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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 CVII.

GRAND JURIES.

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C. S. p. 749, Sect. 1.

1 SECTION 1. A grand jury is a body of men not less than
2 sixteen nor more than twenty-three in number, returned at
3 stated periods from the citizens of the county, before a
4 court of competent jurisdiction, chosen by lot, and sworn
5 to inquire of public offenses committed or triable in the
6 county.

C. S. p. 749, Sect. 2.

1 SECT. 2. A grand jury shall be drawn for every term
2 of the district court in each of the organized counties in this
3 state.

C. S. p. 749, Sect. 3.

1 SECT. 3. All persons who are qualified electors of this
2 state are liable to be drawn as grand jurors, except as here-
3 inafter provided.

C. S. p. 749, Sect. 4.

1 SECT. 4. The following persons are exempt from serv-
2 ing as grand jurors: all United States' officers, all judges
3 of courts of record, commissioners of public buildings, au-
4 ditor and treasurer of the state, state librarian, clerks
5 of courts, registers of deeds, sheriffs and their depu-
6 ties, coroners, constables, attorneys and counsellors at law,
7 ministers of the gospel, preceptors and teachers of incorpo-
8 rated academies, one teacher in each common school, prac-
9 tising physicians and surgeons, one miller to each grist
10 mill, one ferryman to each licensed ferry, all members of
11 companies of firemen organized according to law, all per-
12 sons more than sixty years of age, all persons not of sound
13 mind or discretion, persons subject to any bodily infirmity
14 amounting to disability; and all persons are disqualified
15 from serving as grand jurors who have been convicted of
16 any infamous crime.

C. S. p. 750, Sect. 5.

1 SECT. 5. On receiving the list of grand jurors from the
2 county auditor as selected by the board of county commis-
3 sioners, the clerk of the district court shall write the names
4 of the persons contained therein on separate pieces of paper,
5 and fold up such pieces of paper each in the same manner
6 as near as possible, so that the name written thereon shall
7 not be visible, and shall deposit the same in a box to be
8 drawn as hereinafter provided.

1 SECT. 6. At least fifteen days before the sitting of any
 2 district court, the clerk thereof, in the presence of the sher- C. S. p. 750, Sect. 6. c 104
 3 iff or his deputy, and a justice of the peace, shall proceed to
 4 draw the names of twenty-three persons from the box, to
 5 serve as grand jurors at such court.

1 SECT. 7. Said clerk shall, twelve days at least before the
 2 first day of the court, issue and deliver to the sheriff a ven- C. S. p. 750, Sect. 7.
 3 ire under the seal of the court, commanding him to summon
 4 the persons so drawn, to appear before the said court at or
 5 before the hour of eleven o'clock, A. M., on the first day of
 6 the term thereof to serve as grand jurors.

1 SECT. 8. The sheriff shall summon the persons so named C. S. p. 750, Sect. 8.
 2 in the venire to attend such court as grand jurors, at least
 3 six days before the sitting thereof, by giving personal no-
 4 tice to each person, or by leaving a written notice at his
 5 place of residence with some person of proper age. He
 6 shall return such venire to the court at the opening thereof,
 7 specifying those who were summoned and the manner in
 8 which each person was notified.

1 SECT. 9. If any person duly drawn and summoned to
 2 attend as a grand juror neglects to attend without sufficient C. S. p. 750, Sect. 9.
 3 excuse, he shall pay a fine not exceeding thirty dollars,
 4 which shall be imposed by the court to which the juror was
 5 summoned, and shall be paid into the county treasury.

1 SECT. 10. In case of a deficiency of grand jurors in any
 2 court, writs of venire facias may be issued to the proper or- C. S. p. 750, Sect. 10.
 3 ficer to return forthwith such further number of grand ju-
 4 rors as are required.

1 SECT. 11. The proper officer shall summon such per- C. S. p. 750, Sect. 11.
 2 sons accordingly, who shall be bound forthwith to attend
 3 and serve, unless excused by the court, in the same man-
 4 ner and subject to the same penalties for neglect, as per-
 5 sons duly drawn by the clerk of the district court, and sum-
 6 moned as herein provided.

1 SECT. 12. Not more than twenty-three, nor less than
 2 sixteen persons can be sworn on a grand jury, nor can a C. S. p. 750, Sect. 12.
 3 grand jury proceed to any business unless sixteen members
 4 at least are present.

1 SECT. 13. A person held to answer a charge for a pub- C. S. p. 750, Sect. 13.
 2 lic offense, may challenge the panel of the grand jury, or
 3 any individual grand juror, before they retire, after being
 4 sworn and charged by the court.

