

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AND A LIST OF ACTS PREVIOUSLY REPEALED,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.

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

ST. PAUL.
PUBLISHED BY DAVIDSON & HALL,
STATE PRINTERS, 170 THIRD STREET.
1872.

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Grand jury defined.

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

How drawn.

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

Who are liable to be drawn as grand jurors.

SEC. 3. All persons who are qualified electors of this state are liable to be drawn as grand jurors, except as hereinafter provided.

Who are exempt.

SEC. 4. The following persons are exempt from serving as grand jurors: all United States officers, all judges of courts of record, commissioners of public buildings, auditor and treasurer of the state, state librarian, clerks of courts, registers of deeds, sheriffs and their deputies, coroners, constables, attorneys and counsellors at law, ministers of the gospel, preceptors and teachers of incorporated academies, one teacher in each common school, practicing physicians and surgeons, one miller to each grist mill, one ferryman to each licensed ferry, all members of companies of firemen organized according to law, all persons of more than sixty years of age, all persons not of sound mind or discretion, persons subject to any bodily infirmity amounting to disability; and all persons are

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disqualified from serving as grand jurors who have been convicted of any infamous crime.

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

Clerk shall prepare names for drawing, how.

SEC. 6. At least fifteen days before the sitting of any district court, the clerk thereof, in the presence of the sheriff or his deputy, and a justice of the peace, shall proceed to draw the names of twenty-three persons from the box, to serve as grand jurors at such court.

When names shall be drawn.

SEC. 7. Said clerk shall, twelve days at least before the first day of the court, issue and deliver to the sheriff a venire under the seal of the court, commanding him to summon the persons so drawn, to appear before the said court at or before the hour of eleven o'clock A. M., on the first day of the term thereof, to serve as grand jurors.

Clerk to issue venire.

SEC. 8. The sheriff shall summon the persons so named in the venire to attend such court as grand jurors, at least six days before the sitting thereof, by giving personal notice to each person, or by leaving a written notice at his place of residence, with some person of proper age. He shall return such venire to the court at the opening thereof, specifying those who were summoned, and the manner in which each person was notified.

Sheriff shall make service, when and how.

SEC. 9. If any person duly drawn and summoned to attend as a grand juror, neglects to attend, without sufficient excuse, he shall pay a fine not exceeding thirty dollars, which shall be imposed by the court to which the juror was summoned, and shall be paid into the county treasury.

Penalty for neglecting to attend.

SEC. 10. In case of a deficiency of grand jurors in any court, writs of venire facias may be issued to the proper officer to return forthwith such further number of grand jurors as are required.

Deficiency of grand jurors, how supplied.

SEC. 11. The proper officer shall summon such persons accordingly, who shall be bound forthwith to attend and serve, unless excused by the court, in the same manner and subject to the same penalties for neglect, as persons duly drawn by the clerk of the district court, and summoned as herein provided.

Persons summoned to supply deficiency, bound to attend.

SEC. 12. Not more than twenty-three, nor less than sixteen persons, can be sworn on a grand jury, nor can a grand jury proceed to any business unless sixteen members at least are present.

Number of persons necessary to form grand jury.

SEC. 13. A person held to answer a charge for a public offense, may challenge the panel of the grand jury, or any individual grand juror, before they retire, after being sworn and charged by the court.

Who may challenge panel or individual juror. 3 Min. 444. 4 Min. 345.

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

Causes of challenge to panel.

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

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

Third. That the drawing was not had at least fifteen days before the court.

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

Causes of challenge to individual juror.

First. That he is a minor;

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

Third. That he is insane ;

Fourth. That he is a prosecutor upon a charge against the defendant.

Fifth. That he is a witness on the part of the prosecution, and has been served with process, or bound by a recognizance as such ;

Sixth. That a state of mind exists on his part in reference to the case, or to either party, which satisfies the court in the exercise of a sound discretion, that he can not act impartially and without prejudice to the substantial rights of the party challenging.

What challenges to be tried by the court.

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

Clerk to make entry of decision of court.

SEC. 17. The court shall allow or disallow the challenge, and the clerk shall enter its decision upon the minutes.

Effect of challenge to panel being allowed.

