

1944 Supplement
To
Mason's Minnesota Statutes, 1927
and
Mason's 1940 Supplement

Containing the text of the acts of the 1941 and 1943 Sessions of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state and federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota together with Law Review Articles and digest of all common law decisions.

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commutations, whether a violation of their conditions is evidenced by subsequent conviction of otherwise, is to give the released convict notice of the board's intention and of a time and place when and where he can be heard. Op. Atty. Gen. (328a-9), May 18, 1943.

Period of release granted conditionally by pardon board may operate as a suspension of the sentence rather than as a part of the sentence, and a condition may be imposed which would permit imprisonment for unexpired portion of sentence, even after the expiration of the period covered by the original sentence. Id.

10773. Duty of board—Final discharge.

A commutation of sentence to a term of 4½ months, with reservation of right to revoke commutation for misconduct, does not restore civil rights. Op. Atty. Gen. (68h), Sept. 13, 1940.

Convict is not entitled to restoration of civil rights when he can still be recommitted for a violation of conditional pardon, and this was true where sentence was unconditionally commuted by Board of Pardons to a term of four years, and later Board of Pardons granted another commutation subject to certain conditions of conduct, board not having filed a certificate of absolute discharge. Op. Atty. Gen. (328b-2), Feb. 25, 1943.

When board of pardon grants releases through an unconditional commutation of sentence and so certifies, governor on receipt of certification may in his discretion restore such persons to civil rights, but then a prisoner is released through a commutation granted on condition the pardon board's jurisdiction is not completely terminated and governor has no power to restore civil rights before the final disposition of the sentence. Op. Atty. Gen. (68h), May 18, 1943.

10775. Supervision by board—Agents.

Provisions authorizing board of parole to charge expenses of parole of prisoners from state penal institutions to funds of respective institutions are still in force, but are temporarily suspended. Op. Atty. Gen., (640), Dec. 5, 1933.

10777. Rules governing paroles, etc.

Board may adopt rule that a parole may be rescinded as of date of violation though case is not considered until, some time later. Op. Atty. Gen. (328a-9), Apr. 19, 1943.

10778-1. Governor may enter into reciprocal agreement.

Under reciprocal compact no formal requisition, governor's warrant in extradition; hearing to accuse or take him before a judge to obtain waiver of his right to habeas corpus, is necessary. Op. Atty. Gen., (193a-4), March 4, 1940.

Opinion of March 4, 1940, that under reciprocal compact no formal requisition, governor's warrant in extradition, hearing to accuse or take him before judge to obtain waiver of his right to habeas corpus, is necessary, is limited to cases covered by interstate compact, where a parolee is allowed to go into another state by consent of both, and does not cover case of a person, paroled within a state, who thereafter flees to another state. Op. Atty. Gen. (193a-4), Nov. 14, 1940.

Interstate compact as to parolees does not cover parolee who has fled from paroling state, and he is subject to extradition. Op. Atty. Gen. (193a-4), June 15, 1942.

BOARD OF PARDONS

10780. Pardons—Reprieves—Unanimous vote—Pardon extraordinary.—Such board may grant an absolute or a conditional pardon, but every conditional pardon shall state the terms and conditions on which

it was granted. A reprieve in a case where capital punishment has been imposed may be granted by any member of the board, but for such time only as may be reasonably necessary to secure a meeting for the consideration of an application for pardon or commutation of sentence. Every pardon or commutation of sentence shall be in writing, and shall have no force or effect unless granted by a unanimous vote of the board duly convened.

Any person, convicted of crime in any Court of this State, who was under the age of 21 years at the time when said criminal act was committed, and which person has served the sentence imposed by the said Court and complied with all the orders of said Court with respect thereto, including probation or parole, and has been discharged of said sentence either by order of Court or by operation of law, may petition the board of pardons for the granting of a pardon extraordinary. If the board of pardons shall determine that such person has been convicted of no criminal acts other than the act upon which such conviction was founded and is of good character and reputation, the board may, in its discretion, grant to such person a pardon extraordinary. Such pardon extraordinary, when granted, shall have the effect of restoring such person to all civil rights, and shall have the effect of setting aside said conviction and nullifying the same and of purging such person thereof and such person shall never thereafter be required to disclose the said conviction at any time or place other than in a judicial proceeding thereafter instituted.

