

89022

GENERAL STATUTES OF MINNESOTA

SUPPLEMENT 1917

CONTAINING THE AMENDMENTS TO THE GENERAL STATUTES
AND OTHER LAWS OF A GENERAL AND PERMANENT
NATURE, ENACTED BY THE LEGISLATURE
IN 1915, 1916, AND 1917

WITH NOTES OF ALL APPLICABLE DECISIONS

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1918

PART IV

CRIMES, CRIMINAL PROCEDURE, IMPRISONMENT, AND PRISONS

CHAPTER 93

GENERAL PROVISIONS

8467. Meaning of words and terms—

127-510, 150+209.

8477. Principal defined—

One purchasing intoxicating liquor sold contrary to law for the purpose of prosecuting the seller for an unlawful sale does not thereby become an "accomplice" within this section (162+683). Criminal Law, [§507\(4\)](#).

Evidence held to support a conviction of defendant as a principal to the crime of robbery (122-493, 142+823). Robbery, [§24\(1\)](#).

8490. Attempts—How punished—

An attempt to commit a crime is the commission of some specific intentional overt act, or acts tending directly, in the natural course of events, to the commission of the crime. The mere act of soliciting another to commit a crime, or preparation therefor, is not, in the absence of some overt act looking to its actual commission, sufficient to justify a conviction. In this case evidence held insufficient to show an overt act, essential to an attempt to commit extortion (131-65, 154+737). Criminal Law, [§44](#), 45; Extortion, [§15](#).

8491. Second offences, how punished—

This section is not invalid as subjecting to double jeopardy (123-413, 144+142). Criminal Law, [§162](#).

In the absence of statute regulating the procedure, the fact of the prior conviction must be alleged in the indictment, established by proper evidence, and passed upon by the jury (123-413, 144+142). Criminal Law, [§1202\(1\)](#).

Though alleged in the indictment, it is unnecessary for the state to prove that the former conviction has not been reversed or set aside; it being presumed that it remains in full force and effect, where the judgment roll is fair on its face (123-413, 144+142). Criminal Law, [§1202\(2\)](#).

To warrant imposition of the excess sentence, the former conviction must be alleged in the indictment; but an excess sentence, imposed without such averment, is not wholly void, but only as to the excess, and after serving the maximum sentence the prisoner may be discharged on habeas corpus (132-295, 156+127). Habeas Corpus, [§30\(2\)](#); Indictment and Information, [§114](#).

8496. Suspension of sentence—

Suspension of sentence for a definite period held proper, and within the discretion of the court (125-529, 147+273). Criminal Law, [§1001](#).

8502. Incriminating testimony not to be used—

See notes under Const. art. 1 § 7.

8503. [Repealed.]

See note under § [8503—]1.

[8503—]1. Commitment of children in certain cases—Whenever a juvenile court acquires jurisdiction of a child twelve years of age or over, who is charged with delinquency, and transfers such child to a justice, municipal, or district court to be tried for a crime, the trial court, upon conviction, may commit such child to the state training school for boys or the Minnesota home school for girls. ('17 c. 266 § 1)

Section 2 repeals § 8503.

8504. Convict as witness—

Conviction of any crime, whether a felony or petty misdemeanor, may be proved under this section to impeach a witness. The nature of the crime may be shown (128-474, 151+180, Ann. Cas. 1916A, 277). Witnesses, [§345\(4\)](#).

The prosecuting attorney may cross-examine accused, testifying as a witness in his own behalf, as to the circumstances of an assault, of which he testified on direct examination he was convicted (135-159, 160+677). Witnesses, [↔](#)277(1, 2).

Where there is no conviction, evidence to show indictment for crime is properly excluded under this section (130-314, 153+611, L. R. A. 1915F, 11). Witnesses, [↔](#)345(1).

CHAPTER 94

RIGHTS OF ACCUSED

8508. Presumption of innocence—Conviction of lowest degree, when—

Burden of proof on state—Burden not on defendant to explain possession of stolen property (121-405, 141+483). Larceny, [↔](#)41.

What is reasonable doubt—A definition of reasonable doubt, in an instruction, as "not some purely imaginary, fantastic, or chimerical doubt, but doubt based on reason," was not erroneous (135-211, 160+666). Criminal Law, [↔](#)789(2).

Conviction on evidence of daughter as to incest with father, in face of positive denial by father, held not a violation of the rule as to reasonable doubt (123-128, 143+119). Incest, [↔](#)14.

Evidence held insufficient to prove beyond a reasonable doubt that defendant was guilty of burning a barn in the nighttime (130-347, 153+845). Arson, [↔](#)37(1).

Necessity of charge upon the presumption of innocence—Whether the issue of fact be one of intent or other fact, defendant, is entitled to a charge upon the presumption of innocence, and a failure to give such charge is not rendered harmless by giving a proper charge on reasonable doubt; but, if defendant makes no request for such charge, the omission to give it will not result in a reversal (130-84, 153+271). Criminal Law, [↔](#)778(3), 823(9), 824(6).

Presumption of innocence as affecting civil actions—A mere charge of embezzlement against the president of a corporation, who is also a stockholder, will not preclude mandamus by him to compel inspection of the corporate books to enable him to resist the prosecution, since he is presumed innocent until convicted, and he is not in the attitude of one coming into court with unclean hands (135-479, 160+486). Mandamus, [↔](#)129.

Proof that a foreign-born resident has voted, which act without naturalization is a crime, raises a presumption of naturalization, though it arises from the naturalization of the voter's father (123-119, 143+120). Citizens, [↔](#)10.

8510. Dismissal, when—

The phrase "good cause to the contrary" refers to cause shown when the motion to dismiss the indictment is made. A motion to dismiss is properly overruled, where a case was continued from the September to the November term at defendant's request, the trial at the November term resulted in a disagreement of the jury, and defendant moved to dismiss when the case was again called for trial at the following January term (127-505, 150+171). Criminal Law, [↔](#)576(2, 4).

8513. Counsel for defendant—Compensation—Public defender in counties having 300,000 inhabitants—Whenever a defendant shall be arraigned upon indictment or information for any felony or gross misdemeanor, and shall request the court to appoint counsel to assist in his defense, and satisfied it by his own oath or other required proof that he is unable, by reason of poverty, to procure counsel, such court shall appoint counsel, not exceeding two for such defendant, to be paid, upon his order, by the county in which the indictment was found. Compensation, not exceeding ten (\$10.00) dollars per day for each counsel, for the number of days he is actually employed in the court, shall be fixed by the court in each case; provided that in counties now or hereafter having a population of 300,000 or over the judges of the district court of such county may by a unanimous vote, appoint an attorney at law, a member of the bar in such county to appear for and defend all persons charged with a felony or gross misdemeanor in such county who are unable by reason of poverty to employ counsel. (Amended '17 c. 496 § 1)

Section 8 repeals inconsistent acts, etc.

Compensation ordered under this section in favor of an attorney for defending an indigent, accused of crime, is not exempt from garnishment, as being fees of a state or public officer (126-264, 148+66). Garnishment, [↔](#)63.

[8513—]1. Same—Duties of public defender—The attorney so appointed as aforesaid shall be known as the public defender of county. He shall appear for and defend all persons charged with any felony or gross mis-