

TITLE 19
CRIMINAL PROCEDURE

CHAPTER 41
REMOVAL OF CIVIL OFFICERS

19-4101. PRESENTATION OF ACCUSATION. An accusation in writing against any district, county, precinct, or municipal officer, for wilful or corrupt misconduct in office, may be presented by the grand jury of the county for or in which the officer accused is elected or appointed.

[(19-4101) Cr. Prac. 1864, sec. 67, p. 221; R.S., R.C., & C.L., sec. 7445; C.S., sec. 8670; I.C.A., sec. 19-4201.]

19-4102. FORM OF ACCUSATION. The accusation must state the offense charged, in ordinary and concise language, and without repetition.

[(19-4102) Cr. Prac. 1864, sec. 68, p. 221; R.S., R.C., & C.L., sec. 7446; C.S., sec. 8671; I.C.A., sec. 19-4202.]

19-4103. SERVICE ON DEFENDANT. The accusation must be delivered by the foreman of the grand jury to the prosecuting attorney of the county (except when he is the officer accused), who must cause a copy thereof to be served upon the defendant, and require by notice in writing, of not less than ten (10) days, that he appear before the district court of the county, then sitting or at its next term, and answer the accusation. The original accusation must then be filed with the clerk of the district court.

[(19-4103) Cr. Prac. 1864, sec. 69, p. 221; R.S., R.C., & C.L., sec. 7447; C.S., sec. 8672; I.C.A., sec. 19-4203.]

19-4104. APPEARANCE AND ANSWER -- DEFAULT. The defendant must appear at the time appointed in the notice and answer the accusation, unless for some sufficient cause the court assign another day for that purpose. If he does not appear, the court may proceed to hear and determine the accusation in his absence.

[(19-4104) Cr. Prac. 1864, sec. 70, p. 221; R.S., R.C., & C.L., sec. 7448; C.S., sec. 8673; I.C.A., sec. 19-4204.]

19-4105. ANSWER OR DEMURRER. The defendant may answer the accusation either by objecting to the sufficiency thereof, or of any article therein, or by denying the truth of the same.

[(19-4105) Cr. Prac. 1864, sec. 71, p. 221; R.S., R.C., & C.L., sec. 7449; C.S., sec. 8674; I.C.A., sec. 19-4205.]

19-4106. FORM OF DEMURRER. If he objects to the legal sufficiency of the accusation, the objection must be in writing, but need not be in any specific form, it being sufficient if it presents intelligibly the grounds of the objection.

[(19-4106) Cr. Prac. 1864, sec. 72, p. 221; R.S., R.C., & C.L., sec. 7450; C.S., sec. 8675; I.C.A., sec. 19-4206.]

19-4107. FORM OF DENIAL. If he denies the truth of the accusation, the denial may be oral and without oath, and must be entered upon the minutes.

[(19-4107) Cr. Prac. 1864, sec. 73, p. 222; R.S., R.C., & C.L., sec. 7451; C.S., sec. 8676; I.C.A., sec. 19-4207.]

19-4108. ANSWER AFTER OVERRULING DEMURRER. If an objection to the sufficiency of the accusation is not sustained, the defendant must answer thereto forthwith.

[(19-4108) Cr. Prac. 1864, sec. 74, p. 222; R.S., R.C., & C.L., sec. 7452; C.S., sec. 8677; I.C.A., sec. 19-4208.]

19-4109. PROCEEDINGS ON PLEA. If the defendant pleads guilty, or refuses to answer the accusation, the court must render judgment of conviction against him. If he denies the matters charged, the court must immediately, or at such time as it may appoint, proceed to try the accusation.

[(19-4109) Cr. Prac. 1864, sec. 75, p. 222; R.S., R.C., & C.L., sec. 7453; C.S., sec. 8678; I.C.A., sec. 19-4209.]

19-4110. TRIAL BY JURY. The trial must be by a jury, and conducted in all respects in the same manner as the trial of an indictment for a misdemeanor.

[(19-4110) Cr. Prac. 1864, sec. 76, p. 222; R.S., R.C., & C.L., sec. 7454; C.S., sec. 8679; I.C.A., sec. 19-4210.]

19-4111. PROCESS FOR WITNESSES. The prosecuting attorney and the defendant are respectively entitled to such process as may be necessary to enforce the attendance of witnesses as upon a trial of an indictment.

[(19-4111) Cr. Prac. 1864, sec. 77, p. 222; R.S., R.C., & C.L., sec. 7455; C.S., sec. 8680; I.C.A., sec. 19-4211.]

19-4112. JUDGMENT OF REMOVAL. Upon a conviction, the court must, at such time as it may appoint, pronounce a judgment that the defendant be removed from office; but, to warrant a removal, the judgment must be entered upon the minutes, and the causes of removal must be assigned therein.

[(19-4112) Cr. Prac. 1864, sec. 78, p. 222; R.S., R.C., & C.L., sec. 7456; C.S., sec. 8681; I.C.A., sec. 19-4212.]

19-4113. APPEAL -- HOW TAKEN AND EFFECT. From a judgment of removal an appeal may be taken to the supreme court, in the same manner as from a judgment in a civil action; but until such judgment is reversed the defendant is suspended from his office. Pending the appeal, the office must be filled as in case of a vacancy.

[(19-4113) Cr. Prac. 1864, sec. 79, p. 222; R.S., R.C., & C.L., sec. 7457; C.S., sec. 8682; I.C.A., sec. 19-4213.]

19-4114. REMOVAL OF PROSECUTING ATTORNEY. The same proceedings may be had on like grounds for the removal of a prosecuting attorney, except that the accusation must be delivered by the foreman of the grand jury to the clerk, and by him to the district judge of the district, who must thereupon

appoint some one to act as prosecuting officer in the matter, or place the accusation in the hands of the prosecuting attorney of an adjoining county, and require him to conduct the proceedings.

[(19-4114) Cr. Prac. 1864, sec. 80, p. 222; R.S., R.C., & C.L., sec. 7458; C.S., sec. 8683; I.C.A., sec. 19-4214.]