

CHAPTER 638

BOARD OF PARDONS

638.01 BOARD OF PARDONS; HOW CONSTITUTED; POWERS.

Under Minnesota Constitution, art. 5, s. 4, and MSA, section 638.02, 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.

Habeas corpus will not lie on a void pardon. 7 MLR 424.

Indeterminate sentence and parole. 10 MLR 460.

Youth conservation act, L. 1947, c. 595, coded as MSA, section 260.125.

638.02 PARDONS; REPRIEVES; UNANIMOUS VOTE.

See, *Guy v Utecht*, 216 M 255, 2 NW(2d) 753, noted under section 638.01.

Where a prisoner on commuted sentence is shot while committing a crime, the duty of caring for him devolves on the county the same as the case of any other pauper. OAG Oct. 15, 1946 (91-N).

A pardon extraordinary may be granted only to a person who meets the requirements of section 638.02. OAG April 15, 1947 (328-B).

Pardons; delegation of power. 12 MLR 291.

Pardon cannot be attacked in habeas corpus proceedings on the ground of fraud. 14 MLR 421.

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

Effect of acceptance of pardon for innocence on right of appeal. 26 MLR 275.

Violation of conditional pardon. 27 MLR 200.

638.05 APPLICATION FOR PARDON.

Interpretation of term "conviction." 9 MLR 384.

638.06 ACTION ON APPLICATION.

Effect of acceptance of pardon for innocence on right of appeal. 26 MLR 273.

Effect of pardon as it relates to habitual criminal act. 26 MLR 274.

638.07 RECORDS; SECRETARY.

Under Minnesota Constitution, art. 5, s. 4, and M. S. 1941, section 638.02, 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. 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. The commutation issued to petitioner in the instant case was conditioned upon his leading a law-abiding life, and, in the event of a breach of its conditions, the pardon board reserved to itself the right to revoke the commutation and cause petitioner to be remanded to serve the remainder of his sentence. These conditions were in the commutation when it was executed by the pardon board and accepted by petitioner. Under such reservation, the pardon board had authority to revoke the

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commutations without notice and hearing, and in so doing did not violate the rights of petitioner under the due process clause of U. S. Const. Amend. XIV. Absent such reservation of the right to revoke, the prisoner is entitled to a hearing to refute the charge that he has violated the conditions of his pardon. A hearing had upon a return to a writ of habeas corpus satisfies such requirement. The record of the hearings before the trial court and the additional testimony adduced before the referee, conclusively establish that petitioner failed to lead a law-abiding life and is not entitled to his freedom. *Guy v Utecht*, 216 M 255, 12 NW(2d) 753.