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STUDENT NOTES

ALLEGING THE DATE OF THE OFFENSE IN THE INDICTMENT.—At common law it was necessary to allege, in the indictment, the time the offense was committed but there was no need to prove it as laid unless some specific reason rendered time important.¹ In West Virginia this requirement has been modified by statute,² the pertinent part of which is: "No indictment or other accusation shall be quashed or deemed invalid . . . for omitting to state, or stating improperly, the time at which the offense was committed, when time is not of the essence of the offense. . . ." Applying a literal construction to the statute, in all crimes, except in those instances where time is of the essence, not only is an imperfect allegation of time unimportant but such allegation may be omitted entirely. Since its passage, there have been many cases decided under this statute. Unfortunately the results of some cases are inconsistent with such an interpretation and, in a few instances, with each other.

¹ State v. Bruce, 26 W. Va. 153, 157 (1885).

² W. VA. CODE c. 62, art. 2, § 10 (Michie, 1949).