of approval of a sale by the court does not render the sale void, but only voidable (125-24, 145+404). Assignments for Benefit of Creditors, [§240](#), 244, 246.

A sale of land by an assignee, in which all parties interested acquiesced, is not open to objection more than ten years thereafter, where the assignee was discharged after such sale was made on the ground that he had fully performed his trust (125-24, 145+404). Assignments for Benefit of Creditors, [§250](#).

Nature of interest of creditor in assigned estate; garnishment thereof (see 130-392, 153+740). Assignments for Benefit of Creditors, [§184](#); Garnishment, [§31](#).