

31700

THE
REVISED STATUTES,
OF THE
TERRITORY OF MINNESOTA,

PASSED AT THE SECOND SESSION OF THE
LEGISLATIVE ASSEMBLY,

COMMENCING JANUARY 1, 1851.

PRINTED AND PUBLISHED PURSUANT TO LAW, UNDER THE SUPERVISION OF M. S. WILKINSON.

SAINT PAUL:

JAMES M. GOODHUE, TERRITORIAL PRINTER.

.....
1851

ty may be with-
drawn.

of guilty, permit it to be withdrawn, and a plea of not guilty substituted.

Plea of not guilty
what a denial of.

SEC. 132. The plea of not guilty, is a denial of every material allegation in the indictment.

What may be given
in evidence under
plea of not guilty.

SEC. 133. All matters of fact, tending to establish a defence, other than that specified in the third subdivision of section one hundred and twenty-nine, may be given in evidence, under the plea of not guilty.

When acquittal not
a bar to another
prosecution.

SEC. 134. 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 offence.

When acquittal is a
bar to another pros-
ecution.

SEC. 135. 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.

When acquittal is a
bar to another pros-
ecution.

SEC. 136. When the defendant shall have been 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, as provided in sections two hundred and fifty-four and two hundred and fifty-five, of chapter one hundred and thirty-three.

Plea of not guilty
when entered.

SEC. 137. If the defendant refuse to answer the indictment, by demurrer, or plea, a plea of not guilty must be entered.

CHAPTER. 124.

OF THE CHANGE OF VENUE IN CRIMINAL CASES.

SECTION

138. Criminal cases where tried, and when removed.

139. Proceedings when venue is changed to another county.

140. When venue is changed defendant must recognize to appear.

SECTION

141. When venue is changed witnesses must recognize to appear.

142. District attorney may apply for change of venue.

Criminal cases
where tried, &c.

SEC. 138. All criminal causes shall be tried in the county where the offence was committed, except where otherwise provided by law, unless it shall appear to the satisfaction of the court, by affidavit, that a fair and impartial trial cannot be had in such county, in which case the court before whom the cause is pending, if the offence charged in the indictment, be punishable with death or imprisonment in the territorial prison, may direct the person accused, to be tried in some adjoining county, where a fair and impartial trial can be had; but the party accused shall be entitled to a change of venue, but once, and no more.

Proceedings when
venue is changed.

SEC. 139. When the venue is changed to an adjoining county, in a criminal case, the trial shall be conducted in all respects as if the indictment had been found in the county to which the venue is changed; and

the costs accruing from a change of venue shall be paid by the county in which the offence was committed.

SEC. 140. When the court has ordered a change of venue, they shall require the accused, if the offence be bailable, to enter into a recognizance with good and sufficient sureties, to be approved by the court or judge, in such sum as the court or judge may direct, conditioned for his appearance in the court to which the venue is changed, at the first day of the next term thereof, and to abide the order of such court; and in default of such recognizance, a warrant shall be issued, directed to the sheriff, commanding him safely to convey the prisoner to the jail of the county where he or she is to be tried, there to be safely kept by the jailor thereof until discharged by due course of law.

When venue is changed, defendant must recognize to appear.

SEC. 141. When a change of venue is allowed, the court shall recognize the witnesses on the part of the United States, to appear before the court in which the prisoner is to be tried.

When venue is changed witnesses must recognize to appear.

SEC. 142. The attorney on behalf of the United States, may also apply for a change of venue, and the court being satisfied that it will promote the ends of justice, may award a change of venue upon the same terms, and to the same extent, that are provided in this chapter, and the proceedings on such change of venue, shall be in all respects as above provided.

District attorney may apply for change of venue.

CHAPTER 125.

THE MODE OF TRIAL—ISSUES.

SECTION

143. Issues of fact defined.

144. Issues of fact how tried.

SECTION

145. When defendant be present on the trial.

SEC. 143. An issue of fact arises :

1. Upon a plea of not guilty; or
2. Upon a plea of a former conviction or acquittal of the same offence.

Issues of fact defined.

SEC. 144. An issue of fact must be tried by a jury of the county in which the indictment was found, unless the action be removed, by order of the court, as provided in the preceding chapter.

Issues of fact how tried.

SEC. 145. If the indictment be for a misdemeanor, the trial may be had in the absence of the defendant, if he appear by counsel; but if for a felony he must be personally present.

When defendant be present on the trial.