

GENERAL STATUTES  
OF THE  
STATE OF MINNESOTA

36

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COMPLETE IN TWO VOLUMES.

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VOL. 2.

SUPPLEMENT, 1879-1888,

WITH

ANNOTATIONS AND GENERAL INDEX TO BOTH VOLUMES.

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## CHAPTER 107.

## GRAND JURIES.\*

## § 1. "Grand jury" defined.

See State v. Froiseth, 16 Minn. 313, (Gil. 277, 280.)

## § 4. Exemption from grand jury service.

The following persons are exempt from service as grand jurors: All United States officers; all judges of courts of record; commissioners of public buildings; auditors and treasurer of state; state librarian; clerks of courts; registers of deeds; sheriffs and their deputies; coroners; constables; attorneys and counselors at law; ministers of the gospel; preceptors and teachers of incorporated academies; one teacher in each common school; practicing physicians and surgeons; one miller of each grist-mill; one ferry-man to each licensed ferry; all acting telegraph operators; all postmasters and deputy postmasters; 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; all undertakers and their assistants; all persons are disqualified from serving as grand jurors who have been convicted of any infamous crime. (*As amended* 1873, c. 72, § 1; 1887, c. 186.)

See State v. Stokely, 16 Minn. 282, (Gil. 249, 255.)

## \*§ 9a. Jurors—Failure to report.

All grand and petit jurors drawn and summoned to attend and serve at any and all general and special terms of the district courts of this state, shall report to the court wherein drawn at the time and place designated in the summons. A failure to so report upon the part of any person duly drawn and summoned to attend as a grand or petit juror, at any general or special term of said court, shall constitute a contempt of the court upon the part of the person so failing. (1883, c. 103, § 1.†)

## \*§ 9b. Attachment to issue.

On the first day of the term fixed for the attendance of either the grand or petit jurors, or as soon thereafter as may be, the court shall ascertain whether the persons summoned to attend at said term as grand or petit jurors, as the case may be, have reported to the court for duty as required by law. If the court shall ascertain that there is a failure upon the part of any person or persons duly summoned as a juror or as jurors to report for duty as required by law, attachments shall at once issue under the direction of the court against the person of the delinquent or delinquents. The attachments issued as hereinbefore provided shall be served by the sheriff or his deputy, and the person named therein shall be forthwith arrested and brought before the court, then to be dealt with according to law: *provided*, that this act shall not be construed, to render liable to jury duty any person or class of persons who now are or hereafter may be exempted from jury duty by any law of this state or of the United States. (*Id.* § 2.)

## \*§ 9c. Grounds of excuse from service.

The court shall not excuse from service upon either the grand or petit jury any person duly drawn and summoned to serve thereon, except upon the

\*See, as to grand juries in Hennepin, Ramsey, and Washington counties, *ante*, c. 71, \*§ 14a *et seq.*

†"An act relating to jurors." Approved March 2, 1883.

ground that the person so summoned and seeking to be excused is either physically or mentally unable or unfit, in the opinion of the court, to attend or serve as a juror, or by reason of serious sickness of some immediate member of the family of the person so summoned. (*Id.* § 3.)

**\*§ 9d. Excuse and grounds to be recorded.**

The name of each person drawn and summoned to serve as a juror, if he be by the court for any cause excused from such service, shall be entered by the clerk among the proceedings of the court, and under the direction of the court the clerk shall also make an entry of the grounds upon which the excuse is based, and the record, when so much of [made up.] shall be preserved and open to inspection by all persons. (*Id.* § 4.)

**\*§ 9e. Law of contempts applicable.**

The law in reference to contempts which now is or hereafter may be in force, in so far as may be necessary to carry this act into effect, shall apply equally to contempts committed under the provisions of this act. (*Id.* § 5.)

**\*§ 9f. Penalty.**

Persons charged with contempt of court under the provisions of this act shall be dealt with and their cases disposed of summarily by the court, and each person found guilty of a contempt under the provisions hereof shall be punished by fine in a sum not exceeding five hundred dollars, or by imprisonment in the county jail for a term not exceeding ninety days, or by both such fine and imprisonment, in the discretion of the court. (*Id.* § 6.)

**§ 10. Deficiency.**

The failure of a sufficient number of persons selected and summoned as grand jurors to appear in court creates a deficiency of grand jurors, within this section. *State v. McCarty*, 17 Minn. 76, (Gil. 54.)