The application for such pardon extraordinary and the proceedings thereunder and notice thereof shall be governed by the statutes and the rules of the board in respect to other proceedings before the board and shall contain such further information as the board may require. (As amended Act Apr. 22, 1941, c. 377, §§1-4.)

Pardon for purpose of restoring citizenship in another state was no bar to imposition of a double sentence on subsequent conviction. State v. Stern, 210M107, 297NW 321. See Dun. Dig. 7296.

A commutation of sentence to a term of 4½ months, with reservation of right to revoke commutation for misconduct, does not restore civil rights. Op. Atty. Gen. (68h), Sept. 13, 1940.

Under the old form for conditional pardons or commutations there was not as now a requirement of waiver by the prisoner of the right to notice and hearing before a revocation, and in the circumstances the safe course to follow before the revocation of such former pardons or commutations, whether a violation of their conditions is evidenced by subsequent conviction or otherwise, is to give the released convict notice of the board's intention and of a time and place when and where he can be heard. Op. Atty. Gen. (328a-9), May 18, 1943.

Period of release granted conditionally by pardon board may operate as a suspension of the sentence rather than as a part of the sentence, and a condition may be imposed which would permit imprisonment for unexpired portion of sentence, even after the expiration of the period covered by the original sentence. Id.

CHAPTER 105

State Prison and State Reformatory

STATE PRISON

10787. Location and management.

Act Mar. 5, 1941, c. 69, §1, authorizes sale to Washington County Historical Society, of warden's residence at old prison in Stillwater, Minnesota.

10795. Visitors—Fees.

Visitors' fees are not subject to federal admission tax. Op. Atty. Gen. (532A-1), Jan. 27, 1942.

10796. Clothing and food—Money on discharge.

[Repealed.]

Repealed. Laws 1943, c. 430, §4.

Op. Atty. Gen. (91c-1), May 27, 1943, June 8, 1943; note under §1021 (2), 640.32.

Every inmate at Women's Reformatory at Shakopee is entitled to be paid \$25.00 upon discharge, and it is im-

material that state has been put to much expense in pursuing and apprehending and caring for inmates. Op. Atty. Gen. (344f), May 2, 1942.

10797. Commitment papers, etc.

The warden of the state prison has the right to refuse to accept any prisoners if the sheriff delivering them does not present proper and complete commitment papers. Op. Atty. Gen., (341), June 27, 1941.

10799. United States convicts.

Rule formerly applicable to imprisonment of federal women prisoners in penitentiary now apply to imprisonment in reformatory. Op. Atty. Gen., (342f), Apr. 8, 1941.

Civil rights should be restored to convict not a resident of the state at time of conviction. Op. Atty. Gen. (68h), Mar. 5, 1943.

10808. Diminution of sentence.

A commutation of sentence to a term of 4½ months, with reservation of right to revoke commutation for misconduct, does not restore civil rights. Op. Atty. Gen. (68h), Sept. 13, 1940.

10810. No contract labor—Tools and machinery.

Employment of prisoners at state prison on county and town roads in town of Baytown. Laws 1941, c. 235.

State officials in control of business of state prison may enter into an agreement with contractor making war equipment for government, whereby contractor will furnish machines, tools and materials at state prison, provided that number of prisoners used therefor is not in excess of ten percent of those engaged in this state in the industry in question. Op. Atty. Gen. (342E), Mar. 6, 1942.

