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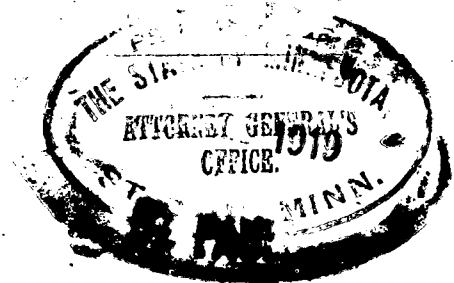
GENERAL STATUTES

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.

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CHAPTER CXI.

DEMURRERS.

1 SECTION 1. The only pleading on the part of the defend- C. S. p. 765, Sect. 1. c 108
2 ant, is a demurrer or a plea.

1 SECT. 2. Both the demurrer and the plea shall be put C. S. p. 765, Sect. 2.
2 in in open court, either at the time of the arraignment, or
3 at such other time as may be allowed to the defendant for
4 that purpose.

1 SECT. 3. The defendant may demur to the indictment, C. S. p. 765, Sect. 3.
2 when it appears from the face thereof, either,
3 *First.*—That the grand jury by which it was found, had
4 no legal authority to inquire into the offense charged, by
5 reason of its not being within the local jurisdiction of the
6 county;
7 *Second.*—That it does not substantially conform to the
8 requirements of sections one, two, three, four and five, of
9 chapter one hundred and eight, as the same are qualified by
10 section ten of the same chapter, or was not found within
11 the time prescribed by section eighteen;
12 *Third.*—That more than one offense is charged in the in-
13 dictment, except in cases where it is allowed by statute;
14 *Fourth.*—That the facts stated do not constitute a public
15 offense;
16 *Fifth.*—That the indictment contains any matter, which,
17 if true, would constitute a legal justification or excuse of
18 the offense charged, or other legal bar to the prosecution.

1 SECT. 4. The demurrer shall be in writing, signed either C. S. p. 765, Sect. 4.
2 by the defendant, or his counsel; it shall distinctly specify
3 the ground of objection to the indictment, or it may be dis-
4 regarded.

1 SECT. 5. Upon the demurrer being filed, the objection C. S. p. 765, Sect. 5.
2 presented thereby shall be heard, either immediately, or at
3 such time as the court may appoint.

1 SECT. 6. Upon considering the demurrer, the court C. S. p. 765, Sect. 6.
2 shall give judgment, either allowing or disallowing it, and
3 an order to that effect shall be entered upon the minutes.

1 SECT. 7. If the demurrer is allowed, the judgment is

- 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. 8.
- 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. 9.
- 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. 10.
- 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.
- C. S. p. 766, Sect. 11.

 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.