

THE
GENERAL STATUTES

OF THE
STATE OF MINNESOTA

As Amended by Subsequent Legislation, with which are Incorporated
All General Laws of the State in Force December 31, 1894

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AND A GENERAL INDEX BY THE EDITORIAL STAFF OF THE NATIONAL
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CHAPTER 110.

SETTING ASIDE INDICTMENT.

§ 7283. 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:

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. 1866, c. 110, § 1; G. S. 1878, c. 110, § 1.)

It is not a ground for setting aside an indictment that there is another indictment pending in the same court against the same defendant for the same offense. *State v. Gut*, 13 Minn. 341, (Gil. 315.)

See *State v. Greenman*, 23 Minn. 209; *State v. Brecht*, 41 Minn. 50, 52, 42 N. W. Rep. 602.

§ 7284. 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.

(G. S. 1866, c. 110, § 2; G. S. 1878, c. 110, § 2.)

By not moving to set aside the indictment, or demurring, the defendant waives the objection that the indictment is not signed by the foreman of the grand jury. *State v. Shippey*, 10 Minn. 223, (Gil. 178.)

A motion to set aside the indictment for defects in the organization of the grand jury must be made on arraignment, unless the court allows it to be made later. *State v. Schumm*, 47 Minn. 373, 50 N. W. Rep. 362; *State v. Dick*, 47 Minn. 375, 50 N. W. Rep. 362.

§ 7285. 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.

(G. S. 1866, c. 110, § 3; G. S. 1878, c. 110, § 3.)

§ 7286. 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.

(G. S. 1866, c. 110, § 4; G. S. 1878, c. 110, § 4.)

§ 7287. 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. 1866, c. 110, § 5; G. S. 1878, c. 110, § 5.)

§ 7288. 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.

(G. S. 1866, c. 110, § 6; G. S. 1878, c. 110, § 6.)

(1907)

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§§ 7289-7290

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§ 7289. 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.

(G. S. 1866, c. 110, § 7; G. S. 1878, c. 110, § 7.)

§ 7290. 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.

(G. S. 1866, c. 110, § 8; G. S. 1878, c. 110, § 8.)

(1908)