

CHAPTER 638

BOARD OF PARDONS

638.01 BOARD OF PARDONS; HOW CONSTITUTED; POWERS.

HISTORY. 1897 c. 23 s. 1; R.L. 1905 s. 5424; G.S. 1913 s. 9281; G.S. 1923 s. 10779; M.S. 1927 s. 10779.

The four justices were equally divided as to whether or not defendant, having applied for and received a commutation, has now a right to appeal. *State v Corrivau*, 93 M 38, 100 NW 638.

The commutation issued to the petitioner was conditioned upon his leading a law-abiding life, and having failed to keep these conditions the board could revoke the commutation without notice and without a hearing. A hearing had upon a return to a writ of habeas corpus is sufficient protection. *Guy v Utecht*, 216 M 255, 12 NW(2d) 753.

Indeterminate sentence and parole. 10 MLR 460.

638.02 PARDONS; REPRIEVES; UNANIMOUS VOTE.

HISTORY. 1897 c. 23 s. 2; R.L. 1905 s. 5425; G.S. 1913 s. 9282; G.S. 1923 s. 10780; M.S. 1927 s. 10780; 1941 c. 377.

Where a conditional pardon has been granted, the burden of proof of performance of the condition rests upon him who relies upon the effectiveness of the pardon. *State v Barnett*, 193 M 336, 258 NW 508.

The state board of pardons may grant a conditional pardon, and this carries with it the power to grant conditional commutations, which to be binding must be accepted by the prisoner. *Guy v Utecht*, 216 M 255, 12 NW(2d) 753.

Where a commutation is granted and later revoked for cause, the prisoner receives credit on his original sentence for the time he was out on commutation. OAG Aug. 29, 1939 (341L-1).

Pardons; delegation of power. 12 MLR 292.

Conditional pardons; necessity of due process to revoke; right to judicial inquiry into breach of conditional pardon. 24 MLR 585.

638.03 WARRANT; RETURN.

HISTORY. 1897 c. 23 ss. 2, 3; R.L. 1905 s. 5426; G.S. 1913 s. 9283; G.S. 1923 s. 10781; M.S. 1927 s. 10781.

638.04 MEETINGS.

HISTORY. 1897 c. 23 s. 4; R.L. 1905 s. 5427; G.S. 1913 s. 9284; G.S. 1923 s. 10782; M.S. 1927 s. 10782.

638.05 APPLICATION FOR PARDON.

HISTORY. 1897 c. 23 s. 5; R.L. 1905 s. 5428; G.S. 1913 s. 9285; G.S. 1923 s. 10783; M.S. 1927 s. 10783.

638.06 ACTION ON APPLICATION.

HISTORY. 1897 c. 23 s. 6; R.L. 1905 s. 5429; G.S. 1913 s. 9286; G.S. 1923 s. 10784; M.S. 1927 s. 10784.

MINNESOTA STATUTES 1945 ANNOTATIONS

638.07 BOARD OF PARDONS

4394

638.07 RECORDS; SECRETARY.

HISTORY. 1897 c. 23 ss. 5, 7, 8; R.L. 1905 s. 5430; G.S. 1913 s. 9287; 1921 c. 427 s. 1; G.S. 1923 s. 10785; M.S. 1927 s. 10785.

The record of a pardon kept in the governor's office pursuant to section 638.07 is an original record and cannot be collaterally attacked by secondary evidence of what was contained in the records in the pardon board office. *Guy v Utecht*, 216 M 256, 12 NW(2d) 753.

638.08 ISSUANCE OF PROCESS; WITNESSES; STANDING APPROPRIATION.

HISTORY. 1897 c. 23 ss. 8, 9; R.L. 1905 s. 5431; G.S. 1913 s. 9288; G.S. 1923 s. 10786; M.S. 1927 s. 10786.

The constitutional and legislative provisions relative to home rule charters of villages and cities do not authorize a city to grant to its city council the right to punish a witness called before it for contempt. Such power is not to be inferred but must be clearly granted either by the constitution or by statute. *State ex rel v Fitzgerald*, 131 M 116, 154 NW 750.