

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

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), [§23](#)(9), [§24](#)(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-

demeanor whenever it shall appear to the court that the person accused is unable by reason of poverty to procure counsel. ('17 c. 496 § 2)

[8513—]2. **Same—To appear before board of pardons and parole—**Whenever the committing judge, or the judge in charge of the criminal court, shall deem it advisable he may by order direct the said public defender to appear before the board of pardons, or parole for and on behalf of any applicant for pardon or parole who was committed from such county. ('17 c. 496 § 3)

[8513—]3. **Same—Compensation—**He shall receive compensation for his services as the judges of the district court shall fix, said compensation to be paid by the county in the same manner and at the same time as the salary of other county officials. ('17 c. 496 § 4)

[8513—]4. **Same—Term of office—**The term of office of the public defender shall be four (4) years, but he may be re-appointed as often as the majority of the judges of the district court shall concur in such re-appointment. ('17 c. 496 § 5)

[8513—]5. **Same—Assistants—**He shall have the power to appoint and remove his assistants and number and compensation of which shall be fixed by the judges of the district court, by an order filed with the county auditor. Their compensation shall be paid by the county in the same manner and at the same time as the salaries of other county officials. ('17 c. 496 § 6)

[8513—]6. **Same—To appear for criminals who plead guilty on information—**The public defender shall also appear for and on behalf of criminals who shall have pleaded guilty on information as provided in section 9162, General Statutes of 1913, in counties now or hereafter having a population of 300,000 or over. ('17 c. 496 § 7)

CHAPTER 95

CRIMES AGAINST THE SOVEREIGNTY OF THE STATE

[8521—]1. **Interfering with enlistment by printing or writing, etc.—**It shall be unlawful from and after the passage of this act for any person to print, publish or circulate in any manner whatsoever any book, pamphlet, or written or printed matter that advocates or attempts to advocate that men should not enlist in the military or naval forces of the United States or the state of Minnesota. ('17 c. 463 § 1)

[8521—]2. **Same—By word of mouth—**It shall be unlawful for any person in any public place, or at any meeting where more than five persons are assembled, to advocate or teach by word of mouth or otherwise that men should not enlist in the military or naval forces of the United States or the state of Minnesota. ('17 c. 463 § 2)

[8521—]3. **Same—Teaching or advocating against aid in war—**It shall be unlawful for any person to teach or advocate by any written or printed matter whatsoever, or by oral speech, that the citizens of this state should not aid or assist the United States in prosecuting or carrying on war with the public enemies of the United States. ('17 c. 463 § 3)

[8521—]4. **Same—"Citizen" defined—**A citizen of this state for the purposes of this act is hereby defined to be any person within the confines of the state. ('17 c. 463 § 4)

[8521—]5. **Same—Gross misdemeanor—**Any person violating any provisions of this act is hereby declared to be guilty of gross misdemeanor and shall be punished therefor by a fine of not less than one hundred dollars, (\$100.00) nor more than five hundred dollars, (\$500.00), or by imprisonment in the county jail for not less than three months nor more than one year, or by both. ('17 c. 463 § 5)