

21079  
65

# GENERAL STATUTES

OF THE

# STATE OF MINNESOTA.

PREPARED BY THE COMMISSIONERS APPOINTED TO REVISE  
THE STATUTES OF THE STATE, BY ACT OF THE  
LEGISLATURE, PASSED FEBRUARY 17, 1863.

ONE HUNDRED COPIES ORDERED PRINTED.



SAINT PAUL:

FREDERICK DRISCOLL, STATE PRINTER.

(PRESS PRINTING COMPANY.)

1865.

27

D

2 final upon the indictment demurred to, and is a bar to an-  
 3 other prosecution for the same offense, unless the court al-  
 4 lows an amendment where the defendant will not be unjustly  
 5 prejudiced thereby, or being of opinion that the objection  
 6 on which the demurrer is allowed may be avoided in a new  
 7 indictment, directs the case to be re-submitted to the same  
 8 or another grand jury.

C. S. p. 766, Sect. 7.  
 1 SECT. 8. If the court does not allow an amendment or  
 2 direct the case to be re-submitted, the defendant if in cus-  
 3 tody shall be discharged, or if admitted to bail, his bail is  
 4 exonerated, or if he has deposited money instead of bail  
 5 the money shall be refunded to him.

C. S. p. 766, Sect. 9.  
 1 SECT. 9. If the court directs that the case be submitted  
 2 anew, the same proceedings shall be had thereon, as are  
 3 prescribed in sections six and seven of chapter one hundred  
 4 and ten.

C. S. p. 766, Sect. 10.  
 1 SECT. 10. If the demurrer is disallowed or the indict-  
 2 ment amended, the court shall permit the defendant at his  
 3 election to plead, which he must do forthwith, or at such  
 4 time as the court may allow. If he does not plead, judg-  
 5 ment shall be pronounced against him.

C. S. p. 766, Sect. 11.  
 1 SECT. 11. When the objections mentioned in section  
 2 three, appear upon the face of the indictment, they can only  
 3 be taken by demurrer, except that the objection to the ju-  
 4 risdiction of the court over the subject of the indictment,  
 5 or that the facts stated do not constitute a public offense,  
 6 may be taken at the trial, under the plea of not guilty, and  
 7 in arrest of judgment.

---

## CHAPTER CXII.

### PLEAS.

c109 C. S. p. 766, Sect. 1.  
 1 SECTION 1. There are three pleas to an indictment:  
 2 *First.*—Guilty;  
 3 *Second.*—Not guilty;  
 4 *Third.*—A former judgment of conviction, or acquittal of  
 5 the offense charged, which may be pleaded either with or  
 6 without the plea of not guilty.

C. S. p. 766, Sect. 2.  
 1 SECT. 2. Every plea shall be oral, and be entered upon  
 2 the minutes of the court.

1 SECT. 3. The plea shall be entered in substantially the  
2 following form: C.S. p. 766, Sect. 3. c109

3 *First.*—If the defendant pleads guilty: “the defendant  
4 pleads, that he is guilty of the offense charged in this in-  
5 dictment;”

6 *Second.*—If he pleads not guilty: “the defendant pleads  
7 that he is not guilty of the offense charged in this indictment;”

8 *Third.*—If he pleads a former conviction, or acquittal:  
9 “the defendant pleads that he has already been convicted (or  
10 acquitted, as the case may be,) of the offense charged in  
11 this indictment, by the judgment of the court of  
12 (naming it,) rendered at , (naming the place,) on  
13 the day of ”

1 SECT. 4. A plea of guilty can in no case be put in, ex- C.S. p. 767, Sect. 4.  
2 cept by the defendant himself, in open court, unless upon  
3 an indictment against a corporation, in which case it may be  
4 put in by counsel.

1 SECT. 5. The court may, at any time before judgment C.S. p. 767, Sect. 5.  
2 upon a plea of guilty, permit it to be withdrawn, and a plea  
3 of not guilty substituted.

1 SECT. 6. The plea of not guilty is a denial of every C.S. p. 767, Sect. 6.  
2 material allegation in the indictment.

1 SECT. 7. All matters of fact tending to establish a de- C.S. p. 767, Sect. 7.  
2 fence other than that specified in the third subdivision of  
3 of section one may be given in evidence under the plea of  
4 not guilty.

1 SECT. 8. If the defendant was formerly acquitted on the C.S. p. 767, Sect. 8.  
2 ground of a variance between the indictment and the proof,  
3 or the indictment was dismissed upon an objection to its  
4 form or substance, without a judgment of acquittal, it is  
5 not an acquittal of the same offense.

1 SECT. 9. When, however, he was acquitted on the mer- C.S. p. 767, Sect. 9.  
2 its, he is deemed acquitted of the same offense, notwithstand-  
3 ing a defect in the form or substance in the indictment on  
4 which he was acquitted.

1 SECT. 10. When the defendant is convicted or acquit- C.S. p. 767, Sect. 10.  
2 ted, upon an indictment for an offense consisting of differ-  
3 ent degrees, the conviction or acquittal is a bar to another  
4 indictment for the offense charged in the former, or for any  
5 inferior degree of that offense, or for an attempt to commit  
6 the same, or for an offense necessarily included therein, of  
7 which he might have been convicted under that indictment.

c109

C. S. p. 767, Sect. 11.

1 SECT. 11. If the defendant refuses to answer the in-  
 2 dictment, by demurrer, or plea, a plea of not guilty shall  
 3 be entered.

## CHAPTER CXIII.

### CHANGE OF VENUE IN CRIMINAL CASES.

c110

C. S. p. 768, Sect. 1.

1 SECTION 1. All criminal causes shall be tried in the coun-  
 2 ty where the offense was committed except where other-  
 3 wise provided by law, unless it appears to the satisfaction of  
 4 the court, by affidavit, that a fair and impartial trial cannot  
 5 be had in such county, in which case the court before whom  
 6 the cause is pending, if the offense charged in the indict-  
 7 ment is punishable with death or imprisonment in the state  
 8 prison, may direct the person accused, to be tried in some  
 9 adjoining county, where a fair and impartial trial can be  
 10 had; but the party accused is entitled to a change of venue  
 11 but once and no more.

C. S. p. 768, Sect. 2.

1 SECT. 2. When the venue is changed to an adjoining  
 2 county, in a criminal case, the trial shall be conducted in  
 3 all respects as if the indictment had been found in the coun-  
 4 ty to which the venue is changed: and the costs accruing  
 5 from a change of venue shall be paid by the county in which  
 6 the offence was committed.

C. S. p. 768, Sect. 3.  
Amended.

1 SECT. 3. When the court has ordered a change of ven-  
 2 ue, it shall require the accused, if the offense is bailable, to  
 3 enter into a recognizance with good and sufficient sureties,  
 4 to be approved by the court or judge, in such sum as the  
 5 court or judge may direct, and conditioned for his appear-  
 6 ance in the court to which the venue is changed, at the first  
 7 day of the next term thereof, and to abide the order of such  
 8 court; and in default of such recognizance, or if the offense  
 9 is not bailable, a warrant shall be issued, directed to the  
 10 sheriff, commanding him safely to convey the prisoner to  
 11 the jail of the county where he is to be tried, there to be  
 12 safely kept by the jailor thereof until discharged by due  
 13 course of law.

C. S. p. 768, Sect. 4.

1 SECT. 4. When a change of venue is allowed, the court  
 2 shall recognize the witnesses on the part of the state  
 4 to appear before the court in which the prisoner is to be  
 5 tried.