

the personal property therein contained, the proper goods and chattels of HALLMARK BUILDERS, INC., A CORPORATION.

This language was sufficient under the law as it existed at the time. The statutory requirements for an indictment were found in T.C.A. § 40-1802 (now § 40-13-202 (1997)), which provided simply that:

The indictment must state the facts constituting the offense in ordinary and concise language, without prolixity or repetition, in such a manner as to enable a person of common understanding to know what is intended, and with that degree of certainty which will enable the court, on conviction, to pronounce the proper judgment.

By containing the words found in the language of the statute, the indictment at issue here sufficiently apprised the petitioner of the offense charged under the law at the time, and is therefore valid.

The petitioner seems to suggest that the omission of the statutory language "or any other house of another, other than dwelling house" voids his conviction. What the petitioner fails to realize, however, is that the statute classifies those buildings or houses which are subject to third degree burglary. The indictment in this case charged the petitioner with breaking and entering a building or house specifically classified by the statute, i.e., a business house. The language the petitioner claims should have been included in the indictment simply defines the other types of buildings or houses belonging to the protected class. The petitioner was not charged with breaking and entering into any other building or house of another. Accordingly, the petitioner's argument is without merit.

Having reviewed the entire record on appeal, we find that the indictment at issue meets constitutional and the then-existing statutory requirements, and is therefore valid. It is therefore ORDERED that the judgment of the trial court is affirmed in accordance with Rule 20, Rules of the Court of Criminal Appeals.

Enter, this the ____ day of March, 1998.

DAVID G. HAYES, JUDGE

PAUL G. SUMMERS, JUDGE

JOE G. RILEY, JUDGE