

CHAPTER 19.

TRIAL OF AN ISSUE OF FACT IN AN INDICTMENT.

AN ACT to Repeal Section 4420, of Chapter 27, Title 25, of the Code, Relating to the Trial of an Issue of Fact in an Indictment, and enacting a Substitute in lieu Thereof. H. F. 58.

Be it enacted by the General Assembly of the State of Iowa :

SECTION 1. That section 4420, chapter 27, title 25, of the Code be, and the same is hereby repealed and the following enacted in lieu thereof: Code, § 4420; substitute for.

Section 4420. The jury having been empanelled and sworn, the court must proceed in the following order: Order of trial.

1. The clerk or district attorney must read the indictment and state the defendant's plea to the jury, and the district attorney may briefly state the evidence by which he expects to sustain the indictment.

2. The attorney for the defendants may then briefly state his defense, and the evidence by which he expects to sustain it.

3. The state may then offer the evidence in support of the indictment.

4. The defendant or his counsel may then offer his evidence in support of his defense.

5. The parties may then respectively offer rebutting evidence only unless the court, for good reasons in furtherance of justice, permit them to offer evidence upon their original case.

6. When the evidence is concluded, unless the case is submitted to the jury on both sides without argument, the district attorney must commence, the defendant follow by one or two counsel at his option, unless the court shall permit him to be heard by a larger number, and the district attorney conclude, confining himself to a response to the arguments of the defendant's counsel; *Provided*, That where two or more defendants are on trial for the same offense, they may be heard by one counsel each; *and*, *Provided further*, That the court, when the affirmative of the issue is with the defendant, may, in its discretion, award to the defendant the last argument.

7. The court shall then charge the jury in writing, without oral explanation or qualification.

Approved, February 23, 1878.