

Statutes
1878

THE
GENERAL STATUTES
OF THE
STATE OF MINNESOTA,

As Amended by Subsequent Legislation.

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

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CHAPTER XCII.

OF THE RIGHTS OF PERSONS ACCUSED.

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§ 1. **Person arrested to be informed of ground thereof—penalty for false answer, etc.** Every person arrested by virtue of process, or taken into custody by an officer of this state, has a right to know, from the officer who arrests or claims to detain him, the true ground on which the arrest is made; and an officer who refuses to answer a question relative to the reason for such arrest, or answers such question untruly, or assigns to the person arrested an untrue reason for the arrest, or neglects, on request, to exhibit to the person arrested, or any other person acting in his behalf, the precept by virtue of which such arrest is made, shall be punished by fine not exceeding one thousand dollars, or by imprisonment in the common jail not exceeding one year.

§ 2. **Defendant presumed innocent—to be acquitted in case of reasonable doubt.** A defendant in a criminal action is presumed to be innocent until the contrary is proved; and in case of a reasonable doubt whether his guilt is satisfactorily shown, he is entitled to an acquittal.

^{4 M. 277 [368].}

§ 3. **Defendant convicted of lowest degree of offence, when.** When it appears that a defendant has committed a public offence, and there is reasonable ground of doubt of which of two or more degrees he is guilty, he can be convicted of the lowest of these degrees only.

§ 4. **Conviction, how had.** No person indicted for an offence shall be convicted thereof, unless by confession of his guilt in open court, or by admitting the truth of the charge against him by his plea or demurrer, or by the verdict of a jury, accepted and recorded by the court.

§ 5. **Acquittal a bar to subsequent prosecution, when.** No person shall be held to answer on a second indictment for an offence of which he has been acquitted by the jury upon the facts and merits; but such acquittal may be pleaded by him in bar of any subsequent prosecution for the same offence, notwithstanding any defect in the form or substance of the indictment on which he was acquitted.

§ 6. **When it is not a bar.** Whoever is acquitted upon the ground of a variance between the indictment and the proof, or upon any exception to the form or substance of the indictment, may be arraigned again on a new indictment, and may be tried and convicted for the same offence, notwithstanding such former acquittal.

§ 7. **Prosecution to be dismissed, when.** When a person has been held to answer for a public offence, if an indictment is not found against him at the next term of the court at which he is held to answer, the court shall order the prosecution to be dismissed, unless good cause to the contrary is shown.

§ 8. **Indictment to be dismissed, when.** If a defendant indicted for a public offence, whose trial has not been postponed upon his application, is not brought to trial at the next term of the court in which the indictment is triable after it is found,

the court shall order the indictment to be dismissed, unless good cause to the contrary is shown.

§ 9. **Action continued, when—defendant let to bail, when.** If the defendant is not indicted or tried, as provided in the last two sections, and sufficient reason therefor is shown, the court may order the action to be continued from term to term, and in the mean time, he shall be committed, or, if the offence is bailable, shall recognize in a sum and with sureties to the satisfaction of the court.

§ 10. **Effect of dismissal of action.** If the court directs the action to be dismissed, the defendant shall, if in custody, be discharged therefrom; or if admitted to bail, his bail is exonerated, or money deposited instead of bail shall be refunded to him.

§ 11. **Defendant entitled to blank subpoenas.** The clerk of the court at which any indictment is to be tried; shall at all times, upon the application of the defendant, and without charge, issue as many blank subpoenas, under the seal of the court, and subscribed by him as clerk, for witnesses within the state, as are required by the defendant.

*§ 12. **When court may appoint counsel for defendant—compensation.** That whenever a defendant shall be arraigned upon an indictment for any criminal offence punishable by death or by imprisonment in the state prison, and shall request the court wherein the indictment is pending, to appoint counsel to assist him in his defence, and shall satisfy the said court, by his own oath or such proof as the said court shall require, that he is unable by reason of poverty to procure counsel, the court shall appoint counsel for said defendant, not exceeding two, to be paid by the county wherein the indictment was found, by order of said court. The amount of compensation of such counsel shall be fixed by the said court in each case, and shall not exceed ten dollars per day for each counsel, and shall be confined to the time in which such counsel shall have been actually employed in court upon the trial of such indictment: *provided*, that the compensation to counsel in any one case shall not exceed the sum of ten dollars, when such case is heard or tried in the counties of Hennepin or Ramsey. (1869, c. 72, § 1, as amended 1876, c. 56, § 1.)

*§ 13. **Depositions for defence—how taken and used—how paid for.** That upon cause shown to the court wherein any criminal action is pending, the judge thereof may, by order, allow depositions of witnesses on behalf of the prisoner to be taken in the same manner and in the like cases where depositions may be taken in civil actions; and the depositions so taken may be used upon the trial of such prisoner, in his behalf, as depositions are now allowed and used in civil actions: *provided*, that the expense attending the taking and return of such depositions shall be paid by the defendant in such action, except the court shall otherwise direct, by order duly entered upon the minutes of the court. (1876, c. 57, § 1.)

CHAPTER XCIII.

OF OFFENCES AGAINST THE SOVEREIGNTY OF THE STATE.

SECTION

1. Treason against state defined.
2. Punishment of treason.

SECTION

3. Misprision of treason, defined—how punished.
4. Two witnesses required to convict of treason.

§ 1. **Treason against state, defined.** Treason against this state shall consist only in levying war against the same, or in adhering to the enemies thereof, giving them aid and comfort.