

TITLE 19  
CRIMINAL PROCEDURE

CHAPTER 23  
VERDICT

19-2301. RETURN OF JURY. When the jury have agreed upon their verdict they must be conducted into court by the officer having them in charge. Their names must then be called, and if all do not appear, the rest must be discharged without giving a verdict. In that case the action may be again tried at the same or another term.

[(19-2301) Cr. Prac. 1864, sec. 401, p. 261; R.S., R.C., & C.L., sec. 7915; C.S., sec. 8986; I.C.A., sec. 19-2201.]

19-2302. PRESENCE OF DEFENDANT. If indicted for a felony, the defendant must, before the verdict is received, appear in person. If for a misdemeanor, the verdict may be rendered in his absence.

[(19-2302) Cr. Prac. 1864, sec. 402, p. 261; R.S., R.C., & C.L., sec. 7916; C.S., sec. 8987; I.C.A., sec. 19-2202.]

19-2303. MANNER OF TAKING VERDICT. When the jury appear they must be asked by the court or clerk whether they have agreed upon their verdict, and if the foreman answers in the affirmative they must, on being required, declare the same.

[(19-2303) Cr. Prac. 1864, sec. 403, p. 261; R.S., R.C., & C.L., sec. 7917; C.S., sec. 8988; I.C.A., sec. 19-2203.]

19-2304. GENERAL AND SPECIAL VERDICTS. The jury may render a general verdict, or, when they are in doubt as to the legal effect of the facts proved, they may, except upon an indictment for libel, find a special verdict.

[(19-2304) Cr. Prac. 1864, sec. 404, p. 261; R.S., R.C., & C.L., sec. 7918; C.S., sec. 8989; I.C.A., sec. 19-2204.]

19-2305. FORMS OF GENERAL VERDICT. A general verdict upon a plea of not guilty is either "guilty" or "not guilty," which imports a conviction or acquittal of the offense charged in the indictment.

[(19-2305) Cr. Prac. 1864, sec. 405, p. 261; 1875, p. 421, sec. 403; R.S., R.C., & C.L., sec. 7919; C.S., sec. 8990; I.C.A., sec. 19-2205; am. 1982, ch. 368, sec. 8, p. 924.]

19-2306. SPECIAL VERDICT DEFINED. A special verdict is that by which the jury finds the facts only, leaving the judgment to the court. It must present the conclusions of fact as established by the evidence, and not the evidence to prove them, and these conclusions of fact must be so presented as that nothing remains to the court but to draw conclusions of law upon them.

[(19-2306) Cr. Prac. 1864, sec. 406, p. 261; R.S., R.C., & C.L., sec. 7920; C.S., sec. 8991; I.C.A., sec. 19-2206.]

19-2307. SPECIAL VERDICT, HOW RENDERED. The special verdict must be reduced to writing by the jury, or in their presence entered upon the minutes of the court, read to the jury and agreed to by them, before they are discharged.

[(19-2307) Cr. Prac. 1864, sec. 107, p. 261; R.S., R.C., & C.L., sec. 7921; C.S., sec. 8992; I.C.A., sec. 19-2207.]

19-2308. FORM OF SPECIAL VERDICT. The special verdict need not be in any particular form, but is sufficient if it present intelligibly the facts found by the jury.

[(19-2308) Cr. Prac. 1864, sec. 408, p. 261; R.S., R.C., & C.L., sec. 7922; C.S., sec. 8993; I.C.A., sec. 19-2208.]

19-2309. JUDGMENT ON SPECIAL VERDICT. The court must give judgment upon the special verdict as follows:

1. If the plea is not guilty and the facts prove the defendant guilty of the offense charged in the indictment, or of any other offense of which he could be convicted under that indictment, judgment must be given accordingly. But if otherwise, judgment of acquittal must be given.

2. If the plea is a former conviction or acquittal of the same offense, the court must give judgment of acquittal or conviction, as the facts prove or fail to prove the former conviction or acquittal.

[(19-2309) Cr. Prac. 1864, sec. 409, p. 261; R.S., R.C., & C.L., sec. 7923; C.S., sec. 8994; I.C.A., sec. 19-2209.]

19-2310. DEFECTIVE SPECIAL VERDICT -- NEW TRIAL. If the jury do not, in a special verdict, pronounce affirmatively or negatively on the facts necessary to enable the court to give judgment, or if they find the evidence of facts merely, and not the conclusions of fact from the evidence, as established to their satisfaction, the court must order a new trial.

[(19-2310) Cr. Prac. 1864, sec. 410, p. 262; R.S., R.C., & C.L., sec. 7924; C.S., sec. 8995; I.C.A., sec. 19-2210.]

19-2311. JURY TO FIND DEGREE OF CRIME. Whenever a crime is distinguished into degrees the jury, if they convict the defendant, must find the degree of the crime of which he is guilty.