An indictment will not be set aside on the ground that one of the grand jurors was not present when the grand jury was charged, but was present during the examination of the charge against defendant, and voted upon the finding. *State v. Froiseth*, 16 Minn. 313, (Gil. 277.)

**§ 13. Who may challenge grand juror.**

The right to challenge the panel of a grand jury, or any member thereof, is only secured by statute to prisoners held to answer a charge for a public offense. *State v. Davis*, 22 Minn. 423.

A party who neglects to claim his right of challenge to the grand jury, before they retire, waives it, although he may be imprisoned at the time. *Maher v. State*, 3 Minn. 444, (Gil. 329.)

Being imprisoned at the time the grand jury was impaneled is no excuse for omitting to challenge them. *State v. Hinkley*, 4 Minn. 345, (Gil. 261.)

**§ 14. Causes of challenge to panel.**

One who is held to answer at a term of the district court, for a criminal offense, must make any objection that he has to the manner of procuring the grand jury by challenge, and cannot move to set aside the indictment against him upon such grounds. *State v. Greenman*, 23 Minn. 209.

See *State v. Gut*, 13 Minn. 341, (Gil. 315.)

**§ 23. Charge.**

See *State v. Froiseth*, 16 Minn. 313, (Gil. 277.)

**§ 26. Discharge of grand jury.**

The jury to be discharged on the completion of the business before them, they shall be discharged by the court, or the court may, in its discretion, adjourn their session from time to time during the same term; but whether the business is completed or not, they are discharged by the final adjournment of the court. (*As amended 1885, c. 21.*)

**§ 27. Powers and duties of grand jury.**

The offense created by Gen. St. c. 16, § 4, (selling liquors without license,) is indictable. *State v. Kobe*, 26 Minn. 148, 1 N. W. Rep. 1051.

**§ 41. Disclosure by juror—When required.**

The only cases in which the testimony of a witness before the grand jury may be disclosed are those mentioned in § 41. *Pinney's Will*, 27 Minn. 280, 6 N. W. Rep. 791, 7 N. W. Rep. 144.

**§ 57. Finding indictment—Indorsement.**

The affidavit of a grand juror is not admissible to show misconduct of the grand jury in finding an indictment. *State v. Beebe*, 17 Minn. 241, (Gil. 218.)

**§ 60. Same—Presentment, filing, and recording.**

Whenever an indictment is found it shall be immediately presented by the foreman in the presence of the grand jury to the court, and filed with the clerk to be recorded in a book kept for that purpose, as soon as the arraignment shall have been made, the same to remain in the office of said clerk as a public record. (*As amended 1881, c. 47, § 1.*)

An indictment found by the grand jury, and properly filed, will be presumed to have been properly presented to the court, as prescribed by this section. *State v. Beebe*, 17 Minn. 241, (Gil. 218.)

The affidavit of a grand juror is not admissible to impeach the conduct of a grand jury, by showing that an indictment was found on illegal evidence, or that a false indorsement of witnesses is made thereon. *Id.*

**\*§ 61. Clerk to certify to record.**

The clerk shall certify at the bottom of the record that he has compared the same with the original indictment, and that it is a true copy thereof. (1881, c. 47, § 2.)

**\*§ 62. Record of indictment—Effect.**

The record of such indictment shall have all the force and be of the same effect for all the purposes required as the original indictment, and although such indictment should be lost, mislaid, or should for any reason not be before the court, any proceeding may be had upon the record aforesaid in the same manner and with the same effect as if the original indictment was before the court; and in such case no trial, conviction, or sentence shall be invalid by reason of the fact that such original indictment has disappeared from the files of the court, in such case, after the recording of such indictment. (*Id.* § 3.)

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## CHAPTER 108.

### INDICTMENTS.

**§ 1. Indictment—Contents.**

**SUBD. 1.** An indictment for a crime committed in an organized county, to which others are attached for judicial purposes, may be entitled as in all of the counties, and found by a grand jury drawn from all. *State v. Stokely*, 16 Minn. 282, (Gil. 249.)

**SUBD. 2.** "The grand jurors of the county of Rice, in the state of Minnesota, upon their oaths, present that," etc., instead of following the form given in the statute, "A. B. is accused by the grand jury of," etc., is good as an indictment, if it state facts constituting an offense. *State v. Hinkley*, 4 Minn. 345, (Gil. 261.)

An inaccurate designation of the offense charged in an indictment does not vitiate it if the act or omission specified shows the offense. *State v. Munch*, 22 Minn. 67. An