

James C. Child
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THE

PUBLIC STATUTES

OF THE

STATE OF MINNESOTA.

(1849—1858.)

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COMMISSIONERS.

PUBLISHED BY STATE AUTHORITY.

SAINT PAUL:
THE PIONEER PRINTING COMPANY.

1859.

If cause not re-submitted, defendant discharged.

(8.) SEC. CXXIII. [*As amended on page 28 of the amendments of 1852 to the revised statutes.*] If the court do not allow an amendment or direct the case to be re-submitted, the defendant if in custody must be discharged, or if admitted to bail, his bail is exonerated, or if he have deposited money instead of bail the money must be refunded to him.

Proceedings if the case be re-submitted.

(9.) SEC. CXXIV. If the court direct that the case be submitted anew, the same proceedings must be had thereon, as are prescribed in sections one hundred and thirteen, and one hundred and fourteen.

If demurrer disallowed, defendant may plead.

(10.) SEC. CXXV. [*As amended on page 28 of the amendments of 1852 to the revised statutes.*] If the demurrer be disallowed or the indictment amended, the court must permit the defendant at his election to plead, which he must do forthwith, or at such time as the court may allow. If he do not plead, judgment must be pronounced against him.

Certain objections to be taken advantage of by demurrer.

(11.) SEC. CXXVI. When the objections mentioned in section one hundred and eighteen, appear upon the face of the indictment, they can only be taken by demurrer, except that the objection to the jurisdiction of the court over the subject of the indictment, or that the facts stated do not constitute a public offense, may be taken at the trial, under the plea of not guilty, and in arrest of judgment.

CHAPTER 109.

PLEAS.

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[Chapter 123, Revised Statutes.]

Three kinds of pleas to indictment.

(1.) SEC. CXXVII. There are three kinds of pleas to an indictment; a plea of

1. Guilty;
2. Not guilty;

3. A former judgment of conviction, or acquittal of the offense charged, which may be pleaded either with or without the plea of not guilty.

Plea how made.

(2.) SEC. CXXVIII. Every plea must be oral, and must be entered upon the minutes of the court.

Pleas how to be entered by the clerk.

(3.) SEC. CXXIX. The plea must be entered in substantially the following form:

1. If the defendant plead guilty: "the defendant pleads, that he is guilty of the offense charged in this indictment;"

2. If he plead not guilty: "the defendant pleads, that he is not guilty of the offense charged in this indictment;"

3. If he plead a former conviction, or acquittal: "the defendant pleads that he has already been convicted (or acquitted, as the case may be,) of the offense charged in this indictment, by the judgment of the court of _____, (naming it,) rendered at _____, (naming the place,) on the _____ day of _____."

(4.) SEC. CXXX. A plea of guilty can in no case be put in, except by the defendant himself, in open court, unless upon an indictment against a corporation, in which case it may be put in by counsel.

Plea of guilty must be put in by defendant himself, except in case of corporation.

(5.) SEC. CXXXI. The court may, at any time before judgment upon a plea of guilty, permit it to be withdrawn, and a plea of not guilty substituted.

When plea of guilty may be withdrawn.

(6.) SEC. CXXXII. The plea of not guilty is a denial of every material allegation in the indictment.

Plea of not guilty what a denial of.

(7.) SEC. CXXXIII. [*As amended on page 28 of the amendments of 1852 to the revised statutes.*] All matters of fact tending to establish a defense other than that specified in the third subdivision of section one hundred and twenty-seven may be given in evidence under the plea of not guilty.

What matter of fact evidence under plea of not guilty.

(8.) SEC. CXXXIV. If the defendant were formerly acquitted on the ground of a variance between the indictment and the proof, or the indictment were dismissed upon an objection to its form or substance, without a judgment of acquittal, it is not an acquittal of the same offense.

When acquittal not a bar to another prosecution.

(9.) SEC. CXXXV. When, however, he was acquitted on the merits, he is deemed acquitted of the same offense, notwithstanding a defect in the form or substance in the indictment on which he was acquitted.

When acquittal is a bar to another prosecution.

(10.) SEC. CXXXVI. When the defendant shall have been convicted or acquitted, upon an indictment for an offense consisting of different degrees, the conviction or acquittal is a bar to another indictment for the offense charged in the former, or for any inferior degree of that offense, or for an attempt to commit the same, or for an offense necessarily included therein, of which he might have been convicted under that indictment, as provided in sections two hundred and fifty-four, and two hundred and fifty-five, of chapter one hundred and thirty-three.

When acquittal is a bar to another prosecution.

(11.) SEC. CXXXVII. If the defendant refuse to answer the indictment, by demurrer, or plea, a plea of not guilty must be entered.

Plea of not guilty when entered.