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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 CVIII.

INDICTMENTS.

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C. S. p. 755, Sects. 1 & 2, combined.

1 SECTION 1. The first pleadings on the part of the state  
 2 is the indictment which shall contain:  
 3 *First.*—The title of an action specifying the name of the  
 4 court to which the indictment is presented, and the name of  
 5 the parties;  
 6 *Second.*—A statement of the acts constituting the offense,  
 7 in ordinary and concise language without repetition.

1 SECT. 2. It may be substantially in the following form:

No. 1.

C. S. p. 755, Sect. 3.

2 The district court for the county of \_\_\_\_\_, and state of  
 3 Minnesota:  
 4 The State of Minnesota, }  
 5 vs. }  
 6 A. B. }  
 7 A. B. is accused by the grand jury of the county of  
 8 \_\_\_\_\_, by this indictment, of the crime of \_\_\_\_\_ (here  
 9 insert the name of the offense, if it has one,) such as trea-  
 10 son, murder, arson, manslaughter, or the like, or if it is a  
 11 misdemeanor, having no general name, such as libel, assault  
 12 and battery, or the like, insert a brief description of it,  
 13 as it is given by law, committed as follows:  
 14 The said A. B., on the \_\_\_\_\_ day of \_\_\_\_\_, A. D.  
 15 18 \_\_\_\_\_, at the town, (city, or village, as the case may be,)  
 16 of \_\_\_\_\_, in this county, (here set forth the act charged  
 17 as an offense according to the form adapted to the case, as  
 18 afforded in the following forms, or similar ones.)  
 19 Dated at \_\_\_\_\_, in the county of \_\_\_\_\_, the  
 20 day of \_\_\_\_\_, A. D. 18 \_\_\_\_\_  
 21 (Indorsed,) a true bill,  
 22 G. H., foreman of the grand jury.

No. 2.

*In an indictment for murder.*

23 (Commencement the same as No. 1.)  
 24 Without the authority of law, and with malice afore-  
 25 thought, killed C. D., by shooting him with a gun or pistol,

26 or by administering to him poison, or by pushing him into  
 27 the water, whereby he was drowned, or by throwing him  
 28 from the roof of a building, or by means unknown to the  
 29 grand jury, or as the case may be.

## No. 3.

*In an indictment for arson.*

30 Wilfully set fire to (or burned) in the night time, a dwel-  
 31 ling house in which there was at the time a human being;  
 32 namely C. D. (or whose name is unknown to the grand ju-  
 33 ry,) or,

## No. 4.

34 Wilfully set fire to (or burned) an inhabited dwelling  
 35 house in the day time, in which there was at the time a hu-  
 36 man being, namely C. D. (or whose name is unknown to  
 37 the grand jury,) or,

## No. 5.

38 Wilfully set fire to (or burned) the steamboat named the  
 39 \_\_\_\_\_, which was at the time insured by the Hartford in-  
 40 surance company of the state of Connecticut, against loss or  
 41 damage by fire, with intent to prejudice such insurer.

## No. 6.

## MANSLAUGHTER IN THE FIRST DEGREE.

42 Was engaged in the perpetration of the following (stat-  
 43 ing it as in an enactment therefor) and the said A. B., while  
 44 engaged in the perpetration of such misdemeanor, without a  
 45 design to effect death by his act (or procurement or culpa-  
 46 ble negligence) by his act killed C. D. by striking him with  
 47 a club, or by other means; to be stated as in No. 2, or,

## No. 7.

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

## No. 8.

## MANSLAUGHTER IN THE SECOND DEGREE.

52 Killed C. D. in the heat of passion, but in a cruel and

53 unusual manner, and not under such circumstances as to  
 54 constitute excusable or justifiable homicide, by striking him  
 55 with a club (or stating the means according to the fact.)

No. 9.

MANSLAUGHTER IN THE THIRD DEGREE.

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

No. 10.

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

No. 11.

*In an indictment for rape.*

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

No. 12.

69 Unlawfully and carnally knew and abused C. H., a fe-  
 70 male child under the age of ten years.

No. 13.

