

Statutes
1878

THE
GENERAL STATUTES
OF THE
STATE OF MINNESOTA,

As Amended by Subsequent Legislation.

PREPARED BY
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OF 1878, AND CHAPTER 67 OF THE LAWS OF 1879.

FOURTH EDITION.

WITH SUPPLEMENTS,
CONTAINING ALL THE GENERAL LAWS IN FORCE UP TO THE END OF
THE LEGISLATIVE SESSION OF 1883.

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1883.

right to have counsel before being arraigned, and shall be asked if he desires the aid of counsel.

§ 15. **Arraignment, how made.** The arraignment shall be made by the court, or by the clerk or county attorney under its direction, and consists in reading the indictment to the defendant, and delivering to him a copy thereof, and of the indorsements thereon, including the list of witnesses indorsed on it or appended thereto, and asking him whether he pleads guilty or not guilty to the indictment.

§ 16. **Defendant to be asked his true name.** When the defendant is arraigned, he shall be informed that if the name by which he is indicted is not his true name, he shall then declare his true name, or be proceeded against by the name in the indictment. If he gives no other name, the court may proceed accordingly.

§ 17. **Proceedings when another name is given.** If he alleges that another name is his true name, the court shall direct an entry thereof in the minutes of the arraignment; and the subsequent proceedings on the indictment may be had against him by that name, referring also to the name by which he is indicted.

§ 18. **Time to plead.** If, on the arraignment, the defendant requires it, he shall be allowed until the next day, or such further time may be allowed him as the court deems reasonable, to answer the indictment.

§ 19. **Demurrer to indictment—plea—motion to set aside.** If the defendant does not require time, as provided in the last section, or if he does, then on the next day, or at such further day as the court may have allowed him, he may, in answer to the arraignment, either move the court to set aside the indictment, or may demur or plead thereto.

CHAPTER CX.

SETTING ASIDE INDICTMENT.

SECTION.

1. Indictment shall be set aside, when.
2. Objections to indictment, waived, when.
3. Motion to set aside indictment heard, when.
4. On denial of motion, defendant shall demur or plead.

SECTION.

5. Proceedings, if motion is granted.
6. Effect of re-submission of case to grand jury.
7. Proceedings, if new indictment is not found.
8. Order setting aside indictment no bar to another prosecution.

§ 1. **Indictment set aside, when.** The indictment shall be set aside by the court in which the defendant is arraigned, upon his motion, in either of the following cases:

^{23 M. 209.}

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

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

^{10 M. 178 (223).}

Third. 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 thirty-nine of said chapter.

§ 2. **Objections waived, when.** If the motion to set aside the indictment is not made, the defendant is precluded from afterward taking the objections mentioned in the last section.

§ 3. Motion to set aside heard, when. The motion shall be heard at the time of the arraignment, unless for good cause, the court postpones the hearing to another time.

§ 4. Demurrer or plea when motion is denied. If the motion is denied, the defendant shall immediately answer the indictment, either by demurring or pleading thereto.

§ 5. Proceedings, if motion is granted. If the motion is granted, the court shall order that the defendant, if in custody, be discharged therefrom, or if admitted to bail, that his bail be exonerated, or if he has deposited money instead of bail, that the money be refunded to him; unless it directs that the case be resubmitted to the same or another grand-jury.

§ 6. Effect of resubmission of case. If the court directs that the case be resubmitted, the defendant, if already in custody, shall so remain, unless he is admitted to bail; or if already admitted to bail, or money deposited instead thereof, the bail or money is answerable for the appearance of the defendant, to answer a new indictment.

§ 7. Proceedings, if new indictment is not found. Unless a new indictment is found before the next grand-jury of the county is discharged, the court shall, on the discharge of such grand-jury, make the order prescribed by section five aforesaid.

§ 8. Setting aside indictment no bar to another prosecution. An order to set aside an indictment, as provided in the seven preceding sections, is no bar to a future prosecution for the same offence.

CHAPTER CXI.

DEMURRERS.

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| <p>SECTION. 1-2. Pleadings of defendant—when to be put in. 3-4. Grounds of demurrer—requisites of demurrer. 5-6. Hearing of demurrer—judgment thereon. 7-9. Allowance of demurrer—when a bar to another prosecution—amendment—resub-</p> | <p>SECTION. mission to grand-jury—discharge of defendant—proceedings on resubmission. 10. On disallowance of demurrer, defendant may plead. 11. What objections must be taken by demurrer.</p> |
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§ 1. Pleadings by defendant. The only pleading on the part of the defendant is a demurrer or a plea.

§ 2. When to be made. Both the demurrer and the plea shall be put in in open court, either at the time of the arraignment, or at such other time as may be allowed to the defendant for that purpose.

§ 3. Grounds of demurrer. The defendant may demur to the indictment when it appears from the face thereof, either,

First. That the grand-jury by which it was found had no legal authority to inquire into the offence charged, by reason of its not being within the local jurisdiction of the county;