

THE *J. Rogers*  
GENERAL STATUTES

OF THE

STATE OF MINNESOTA:

REVISED BY COMMISSIONERS APPOINTED UNDER AN ACT APPROVED FEBRUARY 17, 1868, AND  
ACTS SUBSEQUENT THERETO, AMENDED BY THE LEGISLATURE,  
AND PASSED AT THE SESSION OF 1866.

TO WHICH

THE CONSTITUTION OF THE UNITED STATES, THE ORGANIC ACT, THE  
ACT AUTHORIZING A STATE GOVERNMENT, AND THE  
CONSTITUTION OF THE STATE OF MINNESOTA,

ARE PREFIXED;

AND A LIST OF ACTS PREVIOUSLY REPEALED,

A GLOSSARY, AND INDEX, ARE ADDED.

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Edited and Published under the authority of Chapters 15 and 16 of  
the Laws of 1866.

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SEC. 54. The bench warrant may be served in any county in the state, and the officer serving it shall proceed thereon in all respects, as upon a warrant of arrest on complaint. May be served, where and how.

SEC. 55. The magistrate, when the defendant is brought before him, shall proceed upon the charge contained in the presentment, in the same manner in all respects, as upon a warrant of arrest on complaint. Proceedings on arrest of defendant.

SEC. 56. Upon the arrest of the defendant the clerk with whom the presentment and depositions are filed, shall without delay, furnish to the magistrate before whom the defendant is taken, a certified copy of the presentment and depositions. Clerk to furnish magistrate with presentment and depositions.

SEC. 57. No indictment can be found without the concurrence of at least twelve grand jurors. When so found it shall be indorsed "a true bill," and the indorsement signed by the foreman of the grand jury. When indictment can be found.

SEC. 58. If twelve grand jurors do not concur in finding an indictment or presentment, the charge shall be dismissed. The dismissal of the charge does not, however, prevent its being again submitted to a grand jury as often as the court directs. Charge shall be dismissed, when.

SEC. 59. When an indictment is found, the names of the witnesses examined before the grand jury shall, in all cases, be inserted at the foot of the indictment, or indorsed thereon, before it is presented to the court. Names of witnesses to be noted on indictment.

SEC. 60. When an indictment is found it shall be immediately presented by the foreman, in the presence of the grand jury, to the court, filed with the clerk, and remain in his office as a public record. Indictment, how disposed of.

## CHAPTER CVIII.

### INDICTMENTS.

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Indictment is the first pleading and shall contain, what.  
4 Min. 345.  
8 Min. 220.

SECTION 1. The first pleading on the part of the state is the indictment which shall contain :

*First.* The title of an action specifying the name of the court to which the indictment is presented, and the name of the parties ;

*Second.* A statement of the acts constituting the offense, in ordinary and concise language without repetition.

Form of indictment.

SEC. 2. It may be substantially in the following form :

No. 1.

The district court for the county of \_\_\_\_\_, and state of Minnesota :  
The State of Minnesota, )

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 offense, if it has one,) such as treason, murder, arson, manslaughter, or the like, or if it is 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 offense according to the form adapted to the case, as afforded in the following forms, or similar ones.)

Dated at \_\_\_\_\_, in the county of \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, A. D. 18 \_\_\_\_\_.

(Indorsed,) a true bill,

G. H., foreman of the grand jury.

No. 2.

*In an Indictment for Murder.*

Form of indictment for murder. 4 Min. 438.

(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.

No. 3.

*In an Indictment for Arson.*

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,

No. 4.

Same.

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.

Same.

Willfully set fire to (or burned) the steamboat named the \_\_\_\_\_, which was at the time insured by the Hartford insurance company of the state of Connecticut, against loss or damage by fire, with intent to prejudice such insurer.

## No. 6.

*Manslaughter in the First Degree.*

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, For manslaughter in first degree.

## No. 7.

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.) Same.

## No. 8.

*Manslaughter in the 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.) For manslaughter in second degree.

## No. 9.

*Manslaughter in the 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, For manslaughter in third degree.

## No. 10.

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

## No. 11.

*In an Indictment for Rape.*

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

## No. 12.

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

## No. 13.

*In an Indictment for Robbery.*

Feloniously took a gold watch (or any other property, as the case may For robbery

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,

## No. 14.

Same

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.

## No. 15.

*In an Indictment for Larceny.*

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,

## No. 16.

Same.

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.

## No. 17.

*In an Indictment for Burglary.*

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 offense, 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,)

## No. 18.

Same.

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 offense, 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.)

## No. 19.

*In an Indictment for Forgery and Counterfeiting.*

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,

## No. 20.

Same.

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 the intent to defraud the said C. D.; or,

No. 21.

Falsely made an impression, purporting to be the impression of the Same. great seal of the state, 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.

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

No. 23.

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 state, knowing the same to be counterfeited, with intent to defraud, (or injure) by uttering the same as true (or false.) For having counterfeit coin in possession.

No. 24.

*In an Indictment for Perjury.*

On his examination as a witness, duly sworn to testify the truth, on the For perjury. 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.*

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

No. 26.

*In an Indictment for Libel.*

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

SEC. 3. The manner of stating the act constituting the offense 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 permits. Stating offense as in foregoing forms, sufficient, when.

SEC. 4. The indictment shall be direct and certain as it regards: Indictment shall be direct and certain.

*First.* The party charged;

*Second.* The offense charged;

*Third.* The particular circumstances of the offense charged, when they are necessary to constitute a complete offense.