*In an indictment for robbery.*

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

No. 14.

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

## No. 15.

*In an indictment for larceny.*

78 Feloniously took and carried away, one gold watch and  
 79 one silver chain, (or as the case may be,) the personal prop-  
 80 erty of J. D., (or of a person whose name is unknown to  
 81 the grand jury,) of the value of more than twenty dollars,  
 82 or,

## No. 16.

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

## No. 17.

*In an indictment for burglary.*

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

## No. 18.

96 Broke into and entered in the night time, the dwelling  
 97 house of C. D., in which there was at the time, a human be-  
 98 ing, namely the said C. D., (or whose name is unknown to  
 99 the grand jury,) with intent to commit a rape (or larceny,  
 100 or any other public offense, describing it generally,) there-  
 101 in; by unlocking an outer door, by means of false keys, or  
 102 by picking or forcing the lock of an outer door; or as the  
 103 case may be.

## No. 19.

*In an indictment for forgery and counterfeiting.*

104 Forged, or counterfeited, or falsely altered, by erasing  
 105 a material part thereof, (or as the case may be,) an in-  
 106 strument purporting to be (or being) the last will and tes-

107 tament of C. D., devising certain real and personal pro-  
108 perty, with intent to defraud; or,

## No. 20.

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

## No. 21.

115 Falsely made an impression, purporting to be the im-  
116 pression of the great seal of the state, on an instrument in  
117 writing, being (or purporting to be) a \_\_\_\_\_,  
118 (stating generally the purport of the instrument,) with the  
119 intent to defraud; or,

## No. 22.

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

## No. 23.

123 Had in his possession, a counterfeit of a gold (or silver)  
124 coin of the republic of Mexico, called a dollar, which was  
125 at that time current in this state, knowing the same to be  
126 counterfeited, with intent to defraud, (or injure) by ut-  
127 tering the same as true (or false.)

## No. 24.

*In an indictment for perjury.*

128 On his examination as a witness, duly sworn to testify  
129 the truth, on the trial of a civil action in the court of  
130 \_\_\_\_\_, between C. D., plaintiff, and E. F. defendant,  
131 which court had authority to administer such oath, he tes-  
132 tified falsely, that (stating the facts to be alleged to be  
133 false,) the matters so testified being material, and the tes-  
134 timony being wilfully and corruptly false.

## No. 25.

*In an indictment for bigamy.*

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

No. 26.

*In an indictment for libel.*

136 Published in a newspaper called the the fol-  
 137 lowing libel concerning C. D., (here insert the article  
 138 charged as being a libel.)

1 SECT. 3. The manner of stating the act constituting the  
 2 offense as set forth in the preceding forms, is sufficient in C. S. p. 759, Sect. 4. c 105  
 3 all cases where the forms there given are applicable. In  
 4 all other cases, forms may be used as nearly similar as the  
 5 nature of the case permits.

1 SECT. 4. The indictment shall be direct and certain as  
 2 it regards: C. S. p. 759, Sect. 5.  
 3 *First.*—The party charged;  
 4 *Second.*—The offense charged;  
 5 *Third.*—The particular circumstances of the offense  
 6 charged, when they are necessary to constitute a complete  
 7 offense.

1 SECT. 5. When a defendant is indicted by a fictitious or C. S. p. 759, Sect. 6.  
 2 erroneous name, and in any stage of the proceedings his true  
 3 name is discovered, it may be inserted in the subsequent pro-  
 4 ceedings, referring to the fact of his being indicted by the  
 5 name mentioned in the indictment.

1 SECT. 6. When by law an offense comprises different  
 2 degrees, an indictment may contain counts for the different C. S. p. 759, Sect. 7.  
 3 degrees, of the same offense, or for any of such degrees.  
 4 The same indictment may contain counts for murder, and  
 5 also for manslaughter or different degrees of manslaughter.  
 6 Where the offense may have been committed by the use of  
 7 different means the indictment may allege the means of  
 8 committing the offense in the alternative. Where it is  
 9 doubtful to what class an offense belongs, the indictment  
 10 may contain several counts describing it as of different  
 11 classes or kinds.

