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THE  
REVISED STATUTES,  
OF THE  
TERRITORY OF MINNESOTA,

PASSED AT THE SECOND SESSION OF THE  
LEGISLATIVE ASSEMBLY,

COMMENCING JANUARY 1, 1851.

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

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SAINT PAUL:

JAMES M. GOODHUE, TERRITORIAL PRINTER.

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1851

CHAPTER 118.

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Twelve jurors necessary to find true bill.

SEC. 60. An indictment cannot be found without the concurrence of at least twelve grand jurors. When so found, it must be indorsed "a true bill," and the indorsement must be signed by the foreman of the grand jury.

When charge must be dismissed.

SEC. 61. If twelve grand jurors do not concur in finding an indictment or presentation, the charge must be dismissed.

After dismissed, charge may again be brought before grand jury.

SEC. 62. The dismissal of the charge does not, however prevent it being again submitted to a grand jury as often as the court may direct.

Names of witnesses must be inserted on indictment.

SEC. 63. When an indictment is found, the names of the witnesses examined before the grand jury, must in all cases be inserted at the foot of the indictment or indorsed thereon before it is presented to the court.

Indictment must be presented by the foreman to the court.

SEC. 64. When an indictment is found by the grand jury, it must be immediately presented by their foreman in their presence to the court, and must be filed with the clerk and remain in his office as a public record.

CHAPTER 119.

OF INDICTMENTS.

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SEC. 65. The first pleading on the part of the United States is the indictment. Indictment.

SEC. 66. The indictment must contain:

1. The title of an action specifying the name of the court to which the indictment is presented and the name of the parties: Indictment what to contain.

2. A statement of the acts constituting the offence, in ordinary and concise language without repetition, and in such manner as to enable a person of common understanding to know what is intended.

SEC. 67. It may be substantially in the following form:

Forms of indictments.

No. 1.

The district court for the county of \_\_\_\_\_ and Territory of Minnesota; The United States, }

vs.

A. B. }

A. B. is accused by the grand jury of the county of \_\_\_\_\_ by this indictment of the crime of \_\_\_\_\_ (here insert the name of the offence if it have one,) such as treason, murder, arson, manslaughter or the like, or if it be a misdemeanor, having no general name such as libel, assault and battery or the like, insert a brief description of it, as it is given by law, committed as follows:

The said A. B. on the \_\_\_\_\_ day of \_\_\_\_\_ A. D. 18 \_\_\_\_\_ at the town, city or village as the case may be) of \_\_\_\_\_ in this county, (here set forth the act charged as an offence according to the form adapted to the case as provided in the following forms, or similar ones.)

Dated at \_\_\_\_\_ in the county of \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_ A. D. 18 \_\_\_\_\_ (signed) G. H. Foreman of the grand jury.

No. 2.

*In an indictment for murder.*

(Commencement the same as No. 1.)

Without the authority of law and with malice aforethought, killed C. D. by shooting him with a gun or pistol or by administering to him poison, or by pushing him into the water, whereby he was drowned, or by throwing him from the roof of a building, or by means unknown to the grand jury, or as the case may be.

Indictment for murder.

No. 3.

*In an indictment for arson.*

Willfully set fire to (or burned) in the night time, a dwelling house in which there was at the time a human being, namely C. D. (or whose name is unknown to the grand jury,) or,

Indictment for arson.

No. 4.

Willfully set fire to (or burned) an inhabited dwelling house in the day time, in which there was at the time a human being, namely C. D. (or whose name is unknown to the grand jury,) or,

No. 5.

Willfully set fire to (or burned) the steam boat named the \_\_\_\_\_ which was at the time insured by the Hartford Insurance company

1b.

of the state of Connecticut, against loss or damage by fire, with intent to prejudice such insurer.

No. 6.

MANSLAUGHTER IN THE FIRST DEGREE.

Indictment for manslaughter.

Was engaged in the perpetration of the following (stating it as in an enactment therefor) and the said A. B., while engaged in the perpetration of such misdemeanor, without a design to effect death by his act (or procurement or culpable negligence) by his act killed C. D. by striking him with a club, or by other means, to be stated as in No. 2. or,

No. 7.

Indictment for assisting to commit murder.

Deliberately assisted one C. D. in the commission of self-murder, which crime the said C. D. then and there committed by hanging himself by the neck until he was dead; (or by shooting himself with a pistol, or as the case may be.)

No. 8.

MANSLAUGHTER IN THE SECOND DEGREE.

Indictment for manslaughter in second degree.

Killed C. D. in the heat of passion, but in a cruel and unusual manner, and not under such circumstances as to constitute excusable or justifiable homicide, by striking him with a club (or stating the means according to the fact.)

No. 9.

MANSLAUGHTER IN THE THIRD DEGREE.

Indictment for manslaughter in third degree.

Was the owner of a bull (or other mischievous animal describing it) and knowing its propensities, willfully suffered such bull to run at large (or kept it without ordinary care,) and the said bull while so at large, (or not confined) killed one C. D., who took all the precautions which the circumstances would permit, to avoid such bull; or

No. 10.

