

Case No. 83225

Supreme Court of Nevada

Zane Michael Floyd,

Petitioner,

vs.

The Eighth Judicial District Court of  
The State of Nevada, in and for the  
County of Clark; and The Honorable  
Michael P. Villani, District Judge,

Respondent.

State of Nevada

Real Party in Interest.

Electronically Filed  
District Court Case No. 99C15897  
Mar 14 2022 03:07 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

**Request to Take Judicial Notice  
of Historical Nevada Statutes**

DEATH PENALTY CASE

Appeal from the Eighth Judicial District Court

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Pursuant to NRS 47.140(3), Zane Michael Floyd requests this Court take judicial notice of the six Nevada statutes discussed below, which have been attached as exhibits to this request. These statutes are relevant to the arguments contained in Floyd’s petition for rehearing as they clearly demonstrate the Legislature’s intent to distinguish Nevada State Prison from other prisons in Nevada by showing the use of similar and dissimilar terms. These statutes have been included for the convenience of the reader as the information was only available from the Nevada Supreme Court’s law library.

Consideration of these historical statutes will be helpful to this Court’s resolution of the issues in Floyd’s petition for rehearing. As explained in the petition, this Court relied upon the existence of two other correctional facilities in the state in 1967 when NRS 176.355 was first enacted to determine that the context indicated that “the state prison” referred to all prisons in the state collectively, rather than a specific reference to the Nevada State Prison.<sup>1</sup> The basis of this Court’s ruling was not raised by the State or the district court in its order so the

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<sup>1</sup> *Floyd v. Eighth Judicial District Court*, Case No. 83225, Order Denying Petition at 3 (filed February 24, 2022).

petition for rehearing was Floyd's first opportunity to respond to that argument.<sup>2</sup> The statutory provisions below support Floyd's argument that the state prison was the term used by the Legislature for the Nevada State Prison even before any other prisons were constructed in the state.

All six of the documents described below are prior versions of NRS 212.030. The following documents are from early Nevada statutes, including: the 1866 Statutes of the State of Nevada, the Compiled Laws of the State of Nevada from 1861-1873, the General Statutes of the State of Nevada in force from 1861-1885, The Compiled Laws of Nevada in Force from 1861-1900, the Revised Laws of Nevada from 1912, and Nevada Compiled Laws from 1929. As such, these documents are publicly available matters of law and are subject to judicial notice. NRS 47.140(3).

Exhibit 1 is the Statutes of the State of Nevada passed at the Second Session of the Legislature 1866, which states "when any

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<sup>2</sup> To the contrary, the district court drew the opposite inference by rejecting Floyd's argument under the misapprehension that the Nevada State Prison was the only prison in existence when NRS 176.355 was enacted. 2 PA 372.

prisoner or prisoners escape from the State Prison of this State, it shall be lawful for the Warden of the State Prison to issue a warrant.”

Exhibit 2 is the Compiled Laws of the State of Nevada Embracing Statutes of 1861 to 1873, inclusive, which states “when any prisoner or prisoners escape from the State Prison of this State, it shall be lawful for the Warden of the State Prison to issue a warrant.”

Exhibit 3 is the General Statutes of the State of Nevada in force from 1861 to 1885, inclusive, which states “when any prisoner or prisoners escape from the state prison of this state, it shall be lawful for the Warden of the state prison to issue a warrant.”

Exhibit 4 is the Compiled Laws of Nevada in force from 1861 to 1900, inclusive, which states “when any prisoner or prisoners escape from the state prison of this state, it shall be lawful for the Warden of the State Prison to issue a warrant.”

Exhibit 5 is the Revised Laws of Nevada 1912, which state “when any prisoner or prisoners escape from the state prison of this state, it shall be lawful for the warden of the state prison to issue a warrant.”

Exhibit 6 is the Nevada Compiled Laws 1929, which states “when any prisoner or prisoners escape from the state prison of this state, it shall be lawful for the warden of the state prison to issue a warrant.”