1 SECT. 7. The precise time at which the offense was C. S. p. 760, Sect. 8.  
 2 committed need not be stated in the indictment, but may  
 3 be alleged to have been committed at any time before the  
 4 finding thereof, except where the time is a material ingre-  
 5 dient in the offense.

1 SECT. 8. When the offense involves the commission of,  
 2 or an attempt to commit a private injury, and is described C. S. p. 760, Sect. 9.  
 3 with sufficient certainty in other respects to identify the  
 4 act, an erroneous allegation, as to the person injured, or in-  
 5 tended to be injured, is not material.

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C. S. p. 760, Sect. 11.

1 SECT. 9. Words used in the statutes to define a public  
2 offense need not be strictly pursued in the indictment, but  
3 other words conveying the same meaning may be used.

C. S. p. 730, Sect. 13  
Amended.

1 SECT. 10. The indictment is sufficient, if it can be under-  
2 stood therefrom :

3 *First.*—That it is entitled in a court having authority, to  
4 receive it, though the name of the court is not accurately  
5 stated;

6 *Second.*—That it was found by a grand jury of the county  
7 in which the court was held ;

8 *Third.*—That the defendant is named, or if his name can-  
9 not be discovered, that he is described by a fictitious name,  
10 with the statement that he has refused to discover his real  
11 name ;

12 *Fourth.*—That the offense was committed at some place  
13 within the jurisdiction of the court, except where, as pro-  
14 vided by law, the act, though done without the local juris-  
15 diction of the county, is triable therein ;

16 *Fifth.*—That the offense was committed at some time  
17 prior to the time of finding the indictment ;

18 *Sixth.*—That the act or omission, charged as the offense,  
19 is clearly and distinctly set forth in ordinary and concise  
20 language, without repetition ;

21 *Seventh.*—That the act or omission charged as the offense  
22 is stated with such a degree of certainty as to enable the  
23 court to pronounce judgment upon a conviction, according  
24 to the right of the case.

C. S. p. 760, Sect. 13.

1 SECT. 11. No indictment is insufficient, nor can the trial  
2 judgment or other proceedings thereon be affected by rea-  
3 son of a defect or imperfection in matter of form, which does  
4 not tend to the prejudice of the substantial rights of the de-  
5 fendant, upon the merits.

C. S. p. 760, Sect. 15.

1 SECT. 12. In pleading a judgment or other determina-  
2 tion of, or proceeding before a court, or officer, of special  
3 jurisdiction, it is not necessary to state the facts conferring  
4 jurisdiction, but the judgment or determination may be  
5 stated to have been duly given or made. The facts consti-  
6 tuting jurisdiction shall however, be established on trial.

C. S. p. 760, Sect. 16.

1 SECT. 13. In pleading a private statute or right de-  
2 rived therefrom, it is sufficient to refer to the statute, by its  
3 title and the day of its passage, and the court shall there-  
4 upon take judicial notice thereof.

C. S. p. 760, Sect. 17.

1 SECT. 14. An indictment for libel need not set forth any  
2 extrinsic facts, for the purpose of showing the application to  
3 the party libeled, of the defamatory matter on which the in-



4 dictment is founded, but it is sufficient to state generally  
5 that the same was published concerning him; and the fact  
6 that it was so published shall be established on the trial.

1 SECT. 15. When an instrument which is the subject of C.S. p. 760, Sect. 18. *c 185*  
2 an indictment for forgery has been destroyed or withdrawn  
3 by the act or procurement of the defendant, and the fact of  
4 the destruction or withholding is alleged in the indictment,  
5 and established on the trial, the misdescription of the instru-  
6 ment is immaterial.

1 SECT. 16. In an indictment for perjury or suborna-  
2 tion of perjury it is sufficient to set forth the substance of  
5 the controversy or matter in respect to which the offense C.S. p. 761, Sect. 19.  
4 was committed, and what court or before whom the oath  
5 alleged to be false was taken, and that the court or person  
6 before whom it was taken, had authority to administer it,  
7 with proper allegations of the falsity of the matter on which  
8 the perjury is assigned; but the indictment need not set  
9 forth the pleadings, record, or proceedings with which the  
10 oath is connected nor the commission or authority of the  
11 court or person before whom the perjury was committed.

