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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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1 SECT. 5. The attorney on behalf of the state may also
 2 apply for a change of venue, and the court being satisfied C. S. p. 768, Sect. 5. C 110
 3 that it will promote the ends of justice may award a change
 4 of venue upon the same terms and to the same extent that
 5 are provided in this chapter, and the proceedings on such
 6 change of venue shall be in all respects as above provided.

CHAPTER CXIV.

ISSUES AND MODE OF TRIAL.

1 SECTION 1. An issue of fact arises : C. S. p. 769, Sect. 1. C 111
 2 *First.*—Upon a plea of not guilty ; or
 3 *Second.*—Upon a plea of a former conviction or acquittal
 4 of the same offense.

1 SECT. 2. An issue of fact shall be tried by a jury of the C. S. p. 769, Sect. 2.
 2 county in which the indictment was found, unless the action
 3 is removed, by order of the court, as provided in the pre-
 4 ceding chapter.

1 SECT. 3. If the indictment is for a misdemeanor, the C. S. p. 769, Sect. 3.
 2 trial may be had in the absence of the defendant, if he ap-
 3 pears by counsel ; but if for a felony he shall be personally
 4 present.

1 SECT. 4. When an indictment is called for trial, or at C. S. p. 772, Sect. 1. C 114
 2 any time previous thereto the court may, upon sufficient
 3 cause shown by either party, direct the trial to be postponed
 4 to another day in the same term, or to another term ; the
 5 affidavits read upon the application shall at the same time
 6 be filed with the clerk.

1 SECT. 5. When a defendant, who has given bail, ap- C. S. p. 783, Sect. 14. C 118
 2 pears for trial, the court may in its discretion, at any time
 3 after his appearance for trial, order him to be committed to
 4 the custody of the proper officer of the county, to abide the
 5 judgment or further order of the court.

1 SECT. 6. When two or more defendants are jointly in- C. S. p. 782, Sect. 3. C 118
 2 dicted for a felony, any defendant requiring it, shall be tried
 3 separately ; in other cases defendants jointly indicted, may
 4 be tried separately, or jointly in the discretion of the court.

1 SECT. 7. When two or more persons are included in the C. S. p. 782, Sect. 4. C 118
 2 same indictment, the court may at any time before the de-

3 defendant has gone into his defense, on the application of the
4 district attorney, direct any defendant to be discharged
5 from the indictment, that he may be a witness for the state.

c118 C. S. p. 782, Sect. 5.
1 SECT. 8. When two or more persons are included in the
2 same indictment, and the court is of opinion, that in regard
3 to a particular defendant there is not sufficient evidence to
4 put him on his defense, it shall order him to be discharged
5 from the indictment, before the evidence is closed, that he
6 may be a witness for his co-defendant; the order is an ac-
7 quittal of the defendant discharged, and a bar to another
8 prosecution for the same offense.

C. S. p. 782, Sect. 9.
1 SECT. 9. If a juror has any personal knowledge respect-
2 ing a fact in controversy in a cause, he shall declare it in
3 open court, during the trial; if during the retirement of a
4 jury, a juror declare a fact which could be evidence in the
5 cause, as of his own knowledge, the jury must return into
6 court; in either of these cases the juror making the state-
7 ment shall be sworn as a witness, and examined in the pres-
8 ence of the parties.

c114 C. S. p. 776, Sect. 42.
1 SECT. 10. The court may order a view by any jury im-
2 panned to try a criminal case.

c118 C. S. p. 782, Sect. 11.
1 SECT. 11. On the trial of an indictment for any offense,
2 questions of law are to be decided by the court, except in
3 cases of libel, saving the right of the defendant to except.
4 Questions of fact, by the jury; and although the jury have
5 the power to find a general verdict, which includes ques-
6 tions of law as well as of fact, they are bound, nevertheless,
7 to receive as law what is laid down as such by the court.

C. S. p. 783, Sect. 12.
1 SECT. 12. In charging the jury the court shall state to
2 them all matters of law, which it thinks necessary for their
3 information in giving their verdict; and if it presents the
4 facts of the case, shall, in addition to what it may deem its
5 duty to say, inform the jury that they are the exclusive
6 judges of all questions of fact.

C. S. p. 783, Sect. 13.
Amended.
1 SECT. 13. After hearing the charge, the jury may either
2 decide in court, or may retire for deliberation; if they do
3 not agree without retiring, one or more officers shall be
4 sworn to take charge of them; they shall be kept together
5 in some private and convenient place without food or drink,
6 except bread and water, unless otherwise ordered by the
7 court, and no person shall be permitted to speak to or com-
8 municate with them, unless it is by order of the court, nor
9 listen to their deliberations; and they shall be returned in-
10 to court when they have so agreed, or when ordered by the
11 court.