1 SECT. 14. A challenge to the panel may be interposed
2 for one or more of the following causes only:

3 *First.*—That the requisite number of ballots was not
4 drawn from the grand jury box of the county;

5 *Second.*—That the drawing was not had in the presence
6 of the officer designated in section six of this chapter;

7 *Third.*—That the drawing was not had at least fifteen days
8 before the court.

1 SECT. 15. A challenge to an individual grand juror may
2 be interposed for one or more of the following causes only:

3 *First.*—That he is a minor;

4 *Second.*—That he is an alien, and has not resided in the
5 United States one year, and in this state four months, and
6 has not declared his intention to become a citizen according
7 to the laws of the United States;

8 *Third.*—That he is insane;

9 *Fourth.*—That he is the prosecutor upon a charge against
10 the defendant.

11 *Fifth.*—That he is a witness on the part of the prosecu-
12 tion, and has been served with process, or bound by a recog-
13 nizance as such;

14 *Sixth.*—That a state of mind exists on his part in refer-
15 ence to the case, or to either party which satisfies the court
16 in the exercise of a sound discretion, that he cannot act
17 impartially and without prejudice to the substantial rights
of the party challenging.

1 SECT. 16. The challenges mentioned in the last three
2 sections, shall be entered upon the minutes, and tried by
3 the court.

1 SECT. 17. The court shall allow or disallow the chal-
2 lenge; and the clerk shall enter its decision upon the min-
3 utes.

1 SECT. 18. If a challenge to the panel is allowed, the
2 grand jury are prohibited from inquiring into the charges
3 against the defendant by whom the challenge was interpos-
4 ed; if they should notwithstanding do so, and find an in-
5 dictment against him, the court shall direct it to be set
6 aside.

1 SECT. 19. If a challenge to an individual grand juror is
2 allowed, he cannot be present at, or take part in the con-
3 sideration of the charge against the defendant who inter-
4 posed the challenge, or the deliberations of the grand jury
5 thereon.

1 SECT. 20. The grand jury shall inform the court of a

2 violation of the provisions of the last section, and it is pun-
3 able by the court as a contempt. C. S. p. 751, Sect. 20. *c104*

1 SECT. 21. From the persons summoned to serve as
2 grand jurors and appearing, the court shall appoint a fore- C. S. p. 751, Sect. 21.
3 man. The court shall also appoint a foreman, when a per-
4 son already appointed is discharged or excused, before the
5 grand jury are dismissed.

1 SECT. 22. The grand jury shall then be sworn accord- C. S. p. 751, Sects. 22
2 ing to law, and if, afterwards any grand juror appears and & 23. Amended.
3 is admitted as such, the same oath shall be administered to
4 him.

1 SECT. 23. The grand jury being impaneled and sworn, C. S. p. 752, Sect. 25.
2 shall be charged by the court; in doing so, the court
3 shall read to them the provisions of this chapter, from sec-
4 tion twenty-seven, to section forty-two, both inclusive, and
5 give them such information as it may deem proper, as to
6 the nature of their duties, and any charges for public offen-
7 ses returned to the court, or likely to come before the grand
8 jury; the court need not however charge them respecting
9 the violation of a particular statute, unless made expressly
10 its duty to do so by the provisions of such statute.

1 SECT. 24. The grand jury shall then retire to a private
2 room and inquire into the offenses cognizable by them. C. S. p. 752, Sect. 26.

1 SECT. 25. They shall appoint one of their number clerk,
2 who shall preserve the minutes of their proceedings, except C. S. p. 752, Sect. 27.
3 of the votes of the individual members on a presentment or
4 indictment, and of the evidence given before them.

1 SECT. 26. On the completion of the business before them, C. S. p. 752, Sect. 28.
2 they shall be discharged by the court, but whether the bus-
3 iness is completed or not, they are discharged by the final
4 adjournment of the court.

1 SECT. 27. The grand jury have power and it is their C. S. p. 752, Sect. 29.
2 duty to inquire into all public offenses committed or triable
3 in the county, and to present them to the court, either by
4 presentment or indictment, as provided in the next two sec-
5 tions.

1 SECT. 28. Upon such inquiry, if from the evidence, the
2 grand jury believe any person charged with a public offense C. S. p. 752, Sects. 30
3 is guilty of the same or any other public offense, they shall & 31, combined &
4 find an indictment against him, but if they only believe amended.
5 that he is probably guilty of such offense, they shall pro-
6 ceed by presentment.