1b.

Was managing a steam boat called the \_\_\_\_\_ for gain, and wilfully (or negligently received on board so many passengers (or such a quantity of lading) that the said boat sunk (or was upset) whereby C. D., who was on said boat, was drowned, (or otherwise killed, according to the fact.)

*In an indictment for rape.*

No. 11.

Indictment for rape

Forcibly ravished C. T. a woman of the age of ten years or upwards; or

No. 12.

1b.

Unlawfully and carnally knew and abused C. H. a female child under the age of ten years.

OF INDICTMENTS.

No. 13.

*In an indictment for robbery.*

Feloniously took a gold watch (or any other property as the case may be) the property of C. D., from his person, and against his will, by violence to his person, (or by putting him in fear of some immediate injury to his person,) or, Indictment for robbery.

No. 14.

Feloniously took a gold watch, (or as the case may be,) the property of C. D., in his presence and against his will, by violence to his person. 1b.

No. 15.

*In an indictment for larceny.*

Feloniously took and carried away, one gold watch and one silver chain, (or as the case may be,) the personal property of J. D., (or of a person whose name is unknown to the grand jury,) of the value of more than twenty dollars; or, Indictment for larceny.

No. 16.

Feloniously took and carried away in the night time, from the person of C. D., one silver watch, (or as the case may be,) the personal property of E. F., (or of a person whose name is unknown to the grand jury,) of the value of more than twenty dollars. 1b.

No. 17.

*In an indictment for burglary.*

Broke into and entered in the night time, the dwelling house of C. D., in which there was at the time a human being, namely the said C. D., (or whose name is unknown to the grand jury,) with intent to commit murder (or rape, robbery, or larceny, or other public offence, describing it generally,) therein, by forcibly bursting or breaking the wall, or an outer door, or a window of such house, (or as the case may be;) or, Indictment for burglary.

No. 18.

Broke into and entered in the night time, the dwelling house of C. D., in which there was at the time, a human being, namely the said C. D., (or whose name is unknown to the grand jury,) with intent to commit a rape (or larceny, or any other public offence, describing it generally,) therein, by unlocking an outer door, by means of false keys, or by picking or forcing the lock of an outer door, or as the case may be. 1b.

No. 19.

*In an indictment for forgery and counterfeiting.*

Forged, or counterfeited, or falsely altered, by erasing a material part thereof, (or as the case may be,) an instrument purporting to be (or being) the last will and testament of C. D., devising certain real and personal property, with intent to defraud; or, Indictment for forgery.

No. 20.

Indictment for forgery.

Forged a certificate purporting to have been issued by J. C., an officer duly authorized to make such certificate, of the acknowledgment of C. D., of the execution by him, of a conveyance to E. F., of certain real property in the town of \_\_\_\_\_, with intent to defraud the said C. D.; or,

No. 21.

Indictment for counterfeiting.

Falsely made an impression, purporting to be the impression of the great seal of the territory, on an instrument in writing, being (or purporting to be) a \_\_\_\_\_, (stating generally the purport of the instrument,) with the intent to defraud; or,

No. 22.

1b.

Counterfeited a gold (or silver) coin of the republic of Mexico, called a dollar, which was at that time current; by custom or usage, within this territory; or,

No. 23.

Indictment for having counterfeit coin in his possession.

Had in his possession, a counterfeit of a gold (or silver) coin of the republic of Mexico, called a dollar, which was at that time current in this territory, knowing the same to be counterfeited, with intent to defraud, (or injure) by uttering the same as true (or false.)

No. 24.

*In an indictment for perjury.*

Indictment for perjury.

On his examination as a witness, duly sworn to testify the truth, on the trial of a civil action in the court of \_\_\_\_\_, between C. D., plaintiff, and E. F., defendant, which court had authority to administer such oath, he testified falsely, that (stating the facts to be alleged to be false,) the matters so testified being material, and the testimony being willfully and corruptly false.

No. 25.

*In an indictment for bigamy.*

Indictment for bigamy.

Having a wife then living, unlawfully married one G. A.

No. 26.

*In an indictment for libel.*

Indictment for libel.

Published in a newspaper called the \_\_\_\_\_, the following libel concerning C. D., (here insert the article charged as being a libel.)

Above forms sufficient.

SEC. 68. The manner of stating the act constituting the offence as set forth in the preceding forms, is sufficient in all cases where the forms there given are applicable. In all other cases, forms may be used as nearly similar as the nature of the case may permit.

Indictment must be direct.

SEC. 69. The indictment must be direct and certain as it regards :

1. The party charged :
2. The offence charged :

3. The particular circumstances of the offence charged, when they are necessary to constitute a complete offence.

SEC. 70. When a defendant is indicted by a fictitious or erroneous name, and in any stage of the proceedings his true name is discovered, it may be inserted in the subsequent proceedings, referring to the fact of his being indicted by the name mentioned in the indictment.