SEC. 18. If a challenge to the panel is allowed, the grand jury are prohibited from inquiring into the charges against the defendant by whom the challenge was interposed ; if they should notwithstanding do so, and find an indictment against him, the court shall direct it to be set aside.

Effect of challenge to individual juror being allowed.

SEC. 19. If a challenge to an individual grand juror is allowed, he can not be present at, or take part in the consideration of the charge against the defendant who interposed the challenge, or the deliberations of the grand jury thereon.

Jury to inform court of violation of last section.

SEC. 20. The grand jury shall inform the court of a violation of the provisions of the last section, and it is punishable by the court as a contempt.

Court shall appoint foreman.

SEC. 21. From the persons summoned to serve as grand jurors and appearing, the court shall appoint a foreman. The court shall also appoint a foreman, when a person already appointed is discharged or excused, before the grand jury are dismissed.

Grand jury shall be sworn.

SEC. 22. The grand jury shall then be sworn according to law, and if, afterward, any grand juror appears and is admitted as such, the same oath shall be administered to him.

Shall be charged by the court.

SEC. 23. The grand jury being impaneled and sworn, shall be charged by the court ; in doing so, the court shall read to them the provisions of this chapter, from section twenty-seven to section forty-two, both inclusive, and give them such information as it may deem proper, as to the nature of their duties, and any charges for public offenses returned to the court, or likely to come before the grand jury ; the court need not however charge them respecting the violation of a particular statute, unless made expressly its duty to do so by the provisions of such statute.

Shall retire and inquire into offenses.

SEC. 24. The grand jury shall then retire to a private room and inquire into the offenses cognizable by them.

Shall appoint clerk.

SEC. 25. They shall appoint one of their number clerk, who shall preserve the minutes of their proceedings, except of the votes of the individual members on a presentment or indictment, and of the evidence given before them.

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Shall be discharged, when.

SEC. 26. On the completion of the business before them, they shall be discharged by the court, but whether the business is completed or not, they are discharged by the final adjournment of the court.

Power and duty of grand jury.

SEC. 27. The grand jury have power and it is their duty to inquire into all public offenses committed or triable in the county, and to present them to the court, either by presentment or indictment, as provided in the next [two] section.

Shall find indictment, when—presentment, when.

SEC. 28. Upon such inquiry, if from the evidence, the grand jury believe any person charged with a public offense is guilty of the same or any other public offense, they shall find an indictment against him, but if

they only believe that he is probably guilty of such offense, they shall proceed by presentment.

SEC. 29. An indictment is an accusation in writing presented by a grand jury to a competent court, charging a person with a public offense. Indictment defined.

SEC. 30. A presentment is an informal statement in writing, by the grand jury, representing to the court that a public offense has been committed which is triable in the county, and that there is reasonable ground for believing that a particular individual, named or described, has committed it. Presentment defined.

SEC. 31. The foreman may administer an oath to any witness appearing before the grand jury. Foreman may administer oath.

SEC. 32. In the investigation of a charge for the purpose of either presentment or indictment, the grand jury can receive no other evidence than: What evidence is receivable.

First. Such as is given by witnesses, produced and sworn before them; or,

Second. Legal, documentary or written evidence.

SEC. 33. The grand jury can receive none but legal evidence, and the best evidence in degree, to the exclusion of hearsay, or secondary evidence, except when such evidence would be admissible on the trial of the accused, for the offense charged. Hearsay or secondary evidence admissible, when.

SEC. 34. The grand jury is not bound to hear evidence for the defendant; but it is their duty to weigh all the evidence submitted to them, and when they have reason to believe that other evidence within their reach will explain away the charge, they shall order such evidence to be produced, and for that purpose may require the district attorney to issue process for the witnesses. May hear evidence for defendant, when.

SEC. 35. The grand jury ought to find an indictment when all the evidence taken together is such as in their judgment would, if unexplained or uncontradicted, warrant a conviction by the trial jury. Should find indictment, when.

SEC. 36. If a member of the grand jury knows, or has reason to believe, that a public offense has been committed which is triable in the county, he shall declare the same to his fellow jurors, who shall thereupon investigate the same. Duty of each juror to become complainant, when.

SEC. 37. The grand jury shall inquire:

First. Into the condition of every person imprisoned on a criminal charge triable in the county, and not indicted; What matters grand jury shall inquire into.