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c. s. p. 752, Sect. 32. 1 SECT. 29. An indictment is an accusation in writing
2 presented by a grand jury to a competent court, charging a
3 person with a public offense.

c. s. p. 752, Sect. 33. 1 SECT. 30. A presentment is an informal statement in
2 writing, by the grand jury, representing to the court that a
3 public offense has been committed which is triable in the
4 county, and that there is reasonable ground for believing that
5 a particular individual, named or described, has committed it.

c. s. p. 752, Sect. 34. 1 SECT. 31. The foreman may administer an oath to any
2 witness appearing before the grand jury.

c. s. p. 752, Sect. 35. 1 SECT. 32. In the investigation of a charge for the pur-
2 pose of either presentment or indictment, the grand jury
3 can receive no other evidence than:
4 *First.*—Such as is given by witnesses, produced and
5 sworn before them; or,
6 *Second.*—Legal, documentary or written evidence.

c. s. p. 752, Sect. 36. 1 SECT. 33. The grand jury can receive none but legal
2 evidence, and the best evidence in degree, to the exclusion
3 of hearsay, or secondary evidence, except when such evi-
4 dence would be admissible on the trial of the accused, for
5 the offense charged.

c. s. p. 753, Sect. 37. 1 SECT. 34. The grand jury is not bound to hear evi-
2 dence for the defendant; but it is their duty to weigh all
3 the evidence submitted to them, and when they have reason
5 to believe that other evidence within their reach will explain
6 away the charge, they shall order such evidence to be pro-
7 duced, and for that purpose may require the district attor-
8 ney to issue process for the witnesses.

c. s. p. 753, Sect. 38. 1 SECT. 35. The grand jury ought to find an indictment
2 ment when all the evidence taken together is such as in their
3 judgment would, if unexplained or uncontradicted, warrant
3 a conviction by the trial jury.

c. s. p. 753, Sect. 39. 1 SECT. 36. If a member of the grand jury knows, or has
2 reason to believe, that a public offense has been committed
3 which is triable in the county, he shall declare the same to
4 his fellow jurors, who shall thereupon investigate the same.

c. s. p. 753, Sect. 40. 1 SECT. 37. The grand jury shall inquire:
2 *First.*—Into the condition of every person imprisoned on
3 a criminal charge triable in the county, and not indicted;
4 *Second.*—Into the condition and management of the pub-
5 lic prisons in the county; and,
6 *Third.*—Into the wilful and corrupt misconduct in of-
7 fice, of public officers of every description in the county.

1 SECT. 38. They are entitled to free access, at all rea-
 2 sonable times, to the public prisons, and to the examina- C. S. p. 753, Sect. 41. C 104
 3 tion without charge of all public records in the county.

1 SECT. 39. The grand jury may at all reasonable times
 2 ask the advice of the court, or of the county attorney; and
 3 whenever required by the grand jury, the county attorney C. S. p. 753, Sect. 42.
 4 of the county shall attend them for the purpose of framing
 5 indictments, or examining witnesses in their presence, but
 6 no county attorney, sheriff or other person, except the grand
 7 jurors, shall be permitted to be present during the expres-
 8 sion of their opinions, or the giving of their votes upon any
 9 matter before them.

1 SECT. 40. Every grand juror shall keep secret whatever
 2 he himself, or any other grand juror said, or in what man- C. S. p. 753, Sect. 43.
 3 ner he or any other grand juror voted on a matter before
 4 them.

1 SECT. 41. Any grand juror may however, be required
 2 by any court to disclose the testimony of any witnesses ex- C. S. p. 753, Sect. 44.
 3 amined before the grand jury, for the purpose of ascertain-
 4 ing whether it is consistent with that given by the witness-
 5 es before the court, or to disclose the testimony given be-
 6 fore them by any other person upon a charge against him
 7 for perjury, in giving his testimony, or upon his trial there-
 8 for.

1 SECT. 42. A grand juror cannot be questioned for any-
 2 thing he says or any vote he gives in the grand jury rela- C. S. p. 753, Sect. 45.
 3 tive to a matter legally pending before the jury, except for a
 4 perjury of which he may be guilty in making an accusation,
 5 or giving testimony to his fellow jurors.

1 SECT. 43. No presentment can be found without the C. S. p. 753, Sect. 46.
 2 concurrence of at least twelve grand jurors. When so found
 3 it shall be signed by the foreman.

1 SECT. 44. The presentment when found, shall be pre- C. S. p. 753, Sect. 47.
 2 sented by the foreman in the presence of the grand jury to
 3 the court, and be filed with the clerk.