Here the Court should take judicial notice of the attached exhibits as they provide clear statutory evidence of the intended meaning of the term “the state prison.” Floyd is not attempting to improperly expand the record in this matter, but rather show that the Legislature’s later amendment of NRS 212.030 shows its intent to distinguish “the state prison” from any “institution or facility of the Department of Corrections.” As such, these documents have a close relationship to determining NRS 176.355’s meaning and there is a valid reason for this Court to take judicial notice of them.

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Floyd therefore respectfully requests that this Court take judicial notice of the documents attached to this request.

Dated this 14th day of March, 2022.

Respectfully submitted,

Rene L. Valladares  
Federal Public Defender

/s/ David Anthony

David Anthony  
Assistant Federal Public Defender

/s/ Brad D. Levenson

Brad D. Levenson  
Assistant Federal Public Defender

/s/ Jocelyn S. Murphy

Jocelyn S. Murphy  
Assistant Federal Public Defender

## CERTIFICATE OF SERVICE

I hereby certify that on March 14, 2022, I electronically filed the foregoing document with the Nevada Supreme Court by using the appellate electronic filing system. The following participants in the case will be served by the electronic filing system:

Alexander G. Chen  
Chief Deputy District Attorney  
motions@clarkcountyda.com  
Eileen.davis@clarkcountyda.com

/s/ Sara Jelinek  
An Employee of the  
Federal Public Defender

## INDEX OF EXHIBITS

- Exhibit 1 Statutes of the State of Nevada passed at the Second Session of the Legislature 1866.
- Exhibit 2 Compiled Laws of the State of Nevada Embracing Statutes of 1861 to 1873.
- Exhibit 3 General Statutes of the State of Nevada in force from 1861 to 1885.
- Exhibit 4 Compiled Laws of Nevada in force from 1861 to 1900.
- Exhibit 5 Revised Laws of Nevada 1912.
- Exhibit 6 Nevada Compiled Laws 1929.



# EXHIBIT 1

# EXHIBIT 1

10-025

# STATUTES

OF THE

# STATE OF NEVADA

PASSED AT THE

*Second Session of the Legislature,*

1866,

BEGUN ON MONDAY, THE FIRST DAY OF JANUARY, AND  
ENDED ON THURSDAY, THE FIRST DAY OF MARCH.



CARSON CITY:  
JOHN CHURCH, STATE PRINTER.  
1866.

judgment and all costs. All sales of real estate sold for taxes, except as in this section otherwise provided, shall be absolute.

Treasurers  
liable on  
bond for  
misfeasance,  
etc.

SEC. 9. Every County Treasurer and his successor in office, becoming trustees under the provisions of this Act, shall be liable upon his and their official bond for any misfeasance, malfeasance, failure or neglect to perform faithfully all the duties of their trust, under the provisions of this Act.

### CHAP. LXXI.—*An Act for the Relief of J. F. Hatch.*

[Approved March 1, 1866.]

*The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:*

Controller  
authorized  
to draw  
warrant.

SECTION 1. The Controller of State is hereby authorized to draw his warrant in favor of J. F. Hatch, for the sum of three hundred dollars, payable out of the current expense fund, for services in Secretary of State's office for the months of January and February, 1866.

### CHAP. LXXII.—*An Act concerning Escaped Prisoners, and the Recapture of the Same.*

[Approved March 1, 1866.]

*The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:*

Warden may  
issue war-  
rant for  
escaped  
prisoners.

SECTION 1. Hereafter, when any prisoner or prisoners escape from the State Prison of this State, it shall be lawful for the Warden of the State Prison to issue a warrant for the recapture of said escaped prisoner or prisoners, which warrant shall have force and effect in any county in this State, and may command the Sheriff of any county in this State, or any Constable thereof, or any police officer of any city in this State, to arrest said prisoner or prisoners, and make return to the Warden, with the prisoner or prisoners who may be arrested under said warrant.