Proceedings when defendant is indicted by fictitious name.

SEC. 71. The indictment must charge but one offence, and in one form only, except that where the offence may be committed by the use of different means, the indictment may allege the means in the alternative.

Indictment must charge but one offence.

SEC. 72. The precise time at which the offence was committed need not be stated in the indictment, but may be alleged to have been committed at any time before the finding thereof, except where the time is a material ingredient in the offence.

Time of offence how stated.

SEC. 73. When the offence involves the commission of, or an attempt to commit a private injury, and is described with sufficient certainty in other respects to identify the act, an erroneous allegation, as to the person injured, or intended to be injured, is not material.

Certain allegation immaterial.

SEC. 74. The words used in an indictment, must be construed in their usual acceptations, in common language, except words and phrases defined by law, which are to be construed according to their legal meaning.

Words in an indictment how construed.

SEC. 75. Words used in the statutes to define a public offence need not be strictly pursued in the indictment, but other words conveying the same meaning may be used.

Words of statute need not be strictly pursued.

SEC. 76. The indictment is sufficient, if it can be understood therefrom:

Indictment when sufficient.

F. That it is entitled in a court having authority, to receive it though the name of the court is not accurately stated:

2. That it was found by a grand jury of the county in which the court was held:

3. That the defendant is named, or if his name cannot be discovered, that he is described by a fictitious name, with the statement that he has refused to discover his real name:

4. That the offence was committed at some place within the jurisdiction of the court, except where, as provided by law, the act, though done without the local jurisdiction of the county, is triable therein:

5. That the offence was committed at some time prior to the time of finding the indictment:

6. That the act, or omission, charged as the offence, is clearly and distinctly set forth in ordinary and concise language, without repetition, and in such a manner as to enable a person of common understanding to know what is intended:

7. That the act or omission charged as the offence is stated with such a degree of certainty as to enable the court to pronounce judgment upon a conviction, according to the right of the case.

SEC. 77. No indictment is insufficient, nor can the trial, judgment or other proceedings thereon be affected by reason of a defect or imperfection in matter of form, which does not tend to the prejudice of the substantial rights of the defendant, upon the merits.

Defects in matters of form how regarded.

SEC. 78. Neither presumptions of law nor matter of which judicial notice is taken need be stated in an indictment.

Presumptions of law need not be stated.

SEC. 79. In pleading a judgment or other determination of, or proceeding before a court, or officer, of special jurisdiction, it is not necessary to state the facts conferring jurisdiction, but the judgment or determination may be stated to have been duly given, or made. The facts constituting jurisdiction, however, must be established on trial.

Judgments how pleaded.

SEC. 80. In pleading a private statute, or right derived therefrom,

Private statute how pleaded.

it is sufficient to refer to the statute, by its title and the day of its passage, and the court must thereupon take judicial notice thereof.

Indictment for libel need not state extrinsic facts, &c.

SEC. 81. An indictment for libel need not set forth any extrinsic facts, for the purpose of showing the application to the party libeled, of the defamatory matter on which the indictment is founded, but it is sufficient to state generally that the same was published concerning him; and the fact that it was so published must be established on the trial.

Misdescription in forgery, when immaterial.

SEC. 82. When an instrument which is the subject of an indictment for forgery has been destroyed or withdrawn by the act or procurement of the defendant, and the fact of the destruction or withholding is alleged in the indictment, and established on the trial, the misdescription of the instrument is immaterial.

What sufficient in perjury.

SEC. 83. In an indictment for perjury or subornation of perjury it is sufficient to set forth the substance of the controversy or matter in respect to which the offence was committed, and in what court or before whom the oath alleged to be false was taken, and that the court or person before whom it was taken, had authority to administer it, with proper allegations of the falsity of the matter on which the perjury is assigned; but the indictment need not set forth the pleadings, record, or proceedings, with which the oath is connected nor the commission or authority of the court or person before whom the perjury was committed.

Indictment against several, any or all may be convicted.

SEC. 84. Upon an indictment against several defendants, any one or more may be convicted or acquitted.

Distinction between principal and accessory abolished

SEC. 85. The distinction between an accessory before the fact and a principal, and between principals in the first and second degree in cases of felony, is abrogated; and all persons concerned in the commission of a felony, whether they directly commit the act constituting the offence, or aid and abet in its commission, though not present, must hereafter be indicted, tried and punished, as principals, as in the case of a misdemeanor.

Accessory after the fact, how indicted.

SEC. 86. An accessory after the fact, to the commission of a felony, may be indicted, tried and punished, though the principal felon be neither indicted nor tried.

Compounding of offence how indicted.

SEC. 87. A person may be indicted for having, with the knowledge of the commission of a public offence, taken money or property of another, or a gratuity, or reward, or an engagement or promise therefor, upon an agreement or understanding, express or implied, to compound or conceal the offence, or to abstain from a prosecution therefor, or to withhold any evidence thereof, though the person guilty of the original offence has not been indicted or tried.