Second. Into the condition and management of the public prisons in the county; and,

Third. Into the willful and corrupt misconduct in office, of public officers of every description in the county.

SEC. 38. They are entitled to free access, at all reasonable times, to the public prisons, and to the examination, without charge, of all public records in the county. Grand jury are entitled to inspect public prisons and records.

SEC. 39. The grand jury may at all reasonable times ask the advice of the court, or of the county attorney; and whenever required by the grand jury, the county attorney of the county shall attend them for the purpose of framing indictments, or examining witnesses in their presence, but no county attorney, sheriff or other person, except the grand jurors, shall be permitted to be present during the expression of their opinions, or the giving of their votes upon any matter before them. May ask advice of court or county attorney—duty of county attorney.

SEC. 40. Every grand juror shall keep secret whatever he himself, or any other grand juror said, or in what manner he or any other grand juror voted on a matter before them. Each juror shall observe secrecy.

SEC. 41. Any grand juror may, however, be required by any court to disclose the testimony of any witnesses examined before the grand May be required to make disclosure, when.

jury, for the purpose of ascertaining whether it is consistent with that given by the witnesses before the court, or to disclose the testimony given before them by any other person upon a charge against him for perjury, in giving his testimony, or upon his trial therefor.

Not to be questioned concerning his action as grand juror.

SEC. 42. A grand juror can not be questioned for anything he says or any vote he gives in the grand jury relative to a matter legally pending before the jury, except for a perjury of which he may be guilty in making an accusation, or giving testimony to his fellow jurors.

Presentment found, when.

SEC. 43. No presentment can be found without the concurrence of at least twelve grand jurors. When so found it shall be signed by the foreman.

How disposed of.

SEC. 44. The presentment when found, shall be presented by the foreman in the presence of the grand jury to the court, and be filed with the clerk.

Depositions, &c., to be returned to court with presentment.

SEC. 45. When the grand jury make a presentment, they shall return to the court therewith, the depositions of the witnesses examined before them, or the minutes, or a copy thereof, of the testimony on which the presentment is made.

Depositions to be filed—who may inspect them.

SEC. 46. When the depositions are returned as provided in the last section, they shall be filed with the clerk of the court, and can not be inspected by any person except the court, the attorney general, the clerk and his deputies or assistants, and the county attorney, until after the arrest of the defendant.

Violation of last section, how punished.

SEC. 47. A violation of the provisions of the last section is punishable as a contempt and as a misdemeanor.

Defendant may have copy of depositions.

SEC. 48. After the arrest of the defendant the clerk shall, on payment of his fees, within two days after demand, furnish a copy of the depositions to the defendant or his counsel.

Officers not to disclose that presentment or indictment has been found.

SEC. 49. No grand juror, county attorney, clerk, judge or other officer, can disclose the fact that a presentment has been made, or an indictment found for a felony or other crime, until the defendant is arrested; but this prohibition does not extend to a disclosure by the issuing or in the execution of a warrant to arrest the defendant.

Violation of last section, how punished.

SEC. 50. A violation of the provisions of this last section is punishable as a contempt and as a misdemeanor.

Court may order clerk to issue bench warrant, when.

SEC. 51. If the court thinks that the facts stated in the presentment constitute a public offense, triable in the county, it shall direct the clerk to issue a bench warrant for the arrest of the defendant.

Bench warrant may issue accordingly.

SEC. 52. The clerk, on application of the county attorney, may accordingly, at any time after the order, whether the court is sitting or not, issue a bench warrant under his signature, and the seal of the court, into one or more counties.

Form of bench warrant.

SEC. 53. The bench warrant upon a presentment shall be substantially in the following form:

State of Minnesota, }
County of. } ss. The State of Minnesota,

To any sheriff or constable in the said state, greeting:

A presentment having been made on the _____ day of _____, A. D. 18____, to the district court for the county of _____, in the state aforesaid, charging C. D. with the crime of (here designate the charge generally.) Therefore, you are commanded forthwith to arrest the above named C. D., and take him before E. F., a magistrate of this county, or in case of his absence or inability to act, before the nearest and most accessible magistrate in this county, there to be dealt with according to law.

Witness the Honorable

At _____, the _____ day of _____

A. D. 18____.

By order of the court.

C. H., clerk.

- 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 :