10811-1. Employment of prisoners—Roads adjacent to prison.—With the approval of the director of public institutions, the warden of the state prison may furnish the labor of prisoners in said prison and the use of such tools and equipment as may be available to the town of Baytown in said county, without charge, for repairing and maintaining county and town roads in the town of Baytown adjacent or leading to the state prison and prison farm land; the amount of such labor and use of equipment to be commensurate with the use of said roads for state prison purposes, as the warden may determine. (Act Apr. 15, 1941, c. 235, §1.) [640.265]

10812. Sale of binding twine.—The price of binder twine manufactured at the state prison shall be fixed by the warden and the director of public institutions not later than May first, each year. The director of public institutions, in his discretion, may agree to allow to purchasers of binder twine, uniform discounts from the price so fixed, on condition payment for twine purchased is made by the purchaser at the time agreed upon for such payment. Such twine shall be sold to actual consumers in quantities needed for their use, and to dealers within the state under such rules and regulations as may be provided by said director of public institutions, for cash or on terms with security as may be required and approved by the warden. Dealers desiring to purchase such twine shall enter into a written agreement with the state to sell said twine in keeping with rules and regulations established by the warden and the director of public institutions. Such agreement shall also provide that when such twine is sold for cash it shall be at a price not greater than one cent per pound above the purchase price and freight from the prison to the station where such twine is sold, and when such twine is sold on time, at a price not greater than one and a half cents per pound above the purchase price and freight, as hereinbefore prescribed.

The director of public institutions shall cause to be held in reserve at the prison until March first of each year 1,500,000 pounds of twine for the purpose of filling club and cash orders received from consumers, and thereafter until July first of each year said director of public institutions shall reduce such reserve to 500,000 pounds, after which date all twine shall be sold. The state shall retain a contingent interest in twine so sold, and if any dealer shall violate his said agreement, the director of public institutions may declare such twine forfeited to the state and retake possession thereof. Every dealer purchasing such twine shall keep it separate from other twine and also keep a correct record of all his sales, showing the date, amount, price and name and postoffice address of purchaser, which shall be open to the inspection of the warden, director of public institutions and the proper county attorney. Every dealer who shall violate the terms of said written agreement, and every person violating any provision of this section, shall be guilty of a gross misdemeanor.

Whenever in the opinion of the director of public institutions and the warden of the prison, the best interests of the state require such action, such binder

twine may be sold to dealers or consumers without the state in conformity with federal and individual state laws governing the sale of binder twine. (As amended Apr. 10, 1941, c. 168, §1.)

Sale of products manufactured in factory in state prison at Stillwater is subject to §§10812, 10815, and 10816, and is not affected or controlled by the Reorganization Act. Op. Atty. Gen., (342e), Jan. 5, 1940.

10814. Number employed in one industry.—The number of prisoners employed in a single industry at the same time, at either the state prison or the state reformatory shall not exceed 10 per cent of the total number of men engaged in such industry in this state unless a greater number is necessary to produce materials or articles to be supplied to the state or to any agency or governmental subdivision thereof. The number employed in any such industry shall be determined by a commission of three to consist of the chairman of the Minnesota industrial commission, who shall be chairman, the director of public institutions, and a citizen of the state engaged or interested in some manufacturing industry, not connected with the state prison, or reformatory, to be appointed by the governor. Provided, however, that this section shall not apply to the number of prisoners employed in the manufacture of binding twine in the state prison, nor shall it apply to the number of prisoners employed in the manufacture of brushes at the state reformatory, nor shall it apply to the number of prisoners hereafter employed in the manufacture of farm machinery and implements at the state prison, nor shall it apply to the number of prisoners hereafter employed at the state prison in any industry not now carried on in this state and which may be hereafter inaugurated at said state prison. (As amended Act Apr. 21, 1941, c. 334, §1.)

Op. Atty. Gen. (342E), Mar. 6, 1942; note under §10810.

10815. State prison may manufacture machinery.

Sale of products manufactured in factory in state prison at Stillwater is subject to §§10812, 10815, and 10816, and is not affected or controlled by the Reorganization Act. Op. Atty. Gen., (342e), Jan. 5, 1940.

State officers may not "offer" to sell burlap and burlap products on request of director of priorities of the federal government, notwithstanding war powers of federal government, though government has power to "requisition" any material it may need. Op. Atty. Gen. (835), May 8, 1942.

10816. Sale of machines.

Sale of products manufactured in factory in state prison at Stillwater is subject to §§10812, 10815, and 10816, and is not affected or controlled by the Reorganization Act. Op. Atty. Gen., (342e), Jan. 5, 1940.

