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THE

PUBLIC STATUTES

OF THE

STATE OF MINNESOTA.

(1849—1858.)

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CHAPTER 116.

JUDGMENTS IN CRIMINAL CASES, AND THE EXECUTION THEREOF.

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[Chapter 130, Revised Statutes.]

(1.) SEC. CCXXIII. 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.

Where no punishment is provided by statute, court may award sentence.

(2.) SEC. CCXXIV. Every court before whom any person shall be convicted upon an indictment for any offense not punishable with death, or by imprisonment in the territorial 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.

When in addition to other sentence may be required to recognize to keep the peace.

(3.) SEC. CCXXV. 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 such recognizance.

(4.) SEC. CCXXVI. Whenever any person convicted of an offense shall be sentenced to pay a fine, or costs, or to be imprisoned in the county jail, or territorial 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.

Upon conviction and sentence, clerk shall deliver transcript of conviction of the sheriff.

(5.) SEC. CCXXVII. In every case in which the punishment in the territorial prison is awarded against any convict, the form of the sentence shall be, that he be punished by confinement at hard labor; and he shall also be sentenced to solitary imprisonment for such term as the court shall direct, not exceeding twenty days at one time; and in the execution of such punishment, the solitary imprisonment shall precede the punishment by hard labor, unless the court shall otherwise order.

In case of punishment in territorial prison, sentence how made.

(6.) SEC. CCXXVIII. Whenever it shall appear to the court, at the time of passing sentence upon any convict, who is to be punished by confinement in the territorial 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 territory, in which there may be a jail suited to that pur-

Sentence how made when there is no jail in the county.

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. CCXXXIX. 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.