1 SECT. 45. When the grand jury make a presentment,
 2 they shall return to the court therewith, the depositions of C. S. p. 753, Sect. 48.
 3 the witnesses examined before them, or the minutes, or a
 4 copy thereof, of the testimony on which the presentment is
 5 made.

1 SECT. 46. When the depositions are returned as provi- C. S. p. 753, Sect. 49.
 2 ded in the last section, they shall be filed with the clerk of

3 the court, and cannot be inspected by any person except
4 the court, the attorney general, the clerk and his deputies
5 or assistants, and the county attorney, until after the arrest
6 of the defendant.

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C. S. p. 754, Sect. 50. 1 SECT. 47. A violation of the provisions of the last
2 section is punishable as a contempt and as a misdemeanor.

C. S. p. 754, Sect. 51. 1 SECT. 48. After the arrest of the defendant the clerk
2 shall, on payment of his fees, within two days after demand,
3 furnish a copy of the depositions to the defendant or his
4 counsel.

C. S. p. 754, Sect. 52. 1 SECT. 49. No grand juror, county attorney, clerk,
2 judge or other officer, can disclose the fact that a present-
3 ment has been made, or an indictment found for a felony or
4 other crime, until the defendant is arrested, but this prohi-
5 bition does not extend to a disclosure by the issuing or in
6 the execution of a warrant to arrest the defendant.

C. S. p. 754, Sect. 53. 1 SECT. 50. A violation of the provisions of this last
2 section is punishable as a contempt and as a misdemeanor.

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C. S. p. 754, Sect. 54. 1 SECT. 51. If the court thinks that the facts stated in the
2 presentment constitute a public offense triable in the coun-
3 ty, it shall direct the clerk to issue a bench warrant for the
4 arrest of the defendant.

C. S. p. 754, Sect. 55. 1 SECT. 52. The clerk, on application of the county at-
2 torney, may accordingly, at any time after the order, wheth-
3 er the court is sitting or not, issue a bench warrant under
4 his signature, and the seal of the court, into one or more
5 counties.

C. S. p. 754, Sect. 56. 1 SECT. 53. The bench warrant upon a presentment shall
2 be substantially in the following form :

3 State of Minnesota, }
4 County of , } The State of Minnesota,
5 To any sheriff or constable in the said state, greeting :
6 A presentment having been made on the day of
7 , A. D. 18 , to the district court for the county of
8 , in the state aforesaid, charging C. D. with the crime
9 of (here designate the charge generally.) Therefore, you
10 are commanded forthwith to arrest the above named C. D.,
11 and take him before E. F., a magistrate of this county, or
12 in case of his absence or inability to act, before the nearest
13 or most accessible magistrate in this county, there to be
14 dealt with according to law.

15 Witness the Honorable
 16 At , the day of , A. D. 18 .
 17 By order of the court.
 18 C. H., clerk.

1 SECT. 54. The bench warrant may be served in any
 2 county in the state, and the officer serving it shall proceed
 3 thereon in all respects, as upon a warrant of arrest on com-
 4 plaint. C. S. p. 754, Sect. 57. C 104

1 SECT. 55. The magistrate, when the defendant is
 2 brought before him, shall proceed upon the charge contained
 3 in the presentment, in the same manner in all respects, as
 4 upon a warrant of arrest on complaint. C. S. p. 754, Sect. 58.

1 SECT. 56. Upon the arrest of the defendant the clerk
 2 with whom the presentment and depositions are filed, shall
 3 without delay, furnish to the magistrate before whom the
 4 defendant is taken, a certified copy of the presentment and
 5 depositions. C. S. p. 754, Sect. 59.

1 SECT. 57. No indictment can be found without the con-
 2 currence of at least twelve grand jurors. When so found
 3 it shall be indorsed "a true bill," and the indorsement
 4 signed by the foreman of the grand jury. C. S. p. 754, Sect. 60.

1 SECT. 58. If twelve grand jurors do not concur in find-
 2 ing an indictment or presentment, the charge shall be dis-
 3 missed. The dismissal of the charge does not however,
 4 prevent its being again submitted to a grand jury as often
 5 as the court directs. C. S. p. 755, Sects. 61 & 62, combined.

1 SECT. 59. When an indictment is found the names of
 2 the witnesses examined before the grand jury shall in all
 3 cases be inserted at the foot of the indictment, or indorsed
 4 thereon, before it is presented to the court. C. S. p. 755, Sect. 63.

1 SECT. 60. When an indictment is found it shall be im-
 2 mediately presented by the foreman, in the presence of the
 3 grand jury, to the court, filed with the clerk, and remain
 4 in his office as a public record. C. S. p. 755, Sect. 64.