Expenses to  
be charged  
against the  
State.

Proviso.

SEC. 2. Any and all expenses of enforcing the provisions of this Act, or in any wise appertaining to the recapture and return of escaped convicts to the State Prison, shall be a charge against the State, and shall be paid out of the State Prison Fund; *provided, however*, that said escape be not the result of carelessness, incompetency, or other official delinquency, of the Warden, or other officers of the State Prison.

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# EXHIBIT 2

# EXHIBIT 2

THE  
COMPILED LAWS

OF THE  
STATE OF NEVADA.

EMBRACING  
STATUTES OF 1861 TO 1873, INCLUSIVE.

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PUBLISHED UNDER AUTHORITY OF LAW, BY  
M. S. BONNIFIELD AND T. W. HEALY,  
COMPILERS.

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In Two Volumes.  
VOL. II.



CARSON CITY:  
CHARLES A. V. PUTNAM, STATE PRINTER.  
1873.

OF THE  
SECTION

Entered, according to Act of Congress, in the year 1873, by

M. S. BONNIFIELD AND T. W. HEALY,

In the office of the Librarian of Congress, at Washington, D. C.

SECTION 2

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SECTION 2

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*An Act supplemental to an Act to provide for the government of the State Prison, approved March fourth, one thousand eight hundred and sixty-five, and to repeal certain Acts in relation thereto.*

[Approved March 14, 1865, p. 400.]

*The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:*

Controller  
to draw  
warrants  
on  
Treasurer.

3762. SECTION 1. The Controller of State is hereby authorized and directed to draw his warrants on the State Treasury, payable out of the State Prison Fund, for all accounts allowed by the Board of Prison Commissioners, on presentation; also, to draw his warrant in favor of the Warden, for his salary, as provided by law; and the Treasurer of State is hereby authorized and directed to pay the same out of the State Prison Fund.

SEC. 2. [Obsolete.]

SEC. 3. [Obsolete.]

Warden to  
report to  
Legislature

3763. SEC. 4. It is hereby made the duty of the Warden to prepare and submit to the Legislature, at the commencement of each session, a full and complete statement of all matters pertaining to the Prison for the preceding year ending on the thirty-first day of December, setting forth the number of prisoners, their age, sex, time of incarceration, with the sentence, and where from; also, a complete financial review, showing the current expenses of the fiscal year, with estimates for the ensuing year.

Acts  
repealed.

3764. SEC. 5. All Acts of the Territorial Legislature relating to State Prison, except so much as pertains to the purchase of the Prison property, are hereby repealed.

*An Act concerning escaped prisoners and the recapture of the same.*

[Approved March 1, 1866, p. 164.]

*The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:*

Warden  
may issue  
warrant for  
escaped  
prisoners.

3765. SECTION 1. Hereafter, when any prisoner or prisoners escape from the State Prison of this State, it shall be lawful for the Warden of the State Prison to issue a warrant for the recapture of said escaped prisoner or prisoners, which warrant shall have force and effect in any county in this State, and may command the Sheriff of any county in this State, or any Constable thereof, or any police officer of any city in this State, to arrest said prisoner or prisoners, and make return to the Warden, with the prisoner or prisoners who may be arrested under said warrant.

Expenses  
for  
recapture a  
charge  
against the  
State.

3766. SEC. 2. Any and all expenses of enforcing the provisions of this Act, or in any wise appertaining to the recapture and return of escaped convicts to the State Prison, shall

# EXHIBIT 3

# EXHIBIT 3



THE  
GENERAL STATUTES  
OF THE  
STATE OF NEVADA.  
IN FORCE.

FROM 1861 TO 1885, INCLUSIVE.

WITH CITATIONS OF THE DECISIONS OF THE SUPREME  
COURT RELATING THERETO.

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ARRANGED AND ANNOTATED BY

DAV. E. BAILY AND JOHN D. HAMMOND.