[(19-2311) 1874, p. 363, sec. 409; R.S., R.C., & C.L., sec. 7925; C.S., sec. 8996; I.C.A., sec. 19-2211.]

19-2312. CONVICTION OF INCLUDED OFFENSE. The jury may find the defendant guilty of any offense, the commission of which is necessarily included in that with which he is charged in the indictment, or of an attempt to commit the offense.

[(19-2312) Cr. Prac. 1864, sec. 411, p. 262; R.S., R.C., & C.L., sec. 7926; C.S., sec. 8997; I.C.A., sec. 19-2212.]

19-2313. VERDICT AGAINST JOINT DEFENDANTS. On an indictment against several, if the jury cannot agree upon a verdict as to all, they may render a verdict as to those in regard to whom they do agree, on which a judgment must

be entered accordingly, and the case as to the others may be tried by another jury.

[(19-2313) Cr. Prac. 1864, sec. 412, p. 262; R.S., R.C., & C.L., sec. 7927; C.S., sec. 8998; I.C.A., sec. 19-2213.]

19-2314. RECONSIDERATION OF VERDICT. When there is a verdict of conviction, in which it appears to the court that the jury have mistaken the law, the court may explain the reason for that opinion and direct the jury to reconsider their verdict, and if, after the reconsideration, they return the same verdict, it must be entered; but when there is a verdict of acquittal, the court can not require the jury to reconsider it. If the jury render a verdict which is neither general nor special, the court may direct them to reconsider it, and it can not be recorded until it is rendered in some form from which it can be clearly understood that the intent of the jury is either to render a general verdict or to find the facts specially and to leave the judgment to the court.

[(19-2314) Cr. Prac. 1864, secs. 413, 414, p. 262; R.S., R.C., & C.L., sec. 7928; C.S., sec. 8999; I.C.A., sec. 19-2214.]

19-2315. JUDGMENT ON INFORMAL VERDICT. If the jury persist in finding an informal verdict, from which, however, it can be clearly understood that their intention is to find in favor of the defendant upon the issue, it must be entered in the terms in which it is found, and the court must give judgment of acquittal. But no judgment of conviction can be given unless the jury expressly find against the defendant upon the issue, or judgment is given against him on a special verdict.

[(19-2315) Cr. Prac. 1864, sec. 415, p. 262; R.S., R.C., & C.L., sec. 7929; C.S., sec. 9000; I.C.A., sec. 19-2215.]

19-2316. POLLING THE JURY. When a verdict is rendered and before it is recorded, the jury may be polled at the request of either party, in which case they must be severally asked whether it is their verdict; and if each juror answer in the affirmative, then the verdict shall be recorded; but if a less number answer in the affirmative, the jury must be sent out for further deliberation.

[(19-2316) Cr. Prac. 1864, sec. 416, p. 262; R.S., sec. 7930; am. 1890-1891, p. 165, sec. 2; reen. 1899, p. 110, sec. 2; reen. R.C. & C.L., sec. 7930; C.S., sec. 9001; I.C.A., sec. 19-2216; am. 1967, ch. 44, sec. 1, p. 85.]

19-2317. RECORDING VERDICT. When the verdict given is such as the court may receive, the clerk must immediately record it in full upon the minutes, read it to the jury, and inquire of them whether it is their verdict. If any juror disagree, the fact must be entered upon the minutes and the jury again sent out; but if no disagreement is expressed, the verdict is complete, and the jury must be discharged from the case.

[(19-2317) Cr. Prac. 1864, sec. 417, p. 263; R.S., R.C., & C.L., sec. 7931; C.S., sec. 9002; I.C.A., sec. 19-2217.]

19-2318. DISCHARGE OR DETENTION OF DEFENDANT ON ACQUITTAL. If judgment of acquittal is given on a general verdict and the defendant is not detained for any other legal cause, he must be discharged as soon as the judgment is given, except where the acquittal is because of a variance between the proof and the indictment, which may be obviated by a new indictment, the court may order his detention to the end that a new indictment may be preferred, in the same manner and with like effect as provided in case where the indictment does not state a public offense.

[(19-2318) Cr. Prac. 1864, sec. 418, p. 263; R.S., R.C., & C.L., sec. 7932; C.S., sec. 9003; I.C.A., sec. 19-2218.]

19-2319. COMMITTAL OF DEFENDANT ON CONVICTION. If a general verdict is rendered against the defendant, or a special verdict is given, he must be remanded, if in custody, or if on bail he may be committed to the proper officer of the county to await the judgment of the court upon the verdict. When committed, his bail is exonerated, or if money is deposited instead of bail, it must be refunded to the defendant.

[(19-2319) Cr. Prac. 1864, sec. 419, p. 263; R.S., R.C., & C.L., sec. 7933; C.S., sec. 9004; I.C.A., sec. 19-2219.]