

James C. Child
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THE

PUBLIC STATUTES

OF THE

STATE OF MINNESOTA.

(1849—1858.)

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COMMISSIONERS.

PUBLISHED BY STATE AUTHORITY.

SAINT PAUL:
THE PIONEER PRINTING COMPANY.

1859.

CHAPTER 107.

SETTING ASIDE INDICTMENT.

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[Chapter 121, Revised Statutes.]

Indictment when set aside on motion.

(1.) SEC. CVIII. The indictment must be set aside by the court in which the defendant is arraigned, and upon his motion in either of the following cases :

1. When it is not found, indorsed, and presented as prescribed in chapter one hundred and eighteen ;

2. When the names of the witnesses examined before the grand-jury are not inserted at the foot of the indictment, or indorsed thereon ;

3. When a person is permitted to be present during the session of the grand-jury, while the charge embraced in the indictment was under consideration, except as provided in section forty-two.

Defendant when precluded from objecting to indictment in any other manner.

(2.) SEC. CIX. If the motion to set aside the indictment be not made, the defendant is precluded from afterwards taking the objections mentioned in the last section.

Motion when heard.

(3.) SEC. CX. The motion must be heard at the time of the arraignment, unless for good cause the court postpone the hearing to another time.

If denied defendant must demur or plead.

(4.) SEC. CXI. If the motion be denied, the defendant must immediately answer the indictment, either by demurring or pleading thereto.

If granted defendant discharged, when again to be submitted to grand-jury.

(5.) SEC. CXII. If the motion be granted, the court must order that the defendant, if in custody, be discharged therefrom, or if admitted to bail, that his bail be exonerated, or if he have deposited money instead of bail, that the money be refunded to him; unless it direct that the case be re-submitted to the same, or another grand-jury.

Effect of order for a re-submission.

(6.) SEC. CXIII. If the court direct that the case be re-submitted, the defendant, if already in custody, must so remain, unless he be admitted to bail; or if already admitted to bail, or money have been deposited instead thereof, the bail or money is answerable for the appearance of the defendant to answer a new indictment.

If new indictment not found, court to make order of discharge.

(7.) SEC. CXIV. Unless a new indictment be found before the next grand-jury of the county is discharged, the court must, on the discharge of such grand-jury, make the order prescribed by section one hundred and twelve.

Order to indictment no bar to future action.

(8.) SEC. CXV. An order to set aside an indictment, as provided in the seven preceding sections, is no bar to a future prosecution for the same offense.