CARSON CITY:  
JOSIAH C. HARLOW, SUPERINTENDENT OF STATE PRINTING.  
1885.

Entered according to Act of Congress, in the year A. D. 1886,  
By DAV. E. BAILY AND JOHN D. HAMMOND,  
In the office of the Librarian of Congress, at Washington, D. C.

Sec. 1425.

STATE INSTITUTIONS.

during the preceding quarter, the amount of money collected from such sales, the amount outstanding, what for and by whom owed, the amount, description, and value of manufactured and unmanufactured stock on hand, and the amount, description and value of all tools and machinery on hand connected with the manufacture of articles at the prison.

*An Act concerning escaped prisoners and the recapture of the same.*

Approved March 1, 1866, 164.

Warden may  
issue warrant  
for escaped  
prisoners.

1425. SECTION 1. Hereafter, when any prisoner or prisoners escape from the state prison of this state, it shall be lawful for the Warden of the state prison to issue a warrant for the recapture of said escaped prisoner or prisoners, which warrant shall have force and effect in any county in this state, and may command the Sheriff of any county in this state, or any Constable thereof, or any police officer of any city in this state, to arrest said prisoner or prisoners, and make return to the Warden, with the prisoner or prisoners who may be arrested under said warrant.

Expenses for  
recapture a  
charge  
against the  
state.

Exceptions.

1426. SEC. 2. Any and all expenses of enforcing the provisions of this Act, or in any wise appertaining to the recapture and return of escaped convicts to the state prison, shall be a charge against the state, and shall be paid out of the state prison fund; *provided, however*, that said escape be not the result of carelessness, incompetency, or other official delinquency of the Warden or other officers of the state prison.

*An Act relating to prisoners discharged from the state prison.*

Approved February 1, 1875, 49.

Prisoner dis-  
charged to be  
furnished  
money.

1427. SECTION 1. Whenever any prisoner shall be discharged from the state prison of this state, either by expiration of his term of sentence, or by pardon, the Warden shall furnish him twenty-five dollars in coin, the same to be allowed and paid out of the state prison fund, the same as any other claim against said fund.

*An Act concerning convict labor.*

Approved February 24, 1881, 58.

Contracts of  
convict labor.

1428. SECTION 1. The Board of State Prison Commissioners are hereby authorized to contract for the hire of convict labor for any period not to exceed five years from date of contract, upon such terms and under such provisions as they may deem proper.

# EXHIBIT 4

# EXHIBIT 4

THE  
COMPILED LAWS OF NEVADA  
IN FORCE

FROM 1861 TO 1900 (INCLUSIVE)

WITH ANNOTATIONS FROM VOLUMES I TO XXV OF THE  
DECISIONS OF THE SUPREME COURT OF NEVADA

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COMPILED AND ANNOTATED BY  
HENRY C. CUTTING  
OF THE NEVADA BAR



SUPREME COURT LIBRARY

NOV 22 1991

SUPREME COURT BLDG.

CARSON CITY, NEVADA  
ANDREW MAUTE, SUPERINTENDENT OF STATE PRINTING  
1900



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*An Act supplemental to an Act to provide for the government of the state prison, approved March fourth, one thousand eight hundred and sixty-five, and to repeal certain Acts in relation thereto.*

Approved March 14, 1865, 400.

**Controller to Draw Warrants on Treasurer.**

1442. SECTION 1. The Controller of State is hereby authorized and directed to draw his warrants on the state treasury, payable out of the state prison fund, for all accounts allowed by the Board of Prison Commissioners, on presentation; also, to draw his warrant in favor of the Warden, for his salary, as provided by law; and the Treasurer of State is hereby authorized and directed to pay the same out of the state prison fund.

SECS. 2 and 3 are obsolete.

