

GENERAL STATUTES

OF THE

STATE OF MINNESOTA,

IN FORCE JANUARY, 1891.

VOL. 2.

CONTAINING ALL THE LAW OF A GENERAL NATURE NOW IN FORCE AND NOT IN
VOL. 1, THE SAME BEING THE CODE OF CIVIL PROCEDURE AND ALL REME-
DIAL LAW, THE PROBATE CODE, THE PENAL CODE AND THE CRIM-
INAL PROCEDURE, THE CONSTITUTIONS AND ORGANIC ACTS.

COMPILED AND ANNOTATED

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CHAPTER 96 (G. S. ch. 110).

SETTING ASIDE INDICTMENT.

Sections.

- 6762. When indictment set aside.
- 6763. When motion to be heard.
- 6764. When objection waived.
- 6765. Demurrer or plea.
- 6766. Proceedings if motion granted.

Sections.

- 6767. Effect of resubmission.
- 6768. Proceedings if new indictment not found.
- 6769. Setting aside indictment no bar to another prosecution.

SEC. 6762. **When indictment set aside.**—The indictment shall be set aside by the court in which the defendant is arraigned, upon his motion, in either of the following cases:

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;

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.

G. S. ch. 110, § 1. 10 M. 223; 23 M. 209.

SEC. 6763. **When motion to be heard.**—The motion shall be heard at the time of the arraignment, unless for good cause, the court postpones the hearing to another time.

G. S. ch. 110, § 3.

SEC. 6764. **When objection waived.**—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.

G. S. ch. 110, § 2.

SEC. 6765. **Demurrer or plea.**—If the motion is denied, the defendant shall immediately answer the indictment, either by demurring or pleading thereto.

G. S. ch. 110, § 4.

SEC. 6766. **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.

G. S. ch. 110, § 5.

SEC. 6767. **Effect of resubmission.**—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.

G. S. ch. 110, § 6.

SEC. 6768. **Proceedings if new indictment 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.

G. S. ch. 110, § 7.

SEC. 6769. **Setting aside indictment no bar to another prosecution.**—An order to set aside an indictment, as provided in the several preceding sections, is no bar to a future prosecution for the same offence.

G. S. ch. 110, § 8.