SEC. 5. When a defendant is indicted by a fictitious or erroneous name, and in any stage of the proceedings his true name is discovered, it Defendant may be indicted by fictitious name—

true name to be inserted when discovered.

may be inserted in the subsequent proceedings, referring to the fact of his being indicted by the name mentioned in the indictment.

Indictment may contain different counts, when.

SEC. 6. When by law an offense comprises different degrees, an indictment may contain counts for the different degrees, of the same offense, or for any of such degrees. The same indictment may contain counts for murder, and also for manslaughter, or different degrees of manslaughter. Where the offense may have been committed by the use of different means, the indictment may allege the means of committing the offense in the alternative. Where it is doubtful to what class an offense belongs, the indictment may contain several counts describing it as of different classes or kinds.

Time, how stated.

SEC. 7. The precise time at which the offense 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 offense.

Erroneous allegation as to person injured not material, when. 3 Min. 438.

SEC. 8. When the offense 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.

Construction of words

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

Indictment, when sufficient.

SEC. 10. The indictment is sufficient, if it can be understood therefrom :

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

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

*Third.* 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 ;

*Fourth.* That the offense 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 ;

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

4 Min. 345.

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

*Seventh.* That the act or omission charged as the offense 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.

Formal defects not to be regarded

SEC. 11. 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.

Judgment, how pleaded.

SEC. 12. 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 shall, however, be established on trial.

Private statute, how pleaded.

SEC. 13. In pleading a private statute or right derived therefrom, it is sufficient to refer to the statute, by its title and the day of its passage, and the court shall thereupon take judicial notice thereof.

Indictment for libel need not set forth extrinsic facts, &c.

SEC. 14. 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 shall be established on the trial.

SEC. 15. 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.

Misdescription of forged instrument immaterial, when.

SEC. 16. 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 offense was committed, and 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 for perjury is sufficient, when.

SEC. 17. A person may be indicted for having, with the knowledge of the commission of a public offense, 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 offense, or to abstain from a prosecution therefor, or to withhold any evidence thereof, though the person guilty of the original offense has not been indicted or tried.

Person guilty of compounding offense, may be indicted.

SEC. 18. Indictments for murder may be found at any time after the death of the person killed; in all other cases, indictments shall be found and filed in the proper court, within three years after the commission of the offense; but the time during which the defendant is not an inhabitant of, or usually resident within this state, shall not constitute any part of the said limitation of three years.

Time within which indictments may be found.

SEC. 19. When any offense is committed within this state, on board of any vessel navigating any river or lake, an indictment for the same may be found in any county through which, or any part of which such vessel is navigated during, or in the course of the same voyage or trip, or in the county where such voyage or trip terminates; and such indictment may be tried, and a conviction thereon had, in any such county, in the same manner and with the like effect as in the county where the offense was committed.

Indictment for offense committed on board vessel, may be found in what county  
4 Min. 325.

SEC. 20. Offenses committed on the boundary lines of two counties, or within one hundred rods of the dividing line between them, may be alleged in the indictment to have been committed in either of them, and may be prosecuted and punished in either county.

Indictment for offenses committed on boundaries between counties, where found.

SEC. 21. If any mortal wound is given, or other violence or injury inflicted, or any poison administered in one county, by means whereof death ensues in another county, the offense may be prosecuted in either county.

Death ensuing in one county from injury inflicted in another, offense prosecuted, where

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

Death in any county from injury inflicted without the state, offense prosecuted, where.

SEC. 23. In any prosecution for the offense of embezzling the money, bank notes, checks, drafts, bills of exchange or other security for money, of any person, by a clerk, agent, or servant of such person, it shall be sufficient to allege generally in the indictment, an embezzlement of money to a certain amount, without specifying any particulars of such embezzlement, and on the trial evidence may be given of any such embezzlement

Indictment for embezzlement sufficient, when—evidence in such case.



committed within six months next after the time stated in the indictment, and it shall be sufficient to maintain the charge in the indictment, and shall not be deemed a variance if it is proved that any money, bank note, check, draft, bill of exchange, or other security for money of such person, of whatever amount, was fraudulently embezzled by such clerk, agent or servant, within the said period of six months.

What deemed proof of ownership of property stolen, &c.

1869  
+  
85

SEC. 24. In the prosecution of any such offense committed upon or in relation to, or in any way affecting any real estate, or any offense committed in stealing, embezzling, destroying, injuring, or fraudulently receiving or concealing any money, goods, or other personal estate, it shall be sufficient, and shall not be deemed a variance, if it is proved on trial that at the time when such offense was committed, either the actual or constructive possession, or the general or special property, in the whole or any part of such real or personal estate, was in the person or community alleged in the indictment or other accusation, to be the owner thereof.

CHAPTER CIX.

ARRAIGNMENT OF DEFENDANT.

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Arraignment of defendant.

SECTION 1. When the indictment is filed, the defendant shall be arraigned thereon, before the court in which it is found, if it is triable therein, or if not, before the court to which it is sent or removed.

When defendant must be personally present.

SEC. 2. If the indictment is for a felony, the defendant shall be personally present; but if for a misdemeanor only, his personal appearance is unnecessary, and he may appear upon the arraignment by counsel.

May be brought into court to be arraigned.

SEC. 3. When his personal appearance is necessary, if he is in custody, the court may direct the officer in whose custody he is, to bring him before it to be arraigned.

Not appearing, bench warrant may issue

SEC. 4. If the defendant has been discharged on bail, or has deposited money instead thereof, and does not appear to be arraigned when his personal attendance is necessary, the court, in addition to the forfeiture of the undertaking of bail, or the money deposited, may direct the clerk to issue a bench warrant for his arrest.