**Warden to Report to Legislature.**

1443. SEC. 4. It is hereby made the duty of the Warden to prepare and submit to the legislature, at the commencement of each session, a full and complete statement of all matters pertaining to the prison for the preceding year ending on the thirty-first day of December, setting forth the number of prisoners, their age, sex, time of incarceration, with the sentence, and where from; also a complete financial review, showing the current expenses of the fiscal year, with estimates for the ensuing year.

**Acts Repealed.**

SEC. 5. All Acts of the territorial legislature relating to state prison, except so much as pertains to the purchase of the prison property, are hereby repealed.

*An Act amendatory of and supplementary to an Act to provide for the government of the State Prison of the State of Nevada, approved March seventh, eighteen hundred and seventy-three.*

Approved March 2, 1875, 116.

SECTION 1 amends Sec. 13 of the Act of March 7, 1873.

**Monthly Statement by Warden, in Duplicate.**

1444. SEC. 2. On or before the tenth of each month, the Warden shall prepare a statement in duplicate, setting forth in detail the number, value, and description of all articles manufactured for sale at the prison, and the number and value of all articles sold during the preceding month. The original he shall file with the Secretary of the Board of Prison Commissioners, and the duplicate with the State Controller.

**Quarterly Statement of Warden, in Duplicate.**

1445. SEC. 3. The Warden shall also prepare a quarterly statement, which shall be in duplicate, and filed with the Secretary of the Board and the State Controller, setting forth in detail the amount, description, and value of all articles sold during the preceding quarter, the amount of money collected from such sales, the amount outstanding, what for and by whom owed, the amount, description and value of manufactured and unmanufactured stock on hand, and the amount, description, and value of all tools and machinery on hand connected with the manufacture of articles at the prison.

*An Act concerning escaped prisoners and the recapture of the same.*

Approved March 1, 1866, 164.

**Warden May Issue Warrant for Escaped Prisoners.**

1446. SECTION 1. Hereafter, when any prisoner or prisoners escape from the

state prison of this state, it shall be lawful for the Warden of the State Prison to issue a warrant for the recapture of said escaped prisoner or prisoners, which warrant shall have force and effect in any county in this state, and may command the Sheriff of any county in this state, or any Constable thereof, or any police officer of any city in this state, to arrest said prisoner or prisoners, and make return to the Warden, with the prisoner or prisoners who may be arrested under said warrant.

**Expenses for Recapture—Proviso.**

1447. SEC. 2. Any and all expenses of enforcing the provisions of this Act, or in any wise appertaining to the recapture and return of escaped convicts to the state prison, shall be a charge against the state, and shall be paid out of the state prison fund; *provided, however*, that said escape be not the result of carelessness, incompetency, or other official delinquency of the Warden or other officers of the state prison.

*An Act relating to prisoners discharged from the state prison.*

Approved February 1, 1875, 49.

**Discharged Prisoner Furnished Money.**

1448. SECTION 1. Whenever any prisoner shall be discharged from the state prison of this state, either by expiration of his term of sentence, or by pardon, the Warden shall furnish him twenty-five dollars in coin, the same to be allowed and paid out of the state prison fund, the same as any other claim against said fund.

*An Act to regulate and make effectual the power of the Governor, Justices of the Supreme Court, and Attorney-General, to remit fines, and forfeitures, commute punishments, and grant pardons after convictions.*

Approved February 8, 1867, 53.

**Proceedings When Fine, etc., Remitted.**

1449. SECTION 1. Whenever the Governor, Justices of the Supreme Court, and Attorney-General, or the major part of them, the Governor, being one, shall remit any judgment of fine or forfeiture, a certificate reciting the fine or forfeiture remitted, duly signed and attested with the great seal of the state, shall be filed in the Clerk's office of the court wherein the judgment of fine or forfeiture was entered, and the Clerk shall make an entry in the judgment docket or other proper place, showing that the fine or forfeiture is remitted; which filing and entry shall be evidence of the satisfaction thereof.