1 SECT. 17. A person may be indicted for having, with  
2 the knowledge of the commission of a public offense, taken C.S. p. 761, Sect. 23.  
3 money or property of another, or a gratuity, or reward; or  
4 an engagement or promise therefor, upon an agreement or  
5 understanding, express or implied, to compound or conceal  
6 the offense, or to abstain from a prosecution therefor, or to  
7 withhold any evidence thereof, though the person guilty of  
8 the original offense has not been indicted or tried.

1 SECT. 18. Indictments for murder may be found at any  
2 time after the death of the person killed; in all other cases, C.S. p. 761, Sect. 24.  
3 indictments shall be found and filed in the proper court,  
4 within three years after the commission of the offense; but  
5 the time during which the defendant is not an inhabitant of, or  
6 usually resident within this state, shall not constitute any  
7 part of the said limitation of three years.

1 SECT. 19. When any offense is committed within this  
2 state, on board of any vessel navigating any river or lake,  
3 an indictment for the same may be found in any county C.S. p. 761, Sect. 25.  
4 through which, or any part of which such vessel is naviga-  
5 ted during, or in the course of the same voyage or trip, or  
6 in the county where such voyage or trip terminates; and  
7 such indictment may be tried, and a conviction thereon had,  
8 in any such county, in the same manner and with the like ef-  
9 fect as in the county where the offense was committed.

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C. S. p. 734, Sect. 7.

1 SECT. 20. Offenses committed on the boundary lines of  
2 two counties, or within one hundred rods of the dividing  
3 line between them, may be alleged in the indictment to  
4 have been committed in either of them, and may be pros-  
5 ecuted and punished in either county.

C. S. p. 734, Sect. 8.

1 SECT. 21. If any mortal wound is given, or other vio-  
2 lence or injury inflicted, or any poison administered in one  
3 county, by means whereof death ensues in another county,  
4 the offense may be prosecuted in either county.

C. S. p. 734, Sect. 9.

1 SECT. 22. If any such mortal wound is inflicted, or  
2 other violence or injury done, or poison administered,  
3 either within or without the limits of this state, by means  
4 whereof death ensues in any county thereof, such offense  
5 may be prosecuted and punished in the county where such  
6 death happens.

C. S. p. 734, Sect. 10.

1 SECT. 23. In any prosecution for the offense of embez-  
2 zling the money, bank notes, checks, drafts, bills of ex-  
3 change or other security for money, of any person, by a  
4 clerk, agent, or servant of such person, it shall be sufficient  
5 to allege generally in the indictment, an embezzlement of  
6 money to a certain amount, without specifying any partic-  
7 ulars of such embezzlement, and on the trial evidence may  
8 be given of any such embezzlement committed within six  
9 months next after the time stated in the indictment, and it  
10 shall be sufficient to maintain the charge in the indictment,  
11 and shall not be deemed a variance if it is proved that any  
12 money, bank note, check, draft, bill of exchange, or other  
13 security for money of such person, of whatever amount, was  
14 fraudulently embezzled by such clerk, agent or servant,  
15 within the said period of six months.

C. S. p. 735, Sect. 11.

1 SECT. 24. In the prosecution of any such offense com-  
2 mitted upon or in relation to, or in any way affecting any  
3 real estate, or any offense committed in stealing, embez-  
4 zling, destroying, injuring, or fraudulently receiving or  
5 concealing any money, goods, or other personal estate, it  
6 shall be sufficient, and shall not be deemed a variance, if it  
7 is proved on trial that at the time when such offense was  
8 committed, either the actual or constructive possession, or  
9 the general or special property, in the whole or any part of  
10 such real or personal estate, was in the person or commu-  
11 nity alleged in the indictment or other accusation, to be the  
12 owner thereof.