

GENERAL STATUTES

OF THE

STATE OF MINNESOTA,

IN FORCE JANUARY, 1891.

VOL. 2.

CONTAINING ALL THE LAW OF A GENERAL NATURE NOW IN FORCE AND NOT IN
VOL. 1, THE SAME BEING THE CODE OF CIVIL PROCEDURE AND ALL REME-
DIAL LAW, THE PROBATE CODE, THE PENAL CODE AND THE CRIM-
INAL PROCEDURE, THE CONSTITUTIONS AND ORGANIC ACTS.

COMPILED AND ANNOTATED

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CHAPTER 104 (G. S. ch. 118).

JUDGMENTS IN CRIMINAL CASES AND THE EXECUTION THEREOF.

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SEC. 6873. **Entry of judgment.**— 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.

G. S. ch. 118, § 1.

SEC. 6874. **Transcript for 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.

G. S. ch. 118, § 2.

SEC. 6875. **Sentence to state prison.**— 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.

G. S. ch. 118, § 5. 26 M. 497.

SEC. 6876. **When punishment 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.

G. S. ch. 118, § 6.

SEC. 6877. **Recognizance, 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.

G. S. ch. 118, § 7.

SEC. 6878. 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.

G. S. ch. 118, § 8.

SEC. 6879. Where no jail in 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.

G. S. ch. 118, § 9.

SEC. 6880. 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, ch. 45: "An act to prohibit the use of the ball and chain and the punishment of criminals in public." Approved February 24, 1874.

CAPITAL CASES.

SEC. 6881. Record 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.

G. S. ch. 118, § 3. See 14th amendment to United States constitution. 38 M. 370; 41 N. W. 463.

SEC. 6882. 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.

G. S. ch. 118, § 4.

SEC. 6883. Who may be respited.—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.

G. S. ch. 118, § 10.

SEC. 6884. **How punishment of death inflicted.**—The mode of inflicting the punishment of death shall in all cases be hanging by the neck until the person is dead.

1889, ch. 20, § 1: "An act providing the mode of inflicting the punishment of death, the manner in which the same shall be carried into effect, and declaring a violation of any of the provisions of this act to be a misdemeanor." Approved April 24, 1889. Repeals all inconsistent acts. G. S. ch. 118, § 11, provided: "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." This seems to be superseded by §§ 1, 3, ch. 20, acts 1889.

SEC. 6885. **Execution of warrant.**—Whenever the punishment of death is inflicted upon any convict in obedience to a warrant from the governor of the state, 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 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.

1889, ch. 20, § 2. Same as § 12, ch. 118, G. S.

SEC. 6886. **How executed.**—The warrant of execution shall be executed before the hour of sunrise of the day designated in the warrant and within the walls of the jail in all cases where the jail is so constructed that it can be conveniently done therein; but when the jail is not so constructed, the warrant shall be executed within an enclosure which shall be higher than the gallows, and shall exclude the view of persons outside, and which shall be prepared for that purpose, under the direction of the sheriff, in the immediate vicinity of the jail, or if there be no jail in the county, at some convenient place at the county seat, to be selected by the sheriff.

1889, ch. 20, § 3.

SEC. 6887. **Solitary confinement.**—After the issue of the warrant for execution by the governor, the prisoner shall be kept in solitary confinement, and the following persons shall be allowed to visit him, but none other, viz.: The sheriff and his deputies, the prisoner's counsel, any priest or clergyman the prisoner may select, and the members of his immediate family.

1889, ch. 20, § 4.

SEC. 6888. **Present at execution.**—Besides the sheriff and his assistants, the following persons may be present at the execution, but none other: The clergyman or priest in attendance upon the prisoner and such other persons as the prisoner may designate, not exceeding three in number, a physician or surgeon, to be selected by the sheriff, and such other persons as the sheriff may designate, not exceeding six in number, but no person so admitted shall be a newspaper reporter or representative. No account of the details of such execution, beyond the statement of the fact that such convict was on the day in question duly executed according to law, shall be published in any newspaper.

1889, ch. 20, § 5.

SEC. 6889. **Penalty.**—Any person who shall violate or omit to comply with any of the provisions of this act shall be guilty of a misdemeanor.

1889, ch. 20, § 6.