IT REQUIRES THE GOVERNOR AND AT LEAST TWO OTHER MEMBERS OF THE BOARD TO CONCUR IN GRANTING A PARDON. *Ex Parte Jones*, 1 Nev. 319.

**Proceedings When Death Penalty Is Remitted:**

1450. SEC. 2. Whenever any punishment involving the death penalty is commuted, a statement in writing shall be made out and signed, reciting the name of the person whose punishment is commuted, and the time and place where convicted; also, the amount, kind, and character of punishment substituted instead of the death penalty, and the place where the substituted punishment is to be served out or suffered, and directed to the proper officer or authority charged by law with the safe keeping and execution of the punishment; which statement, attested with the great seal of this state, shall be sufficient authority for such officer or authority to receive and retain the person named in the statement as therein directed, and the officer or authority named in the statement must receive the person whose punishment has been commuted, and retain him as directed.



# EXHIBIT 5

# EXHIBIT 5

# REVISED LAWS OF NEVADA

CONTAINING

STATE STATUTES OF A GENERAL NATURE FROM 1861  
REVISED TO 1912, AND PERTINENT ACTS OF CONGRESS  
WITH ANNOTATIONS FROM VOLUMES 1 TO 34, NEVADA  
REPORTS, AND FROM FEDERAL AND STATE DECISIONS

Prepared under legislative enactment, by

JAMES G. SWENNEY

G. F. TALLOT

F. H. NORCROSS

Justices of the Supreme Court

*State Property  
to be turned over to your  
successor in office.*

## VOLUME 2

Sections 4828 to 7634, inclusive



CARSON CITY, NEVADA

JOE FARNSWORTH, Superintendent of State Printing

1912



*An Act concerning escaped prisoners and the recapture of the same.*

Approved March 1, 1866. 164

**7594. Warden may issue warrant for arrest of escaped prisoners.**

SECTION 1. Hereafter, when any prisoner or prisoners escape from the state prison of this state, it shall be lawful for the warden of the state prison to issue a warrant for the recapture of said escaped prisoner or prisoners, which warrant shall have force and effect in any county in this state, and may command the sheriff of any county in this state, or any constable thereof, or any police officer of any city in this state, to arrest said prisoner or prisoners, and make return to the warden, with the prisoner or prisoners who may be arrested under said warrant.

Prison extended over place of labor, sec. 7572.

**7595. Expenses for recapture—Charge against state—Proviso.**

SEC. 2. Any and all expenses of enforcing the provisions of this act, or in any wise appertaining to the recapture and return of escaped convicts to the state prison, shall be a charge against the state, and shall be paid out of the state prison fund; *provided, however*, that said escape be not the result of carelessness, incompetency, or other official delinquency of the warden or other officers of the state prison.

*An Act relating to prisoners discharged from the state prison.*

Approved February 1, 1875. 49

**7596. Discharged prisoner furnished money.**

SECTION 1. Whenever any prisoner shall be discharged from the state prison of this state, either by expiration of his term of sentence, or by pardon, the warden shall furnish him twenty-five dollars in coin, the same to be allowed and paid out of the state prison fund, the same as any other claim against said fund.

See sec. 7632.

No part of discharge money to be used in employing attorney to present case before board of pardons or parole, see rule 14 of board of pardons, following sec. 7630.

*An Act authorizing and relating to the employment of convicts on the public roads and highways, providing a general road fund in the state treasury to defray the expenses thereof, and for other purposes.*

Approved March 16, 1911. 73

7597. Appropriation for general road fund.

7598. Commissioners may detail convicts for road work—Warden to recommend—Not compulsory.

7599. Regulations concerning same—General direction of warden—Not required to wear stripes—Maximum punishment.

7600. Pay and additional time off for convicts on public road work—May be paid to dependents of convict.

7601. Prison board to specify public roads upon which convicts shall work—Duties of state engineer and county surveyors—Preliminary agreement with county.