10819. Parole of prisoners.

Board of parole has power to parole at any time a person whose life sentence has been commuted by the Board of Pardons to a period of years if the commutation of that board contains only the usual conditions subsequent that are to be complied with after the release of the convict. Op. Atty. Gen. (328a-7), Sept. 17, 1943.

Temporary reprieve to do farm work on condition that prisoner lead a law abiding life was violated by becoming intoxicated and he was not entitled to credit on his sentence. Op. Atty. Gen. (328a-9), Sept. 22, 1943.

10820. Compensation paid to prisoners.—The director of public institutions is authorized and empowered to provide for the payment to prisoners confined in the state prison or in the state reformatory for men, and the state reformatory for women of such pecuniary compensation as he may deem proper, such payment to be for first grade prisoners not less than 15 cents nor more than 60 cents per day for each day worked, the amount of compensation to depend upon the quality and character of the work performed as determined by the director of institutions and the warden or superintendent, provided that such prisoners who because of illness or physical disability cannot work may be paid not to exceed 15 cents per day. Compensation to second and third grade prisoners shall be in such amounts as the warden or superintendent shall determine with the approval of the director of public institutions. Such earnings shall be paid out of the fund provided for the carrying on of the work in which the prisoner is engaged when

employed on state account, or from the current expense fund of the institution as the director of public institutions shall determine. (As amended Act Apr. 13, 1943, c. 430, §1.)

Op. Atty. Gen. (91c-1), May 27, 1943, June 8, 1943; note under §10821 (2), 640.32.

Though purchases for inmates at state prison and state reformatory are made by division of purchases of department of administration, requirement of reorganization act of competitive bidding is not applicable, stores being owned and operated by inmates. Op. Atty. Gen. (980B-22), July 10, 1940.

10821. Monies, how used—Forfeiture.—Subdivision 1. Any money arising under section 1 of this act shall be and remain under the control of the director of public institutions, and shall be for the sole benefit of the prisoner, unless by special order of the director of public institutions it shall be used for rendering assistance to his family or dependent relatives, under such regulations as to time, manner and amount of disbursements as the director of public institutions may prescribe. Unless ordered disbursed as hereinbefore prescribed or for an urgency determined, in each case, by the warden or superintendent, at least one-half of such earnings shall be set aside and kept by the institution in the public welfare fund of the state for the benefit of the prisoner and for the purpose of assisting him when he leaves the institution and if released on parole said sum to be disbursed to the prisoner in such amounts and at such times as the board of parole may authorize and on final discharge, if any portion remains undisbursed, it shall be transmitted to the prisoner.

Subd. 2. **Warden to increase fund to \$25.00.**—If the fund standing to the credit of the prisoner on his leaving the institution by discharge or on parole be less than \$25.00, the warden or superintendent is directed to pay out of the current expense fund of the institutions sufficient funds to make the total of said earnings the sum of \$25.00. (As amended Apr. 13, 1943, c. 430, §2.)

If a convict on parole dies leaving a credit on the prison books, funds are to be disposed of in accordance with regulations in force, but if there are no regulations in force at the time, then the money can only be distributed in the manner ordered by the probate court having jurisdiction. Op. Atty. Gen. (91i), May 20, 1943.

Women on parole at the time of passage of Laws 1943, c. 430. Op. Atty. Gen. (91c-1), July 28, 1943.

Subd. 2.

Prisoner is entitled to \$25 when he leaves the prison whether he leaves by parole or upon completion of his sentence, and not when his freedom is finally made permanent by the giving of final discharge, though he would be entitled to two such payments where he is returned to the prison for violation of his parole and then released the second time on expiration of his sentence. Op. Atty. Gen. (91c-1), May 27, 1943, June 8, 1943.

In absence of some other arrangement war bonds purchased by prisoner to be considered as his personal property and not "as standing to the credit of the prisoner." Op. Atty. Gen. (91i), June 8, 1943.

Payment of \$25 is not made when inmate of reformatory has been transferred to insane hospital, even though sentence has expired, but when he is discharged from hospital. Op. Atty. Gen. (91c-1), June 15, 1943.

