

THE *J. Rogers*
GENERAL STATUTES

OF THE

STATE OF MINNESOTA:

REVISED BY COMMISSIONERS APPOINTED UNDER AN ACT APPROVED FEBRUARY 17, 1868, AND
ACTS SUBSEQUENT THERETO, AMENDED BY THE LEGISLATURE,
AND PASSED AT THE SESSION OF 1866.

TO WHICH

THE CONSTITUTION OF THE UNITED STATES, THE ORGANIC ACT, THE
ACT AUTHORIZING A STATE GOVERNMENT, AND THE
CONSTITUTION OF THE STATE OF MINNESOTA,

ARE PREFIXED;

AND A LIST OF ACTS PREVIOUSLY REPEALED,

A GLOSSARY, AND INDEX, ARE ADDED.

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the Laws of 1866.

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money be refunded to him ; unless it directs that the case be re-submitted to the same, or another grand-jury.

SEC. 6. If the court directs that the case be re-submitted, 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. Effect of re-submission of case.

SEC. 7. 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. Proceedings, if new indictment is not found.

SEC. 8. 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. Order setting aside indictment no bar to another prosecution.

CHAPTER CXI.

DEMURRERS.

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| <p>SECTION</p> <ol style="list-style-type: none"> 1. Pleading by defendant is by demurrer or plea. 2. When pleading shall be put in. 3. Defendant may demur to indictment, for what causes. 4. Demurrer shall specify what. 5. Shall be heard, when. 6. Judgment on demurrer. 7. If demurrer is allowed, court may grant | <p>SECTION</p> <ol style="list-style-type: none"> 8. amendment or direct re-submission of the case. 9. If amendment is not granted or case re-submitted, defendant shall be discharged. 10. Proceedings when case is submitted anew. 11. If demurrer is disallowed, defendant may plead. 12. What objections can only be taken by demurrer. |
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SECTION 1. The only pleading on the part of the defendant, is a demurrer or a plea. Pleading by defendant.

SEC. 2. 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. When put in.

SEC. 3. The defendant may demur to the indictment, when it appears from the face thereof, either, Defendant may demur to indictment for what causes.

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

Second. That it does not substantially conform to the requirements of sections one, two, three and four, of chapter one hundred and eight, as the same are qualified by section ten of the same chapter, or was not found within the time prescribed by section eighteen ; 4 Min. 345.

Third. That more than one offense is charged in the indictment, except in cases where it is allowed by statute ;

Fourth. That the facts stated do not constitute a public offense ;

Fifth. That the indictment contains any matter, which, if true, would constitute a legal justification or excuse of the offense charged, or other legal bar to the prosecution.

Demurrer shall specify what.

SEC. 4. The demurrer shall be in writing, signed either by the defendant, or his counsel; it shall distinctly specify the ground of objection to the indictment, or it may be disregarded.

Shall be heard, when.

SEC. 5. Upon the demurrer being filed, the objection presented thereby shall be heard, either immediately, or at such time as the court may appoint.

Judgment on demurrer.

SEC. 6. Upon considering the demurrer, the court shall give judgment, either allowing or disallowing it, and an order to that effect shall be entered upon the minutes.

If demurrer is allowed, court may grant amendment or direct re-submission.
4 Min. 335.

SEC. 7. If the demurrer is allowed, the judgment is final upon the indictment demurred to, and is a bar to another prosecution for the same offense, unless the court allows an amendment where the defendant will not be unjustly prejudiced thereby, or being of opinion that the objection on which the demurrer is allowed may be avoided in a new indictment, directs the case to be re-submitted to the same or another grand jury.

If amendment is not allowed or case re-submitted, defendant shall be discharged.

SEC. 8. If the court does not allow an amendment or direct the case to be re-submitted, the defendant if in custody shall be discharged, or if admitted to bail, his bail is exonerated, or if he has deposited money instead of bail the money shall be refunded to him.

Proceedings when case is submitted anew.

SEC. 9. If the court directs that the case be submitted anew, the same proceedings shall be had thereon, as are prescribed in sections six and seven of chapter one hundred and ten.

If demurrer is disallowed defendant may plead.

SEC. 10. If the demurrer is disallowed or the indictment amended, the court shall permit the defendant at his election to plead, which he must do forthwith, or at such time as the court may allow. If he does not plead, judgment shall be pronounced against him.

What objections can only be taken by demurrer

SEC. 11. When the objections mentioned in section three, appear upon the face of the indictment, they can only be taken by demurrer, except that the objection to the jurisdiction of the court over the subject of the indictment, or that the facts stated do not constitute a public offense, may be taken at the trial, under the plea of not guilty, and in arrest of judgment.