

THE
GENERAL STATUTES

OF THE
STATE OF MINNESOTA

As Amended by Subsequent Legislation, with which are Incorporated
All General Laws of the State in Force December 31, 1894

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CHAPTER 112.

PLEAS.

§ 7302. Pleas to indictment.

There are three pleas to an indictment:

First. Guilty.

Second. Not guilty.

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

(G. S. 1866, c. 112, § 1; G. S. 1878, c. 112, § 1.)

SUBD. 3. Where the same act causes the death of two persons, an acquittal of the murder of one is not a bar to a prosecution for the murder of the other. *People v. Majors*, (Cal.) 3 Pac. Rep. 597.

Where a jury impaneled to try defendant is discharged upon his motion, such discharge will not support a plea of former jeopardy, in a subsequent trial. *People v. Gardner*, (Mich.) 29 N. W. Rep. 19.

Plea of former acquittal, based on a stipulation that a former conviction should include all prior offenses. *State v. Sterrenberg*, (Iowa,) 29 N. W. Rep. 457.

Continuance and discharge of the jury in the former prosecution. *State v. Falconer*, (Iowa,) 30 N. W. Rep. 655.

A plea alleging a former prosecution and trial, but failing to aver the result of such trial, or that any verdict was returned or final judgment rendered, is bad. *Hensley v. State*, (Ind.) 8 N. E. Rep. 692.

Parol evidence in support of a plea of former jeopardy. *Walter v. State*, (Ind.) 5 N. E. Rep. 735.

There is strictly no plea in abatement. *State v. Brecht*, 41 Minn. 50, 52, 42 N. W. Rep. 602.

See, also, *State v. Parker*, (Iowa,) 24 N. W. Rep. 225; *State v. Mikesell*, (Iowa,) 30 N. W. Rep. 474; *State v. Clark*, (Iowa,) 23 N. W. Rep. 537; *People v. Pline*, (Mich.) Id. 83.

§ 7303. Plea shall be oral.

Every plea shall be oral, and be entered upon the minutes of the court.

(G. S. 1866, c. 112, § 2; G. S. 1878, c. 112, § 2.)

§ 7304. How entered.

The plea shall be entered in substantially the following form:

First. If the defendant pleads guilty: "the defendant pleads that he is guilty of the offence charged in this indictment;"

Second. If he pleads not guilty: "the defendant pleads that he is not guilty of the offence charged in this indictment;"

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

(G. S. 1866, c. 112, § 3; G. S. 1878, c. 112, § 3.)

A record failing to disclose affirmatively that a plea was entered, shows a mistrial, and the error is not cured by a recital in the bill of exceptions that defendant pleaded not guilty. *Bowen v. State*, (Ind.) 9 N. E. Rep. 373. See *Billings v. State*, (Ind.) 6 N. E. Rep. 914.

§ 7305. Plea of guilty, how made.

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.

(G. S. 1866, c. 112, § 4; G. S. 1878, c. 112, § 4.)

§ 7306. Plea of guilty withdrawn, when.

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.

(G. S. 1866, c. 112, § 5; G. S. 1878, c. 112, § 5.)

(1911)

§ 7307. Effect of plea of not guilty.

The plea of not guilty is a denial of every material allegation in the indictment.

(G. S. 1866, c. 112, § 6; G. S. 1878, c. 112, § 6.)

§ 7308. Evidence under plea of not guilty.

All matters of fact tending to establish a defence other than that specified in the third subdivision of section one, may be given in evidence under the plea of not guilty.

(G. S. 1866, c. 112, § 7; G. S. 1878, c. 112, § 7.)

§ 7309. Acquittal not a bar, when.

If the defendant was formerly acquitted on the ground of a variance between the indictment and the proof, or the indictment was dismissed upon an objection to its form or substance, without a judgment of acquittal, it is not an acquittal of the same offence.

(G. S. 1866, c. 112, § 8; G. S. 1878, c. 112, § 8.)

§ 7310. When acquittal is a bar.

When, however, he was acquitted on the merits, he is deemed acquitted of the same offence, notwithstanding a defect in the form or substance in the indictment on which he was acquitted.

(G. S. 1866, c. 112, § 9; G. S. 1878, c. 112, § 9.)

§ 7311. Same—On indictment for offence of different degrees.

When the defendant is convicted or acquitted upon an indictment for an offence consisting of different degrees, the conviction or acquittal is a bar to another indictment for the offence charged in the former, or for any inferior degree of that offence, or for an attempt to commit the same, or for an offence necessarily included therein, of which he might have been convicted under that indictment.

(G. S. 1866, c. 112, § 10; G. S. 1878, c. 112, § 10.)

§ 7312. Refusal to plead—Proceedings.

If the defendant refuses to answer the indictment, by demurrer, or plea, a plea of not guilty shall be entered.

(G. S. 1866, c. 112, § 11; G. S. 1878, c. 112, § 11.)