STATE REFORMATORY

10825. Transfer of prisoners.

Director of public institutions may transfer any prisoner sentenced by a state court, whether sentenced for

life or for a less period, from either of penal institutions mentioned to the other. Op. Atty. Gen. (91N-2), Feb. 19, 1942.

Where prisoner was sentenced to serve term in St. Cloud Reformatory and was paroled and later was convicted of another crime and was sentenced to state prison, he should serve the reformatory term first and may be transferred to the reformatory for that purpose. Op. Atty. Gen. (341k), Apr. 19, 1943.

10828. Record of conduct—Release, etc.

A commutation of sentence to a term of 4½ months, with reservation of right to revoke commutation for misconduct, does not restore civil rights. Op. Atty. Gen. (68h), Sept. 13, 1940.

FEMALE CONVICTS

10835. Transfer of women convicts.

Rules formerly applicable to imprisonment of federal women prisoners in penitentiary now apply to imprisonment in reformatory. Op. Atty. Gen., (342f), Apr. 8, 1941.

10836. Sentences to be to state reformatory.

Every inmate at Women's Reformatory at Shakopee is entitled to be paid \$25.00 upon discharge, and it is immaterial that state has been put to much expense in pursuing and apprehending and caring for inmates. Op. Atty. Gen. (344f), May 2, 1942.

10838. Discharge from reformatory — Clothing — Money.—Upon the release by discharge or on parole of any inmate of the state prison, the state reformatory for men or the state reformatory for women, the warden or superintendent, at the expense of the state, shall furnish each inmate released with one good, serviceable outfit of clothing, and, when released during the winter months between approximately October 1 and March 31 following, with a good, serviceable overcoat. (As amended Apr. 13, 1943, c. 430, §3.)

Op. Atty. Gen. (91c-1), May 27, 1943, June 8, 1943; note under §1021 (2), 640.32.

Every inmate at Women's Reformatory at Shakopee is entitled to be paid \$25.00 upon discharge, and it is immaterial that state has been put to much expense in pursuing and apprehending and caring for inmates. Op. Atty. Gen. (344f), May 2, 1942.

10839. State Reformatory for Women established.

Board of parole is not bound by minimum sentences and may parole prisoners at any time. Op. Atty. Gen., (341k-5), June 16, 1941.

STATE BOARD OF CRIMINAL CLASSIFICATION

10846-1 to 10846-9. [Repealed.]

Where sentence was pronounced under Laws 1935, c. 207, and execution postponed until after passage of Laws 1939, c. 71, and after abolition of Board of Classification, court should amend sentence and direct that defendant be taken to a penal institution certain. Op. Atty. Gen. (341k-8), Oct. 22, 1941.

Where defendant was sentenced when board of classification was in existence and placed on probation and after abolishment of such board he was sentenced for a second crime, court could not revoke probation and amend first sentence by changing institution of confinement. Op. Atty. Gen. (341k-3), Dec. 11, 1941.

EMPLOYMENT OF PRISONERS IN CONSERVATION WORK

10846-13. May expend moneys.

Operation of state owned farms by the State Reformatory at St. Cloud—Use of inmate labor thereon—Payment of expenses of operation—Funds available. Op. Atty. Gen. (270j), May 1, 1942.

CHAPTER 106

Jails, Lockups, Work Farms, and Juvenile Offenders

COUNTY JAILS

10847. How constructed and maintained.

County commissioners may in their discretion restrict use that can be made of any portion not necessary for use of sheriff and his family for resident purposes, and if remainder is rented out or used for any purpose, revenue should go to county treasurer. Op. Atty. Gen., (390a-17), Apr. 4, 1941.

Exclusion of a sheriff from his residence in court house adjoining county jail and use of residence for other purposes. Op. Atty. Gen. (390a-17), Dec. 2, 1942.

10849. United States prisoners.

Jailer was not liable for false imprisonment for detaining a prisoner beyond expiration of his sentence, prisoner having been confined in a jail in another county, where there was nothing in commitment received by