7602. Disbursements, how regulated.

**7597. Appropriation for general road fund.**

SECTION 1. The sum of twenty thousand dollars is hereby appropriated out of any money in the state treasury not otherwise appropriated which shall constitute a fund to be known as the general road fund.

**7598. Commissioners may detail convicts for road work—Warden to recommend—Not compulsory.**

SEC. 2. The board of state prison commissioners is hereby authorized and directed to detail for work on the public highways of the state any male convict in the state prison who, on the recommendation of the war-

# EXHIBIT 6

# EXHIBIT 6

# NEVADA COMPILED LAWS 1929

CONTAINING ALL STATUTES OF A GENERAL NATURE ENACTED BY THE LEGISLATURE OF THE STATE OF NEVADA FROM 1861 TO 1929, INCLUSIVE, TOGETHER WITH ANNOTATIONS FROM THE DECISIONS OF THE SUPREME COURT OF NEVADA CONTAINED IN VOLUMES 1 TO 51, INCLUSIVE, OF THE NEVADA REPORTS AND FROM ALL DECISIONS OF THE COURTS OF THE UNITED STATES CONSTRUING NEVADA STATUTES.

ALSO A DIGEST OF NEVADA REPORTS, VOLUMES 33-51

IN SIX VOLUMES

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VOLUME V  
(SECTIONS 9950 TO 11568)

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COMPILED AND ANNOTATED  
BY  
CURTIS HILLYER

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SAN FRANCISCO  
BENDER-MOSS COMPANY  
LAW PUBLISHERS AND BOOKSELLERS  
1930

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BENDER-MOSS COMPANY

same time all persons awaiting transportation, and the board of state prison commissioners or examiners shall not allow any extra expense incurred by the making unnecessary trips in transporting separately persons who might be transferred at the same time.

### ESCAPED PRISONERS.

*An Act concerning escaped prisoners and the recapture of the same.*

APPROVED MARCH 1, 1866, 164.

**§ 11491. WARDEN MAY ISSUE WARRANT FOR ARREST OF ESCAPED PRISONERS.** § 1. Hereafter, when any prisoner or prisoners escape from the state prison of this state, it shall be lawful for the warden of the state prison to issue a warrant for the recapture of said escaped prisoner or prisoners, which warrant shall have force and effect in any county in this state, and may command the sheriff of any county in this state, or any constable thereof, or any police officer of any city in this state, to arrest said prisoner or prisoners, and make return to the warden, with the prisoner or prisoners who may be arrested under said warrant.

Prison extended over place of labor, § 11461, ante.

**§ 11492. EXPENSES FOR RECAPTURE.—CHARGE AGAINST STATE.—PROVISO.** § 2. Any and all expenses of enforcing the provisions of this act, or in any wise appertaining to the recapture and return of escaped convicts to the state prison, shall be a charge against the state, and shall be paid out of the state prison fund; *provided, however*, that said escape be not the result of carelessness, incompetency, or other official delinquency of the warden or other officers of the state prison.

### EMPLOYMENT OF CONVICTS ON PUBLIC ROADS.

*An Act authorizing and relating to the employment of convicts on the public roads and highways, providing a general road fund in the state treasury to defray the expenses thereof, and for other purposes.*

APPROVED MARCH 16, 1911, 73.

§ 11493. Appropriation for general road fund.

§ 11494. Commissioners may detail convicts for road work.—Warden to recommend.—Not compulsory.

§ 11495. Regulations concerning same.—General direction of warden.—Not required to wear stripes.—Maximum punishment.

§ 11496. Additional allowances.

§ 11497. Prison board to specify public roads upon which convicts shall work.—Duties of state engineer and county surveyors.—Preliminary agreement with county.

§ 11498. Disbursements, how regulated.

**§ 11493. APPROPRIATION FOR GENERAL ROAD FUND.** § 1. The sum of twenty thousand dollars is hereby appropriated out of any money in the state treasury not otherwise appropriated which shall constitute a fund to be known as the general road fund.

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