

James C. Child
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THE

PUBLIC STATUTES

OF THE

STATE OF MINNESOTA.

(1849—1858.)

COMPILED BY
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CHAPTER 108.

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[Chapter 122, Revised Statutes.]

- (1.) SEC. CXVI. The only pleading on the part of the defendant, is either a demurrer, or a plea. Pleadings on the part of the defendant.
- (2.) SEC. CXVII. Both the demurrer and the plea must be put in in open court, either at the time of the arraignment, or at such other time as may be allowed to the defendant for that purpose. Demurrer and when filed.
- (3.) SEC. CXVIII. The defendant may demur to the indictment, when it appears from the face thereof, either, When defendant may demur to indictment.
1. That the grand-jury by which it was found, had no legal authority to inquire into the offense charged, by reason of its not being within the local jurisdiction of the county;
 2. [*As amended on pages 27 and 28 of the amendments of 1852 to the revised statutes:*] That it does not substantially conform to the requirements of sections sixty-five, sixty-six, sixty-seven, sixty-eight, and sixty-nine, of chapter one hundred and nineteen, as the same are qualified by section seventy-six of the same chapter, or was not found within the time prescribed by section eighty-eight; Conformity of indictment.
 3. That more than one offense is charged in the indictment;
 4. That the facts stated do not constitute a public offense;
 5. That the indictment contains any matter, which, if true, would constitute a legal justification or excuse of the offense charged, or other legal bar to the prosecution.
- (4.) SEC. CXIX. The demurrer must be in writing, signed either by the defendant, or his counsel; it must distinctly specify the ground of objection to the indictment, or it may be disregarded. Demurrer to be in writing, what to specify.
- (5.) SEC. CXX. Upon the demurrer being filed, the objection presented thereby must be heard, either immediately, or at such time as the court may appoint. Objection on demurrer when heard.
- (6.) SEC. CXXI. Upon considering the demurrer, the court must give judgment, either allowing or disallowing it, and an order to that effect must be entered upon the minutes. Judgment on demurrer how given.
- (7.) SEC. CXXII. [*As amended on page 28 of the amendments of 1852 to the revised statutes:*] If the demurrer be allowed, the judgment is final upon the indictment demurred to, and is a bar to another prosecution for the same offense, unless the court allow an amendment where the defendant will not be unjustly prejudiced thereby, or being of opinion that the objection on which the demurrer is allowed may be avoided in a new indictment, direct the case to be re-submitted to the same or another grand-jury. Effect of allowance of demurrer.

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.

SECTION

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SECTION

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9. When acquittal is a bar to another prosecution.
10. When acquittal is a bar to another prosecution.
11. Plea of not guilty to be entered when defendant refuses to answer indictment.

[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;"