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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 106.

ARRAIGNMENT OF DEFENDANT.

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[Chapter 120, Revised Statutes.]

Defendant how arraigned.

(1.) SEC. LXXXVIII. When the indictment is filed, the defendant must be arraigned thereon, before the court in which it is found, if it be triable therein, or if not, before the court to which it is sent or removed.

Defendant must be present in case of felony.

(2.) SEC. LXXXIX. If the indictment be for a felony, the defendant must be personally present; but if for a misdemeanor only, his personal appearance is unnecessary, and he may appear upon the arraignment by counsel.

Court may direct officer to arraign defendant.

(3.) SEC. XC. When his personal appearance is necessary, if he be in custody, the court may direct the officer in whose custody he is, to bring him before it to be arraigned; and the officer must do so accordingly.

When defendant do not appear, bench warrant may issue.

(4.) SEC. XCI. If the defendant has been discharged on bail, or has deposited money instead thereof, and do not appear to be arraigned when his personal attendance is necessary, the court, in addition to the forfeiture of the undertaking of bail, or the money deposited, may direct the clerk to issue a bench warrant for his arrest.

Clerk may issue bench warrant.

(5.) SEC. XCII. The clerk on the application of the district attorney, may accordingly, at any time after the order, whether the court be sitting or not, issue a bench warrant, into one or more counties.

Form of bench warrant in certain cases.

(6.) SEC. XCIII. The bench warrant, upon the indictment must, if the offense be a felony, be substantially in the following form:

Form of bench warrant in certain cases.

The district court for the county of _____ and territory of Minnesota;

In the name of the United States, to any sheriff, (or other proper officer) in the territory of Minnesota.

An indictment having been found on the _____ day of _____, A. D. 18____, in the district court for the county of _____, charging C. D. with the crime of (designating it generally,) you are therefore commanded forthwith to arrest the above named C. D. and bring him before this court, (or if the venue has been changed take him before that court, as the case may be,) to answer the indictment, or if the court have adjourned for the term, that you deliver him into the custody of the jailor of the county (or city,) of _____, the _____ day of _____, A. D. _____.

By order of the court. _____ E. F., clerk.

Bench warrant in case of misdemeanor.

(7.) SEC. XCIV. If the offense be a misdemeanor, the bench warrant must be in a similar form, adding to the body thereof, a direction to the following effect, "or if he require it, that you take him before any magistrate in that county, or in the county in which you arrest him that he may give bail to answer the indictment."

(8.) SEC. XCV. If the offense charged be bailable, the court upon directing the bench warrant to issue, must fix the amount of bail, and an indorsement must be made upon the bench warrant, and signed by the clerk, to the following effect, "the defendant is to be admitted to bail in the sum of _____ dollars."

Court must fix amount of bail.

(9.) SEC. XCVI. The bench warrant may be served in any county in the same manner as a warrant of arrest, except when served in another county, it need not be indorsed by a magistrate of that county.

Bench warrant how served.

(10.) SEC. XCVII. If the defendant be brought before a magistrate of another county, for the purpose of giving bail, the magistrate must proceed in respect thereto in the same manner as if the defendant had been brought before him upon a warrant of arrest.

Magistrate of another county how to proceed.

(11.) SEC. XCVIII. On taking bail, the magistrate must certify that fact on the warrant, and deliver the warrant and undertaking of bail to the officer having charge of the defendant; the officer must then discharge the defendant from arrest, and must without delay deliver the warrant and undertaking to the clerk of the court, at which the defendant is required to appear.

Magistrate must certify on the warrant.

(12.) SEC. XCIX. When the indictment is for a felony, and the defendant before the finding thereof has given bail for his appearance to answer the charge, the court to which the indictment is presented, or sent, or removed for trial, may order the defendant to be committed to actual custody, either without bail, or unless he give bail in the increased amount to be specified in the order.

Court may order defendant committed.

(13.) SEC. C. If the defendant be present when the order is made, he must be forthwith committed accordingly, if he be not present a bench warrant must be issued and proceeded upon in the manner provided in this chapter.

If defendant present must be committed.

(14.) SEC. CI. If the defendant appear for arraignment without counsel, he must be informed by the court that it is his right to have counsel before being arraigned, and must be asked if he desire the aid of counsel.

Court must inform defendant of his right to counsel.

(15.) SEC. CII. The arraignment must be made by the court, or by the clerk or district 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, as provided in section sixty-three, and asking him whether he pleads guilty or not guilty to the indictment.

Arraignment by whom made.

(16.) SEC. CIII. When the defendant is arraigned he must be informed that if the name by which he is indicted be not his true name, he must then declare his true name, or be proceeded against by the name in the indictment.

Defendant must be asked to give his true name.

(17.) SEC. CIV. If he give no other name the court may proceed accordingly.

If he give no other name court must proceed

(18.) SEC. CV. If he allege that another name is his true name, the court must 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.

If defendant give another name court how to proceed.

(19.) SEC. CVI. If on the arraignment, the defendant require it, he must be allowed until the next day, or such further time may be allowed him, as the court may deem reasonable, to answer the indictment.

Defendant allowed one day to answer.

(20.) SEC. CVII. If the defendant do not require time, as provided in the last section, or if he do, 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.

Defendant may demur or plead to the indictment.

§ 2, added chap 38 h 81, 1863