1 SECT. 14. Upon retiring for deliberation, the jury may
 2 take with them all papers which have been received as evi- C. S. p. 783, Sects. 15
 3 dence in the cause, or copies of such parts of public records & 16, combined. c 118
 4 or private documents given in evidence, as ought not, in the
 5 opinion of the court to be taken from the person having
 6 them in possession; they may also take with them notes of
 7 the testimony or other proceedings on the trial taken by
 8 themselves, or any of them, but none taken by any other per-
 9 son.

1 SECT. 15. After the jury have retired for deliberation,
 2 if there is a disagreement between them, as to any part of C. S. p. 783, Sect. 17.
 4 the testimony, or if they desire to be informed of a point of
 5 law arising in the cause, they shall require the officer to
 5 conduct them into court. Upon their being brought into
 6 court, the information required shall be given in the pres-
 7 ence of, or after notice to the prosecuting officer, and the
 8 defendant or his counsel.

1 SECT. 16. If, after the retirement of the jury, one of
 2 them becomes so sick as to prevent the continuance of his C. S. p. 783, Sect. 18.
 3 duty, or if they are unable to agree upon a verdict, or any Amended.
 4 other accident or cause occurs to prevent their being kept
 5 together for deliberation, the jury may be discharged by the
 6 court.

1 SECT. 17. In all cases where a jury are discharged or C. S. p. 783, Sect. 19.
 2 prevented from giving a verdict by reason of accident, Amended.
 3 disagreement or other cause, except when the defendant is
 4 discharged from the indictment during the progress of the
 5 trial, or after the cause is submitted to them, the cause may
 6 be again tried at the same or another term.

1 SECT. 18. Upon an indictment for an offense consisting
 2 of different degrees, the jury may find the defendant not
 3 guilty of the degree charged in the indictment, and guilty C. S. p. 783, Sects. 20
 4 of any degree inferior thereto; upon an indictment for any & 21, combined.
 5 offense, the jury may find the defendant not guilty of the
 6 commission thereof, and guilty of an attempt to commit the
 7 same; upon an indictment for murder, if the jury find the
 8 defendant not guilty thereof, they may upon the same in-
 9 dictment, find the defendant guilty of manslaughter in any
 10 degree. In all other cases, the defendant may be found
 11 guilty of any offense, the commission of which is necessarily
 12 included in that with which he is charged in the indictment.

1 SECT. 19. On an indictment against several, if the jury
 2 cannot agree upon a verdict as to all, they may render a C. S. p. 784, Sect. 22.
 3 verdict as to those in regard to whom they do agree, on

4 which a judgment shall be entered accordingly, and the
5 case as to the rest may be tried by another jury.

C118

C. S. p. 784, Sect. 23.

1 SECT. 20. When a verdict is rendered, and before it is
2 recorded, the jury may be polled on the requirement of
3 either party, in which case they shall be severally asked
4 whether it is their verdict, and if any one answer in the
5 negative, the jury shall be sent out for further deliberation.

C. S. p. 784, Sect. 24.

1 SECT. 21. When a verdict is given, such as the court
2 may receive, the clerk shall immediately record it in full on
3 the minutes, and read it to the jury, and inquire of them
4 whether it is their verdict; and if any juror disagrees, the
5 fact shall be entered upon the minutes, and the jury again
6 sent out; but if no disagreement is expressed, the verdict
7 is complete, and the jury shall be discharged from the case.

C114

C. S. p. 776, Sect. 45.

1 SECT. 22. When any person, indicted for an offense is
2 on trial acquitted by the jury, by reason of insanity, the ju-
3 ry, in giving their verdict of not guilty, shall state that it
4 was given for such cause; and thereupon, if the discharge or
5 going at large of such insane person is considered by the
6 court manifestly dangerous to the peace and safety of the
7 community, the court may order him to be committed to
8 prison, or may give him into the care of his friends, if they
9 shall give bonds with surety to the satisfaction of the court,
10 conditioned that he shall be well and securely kept, other-
11 wise he shall be discharged.

C118

C. S. p. 784, Sects. 26
& 27, combined &
amended.

1 SECT. 23. After a plea or verdict of guilty, in a case
2 where a discretion is conferred upon the court, as to the ex-
3 tent of the punishment, the court, upon the suggestion of
4 either party that there are circumstances which may be
5 properly taken into view, either in aggravation or mitigation
6 of the punishment, may in his discretion hear the same sum-
7 marily at a specified time, and upon such notice to the ad-
8 verse party, as it may direct. Such circumstances shall be
9 presented by the testimony of witnesses examined in open
10 court.

C. S. p. 785, Sect. 36.

1 SECT. 24. The court may, either of his own motion, or
2 upon the application of the prosecuting officer and in fur-
3 therance of justice, order an action after indictment, to be
4 dismissed; but in that case, the reasons of the dismissal
5 shall be set forth in the order, and entered upon the minutes.