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GENERAL STATUTES

OF THE

STATE OF MINNESOTA.

PREPARED BY THE COMMISSIONERS APPOINTED TO REVISE
THE STATUTES OF THE STATE, BY ACT OF THE
LEGISLATURE, PASSED FEBRUARY 17, 1863.

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CHAPTER CIX.

ARRAIGNMENT OF DEFENDANT.

1 SECTION 1. When the indictment is filed, the defendant
 2 shall be arraigned thereon, before the court in which it is
 3 found, if it is triable therein, or if not, before the court to
 4 which it is sent or removed. C. S. p. 762, Sect. 1. c 106

1 SECT. 2. If the indictment is for a felony, the defend- C. S. p. 762, Sect. 2.
 2 ant shall be personally present; but if for a misdemeanor
 3 only, his personal appearance is unnecessary, and he may
 4 appear upon the arraignment by counsel.

1 SECT. 3. When his personal appearance is necessary, if C. S. p. 762, Sect. 3.
 2 he is in custody, the court may direct the officer in whose
 3 custody he is, to bring him before it to be arraigned.

1 SECT. 4. If the defendant has been discharged on bail,
 2 or has deposited money instead thereof, and does not ap- C. S. p. 762, Sect. 4.
 3 pear to be arraigned when his personal attendance is neces-
 4 sary, the court, in addition to the forfeiture of the under-
 5 taking of bail, or the money deposited, may direct the clerk
 6 to issue a bench warrant for his arrest.

1 SECT. 5. The clerk on the application of the county at-
 2 torney, may accordingly, at any time after the order, wheth- C. S. p. 762, Sect. 5.
 3 er the court is sitting or not, issue a bench warrant, into
 4 one or more counties.

1 SECT. 6. The bench warrant upon the indictment shall,
 2 if the offense is a felony, be substantially in the following
 3 form:
 4 The district court for the county of _____ and state of C. S. p. 762, Sect. 6.
 5 Minnesota;
 6 The state of Minnesota to any sheriff, (or other proper
 7 officer).

8 An indictment having been found on the _____ day of
 9 _____, A. D. 18 _____, in the district court for the county of
 10 charging C. D. with the crime of (designating it generally),
 11 you are therefore commanded forthwith to arrest the above
 12 named C. D. and bring him before this court (or if the ven-
 13 ue has been changed take him before that court, as the case
 14 may be,) to answer the indictment, or if the court have ad-
 15 journed for the term, that you deliver him into the custody

16 of the jailor of the county (or city,) of _____, the
 17 day of _____, A. D.
 18 Witness the Honorable _____
 19 By order of the court. E. F., clerk.

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c. s. p. 762, Sect. 7. 1 SECT. 7. If the offense is a misdemeanor, the bench
 2 warrant shall be in a similar form, adding to the body there-
 3 of, a direction to the following effect, "or if he requires it,
 4 that you take him before any magistrate in that county, or
 5 in the county in which you arrest him that he may give bail
 6 to answer the indictment."

c. s. p. 768, Sect. 8. 1 SECT. 8. If the offense charged is bailable, the court, up-
 2 on directing the bench warrant to issue, may fix the amount
 3 of bail, and in such case an indorsement shall be made upon
 4 the bench warrant, and signed by the clerk to the following
 5 effect: "the defendant is to be admitted to bail in the
 6 sum of _____ dollars."

c. s. p. 768, Sect. 9. 1 SECT. 9. The bench warrant may be served in any coun-
 2 ty in the same manner as a warrant of arrest.

c. s. p. 768, Sect. 10. 1 SECT. 10. If the defendant is brought before a magis-
 2 trate of another county for the purpose of giving bail, the
 3 magistrate shall proceed in respect thereto in the same man-
 4 ner as if the defendant had been brought before him upon
 5 a warrant of arrest.

c. s. p. 768, Sect. 11. 1 SECT. 11. On taking bail the magistrate shall certify
 2 that fact on the warrant, and deliver the warrant and recog-
 3 nizance to the officer having charge of the defendant; the
 4 officer shall then discharge the defendant from arrest and
 5 without delay deliver the warrant and recognizance to the
 6 clerk of the court at which the defendant is required to ap-
 7 pear.

c. s. p. 768, Sect. 12. 1 SECT. 12. When the indictment is for felony, and the
 2 defendant before the finding thereof has given bail for his
 3 appearance to answer the charge, the court to which the in-
 4 dictment is presented or sent, or removed for trial, may
 5 order the defendant to be committed to actual custody,
 6 unless he gives bail in the increased amount to be specified
 7 in the order.

c. s. p. 768, Sect. 13. 1 SECT. 13. If the defendant is present when the order is
 2 made, he shall be forthwith committed; if he is not pres-
 3 ent, a bench warrant shall be issued and proceeded upon in
 4 the manner provided in this chapter.

1 SECT. 14. If the defendant appears for arraignment with-

2 out counsel, he shall be informed by the court that it is
 3 his right to have counsel before being arraigned, and shall
 4 be asked if he desires the aid of counsel. C. S. p. 768, Sect. 14. c 106

1 SECT. 15. The arraignment shall be made by the court,
 2 or by the clerk or county attorney, under its direction, and
 3 consists in reading the indictment to the defendant and de-
 4 livering to him a copy thereof, and of the indorsements
 5 thereon, including the list of witnesses indorsed on it or ap-
 6 pended thereto, and asking him whether he pleads guilty
 7 or not guilty to the indictment. C. S. p. 768, Sect. 15.

1 SECT. 16. When the defendant is arraigned he shall be
 2 informed that if the name by which he is indicted is not his
 3 true name, he shall then declare his true name, or be pro-
 4 ceeded against by the name in the indictment. If he gives
 5 no other name the court may proceed accordingly. C. S. p. 768, Sects. 16
& 17, combined.

1 SECT. 17. If he alleges that another name is his true
 2 name, the court shall direct an entry thereof in the minutes
 3 of the arraignment, and the subsequent proceedings on the
 4 indictment may be had against him by that name, referring
 5 also to the name by which he is indicted. C. S. p. 768, Sect. 18.

1 SECT. 18. If on the arraignment the defendant requires
 2 it, he shall be allowed until the next day, or such further
 3 time may be allowed him as the court deems reasonable to
 4 answer the indictment. C. S. p. 768, Sect. 19.

1 SECT. 19. If the defendant does not require time as pro-
 2 vided in the last section, or if he does, then on the next day,
 3 or at such further day as the court may have allowed him,
 4 he may, in answer to the arraignment, either move the
 5 court to set aside the indictment, or may demur or plead
 6 thereto. C. S. p. 768, Sect. 20.

CHAPTER CX.

SETTING ASIDE INDICTMENT.

1 SECTION 1. The indictment shall be set aside by the
 2 court in which the defendant is arraigned, upon his motion
 3 in either of the following cases: C. S. p. 764, Sect. 1. c 107

4 *First.*—When it is not found, indorsed, and presented as
 5 prescribed in the chapter relating to grand juries;

6 *Second.*—When the names of the witnesses examined be-