

CHAPTER LXXXVII.

An Act to provide for the trial of offenses upon information. : March 6, 1868.

- SECTION 1. Courts may have the same powers in cases upon information as in like cases upon indictment.
2. All information shall be filed by the Prosecuting Attorney as informant.
 3. All information to be verified by oath of Prosecuting Attorney—rights of defendants.
 4. All laws of this State applicable to prosecutions upon indictments shall also apply to informations.
 5. Parties may be committed to jail or held to bail.
 6. Prosecuting Attorney to make full examination of all the facts touching the commission of any offense—to file statement—what to contain.
 7. When Grand Juries may be required to attend at the sitting of any Court.
 8. When information may be filed against offenders.
 9. When act to take effect.

Be it enacted by the Legislature of the State of Minnesota:

SECTION 1. That the several courts of this state shall possess, and may exercise the same power and jurisdiction to hear, try, and determine prosecutions upon information for crimes, misdemeanors and offenses; to issue writs and process, and do all other acts therein, as they possess and may exercise in cases of like prosecutions upon indictment.

Powers of courts in cases upon information.

SEC. 2. All informations shall be filed during term, in the court having jurisdiction of the offense specified therein, by the prosecuting attorney of the proper county, as informant; he shall subscribe his name thereto and endorse thereon the names of the witnesses known to him at the time of filing the same; and at such (time) before the trial of any case, as the court may by rule or otherwise prescribe; he shall also endorse thereon the names of such other witnesses as shall be known to him.

Who to file information.

SEC. 3. All informations shall be verified by the oath of the prosecuting attorney, complainant or some other person, and the offense charged therein shall be stated with the same fullness and precision in matters of sub-

How verified—rights of defendants.

stance, as is required in indictments in like cases. Different offenses, and different degrees of the same offense, may be joined in one information, in all cases where the same might be joined by different counts in one indictment, and in all cases a defendant or defendants shall have the same rights as to all proceedings therein, as he or they would have, if prosecuted for the same offense upon indictment.

All laws apply same as upon indictments.

SEC. 4. All the laws of this state applying to prosecutions upon indictments, to writs and process therein, and the issuing and service thereof, to motions, pleadings, trials and punishments, or the execution of any sentence, and to all other proceedings in cases of indictment, whether in the court of original or appellate jurisdiction, shall in the same manner, and to the same extent, as near as may be, apply to informations, and all prosecutions and proceedings thereon.

May be committed or held to bail.

SEC. 5. Any person who may according to law, be committed to jail, or become recognized or held to bail with sureties for his appearance in court to answer to any indictment, may in like manner, so be committed to jail, or become recognized and held to bail for his appearance, to answer to any information or indictment, as the case may be.

Prosecuting Attorney to make examination—to file statement—what to contain.

SEC. 6. It shall be the duty of the prosecuting attorney of the proper county, to inquire into, and make full examination of all the facts and circumstances connected with case of preliminary examination, as provided by law, touching the commission of any offense wherein the offender shall be committed to jail or become recognized or held to bail; and if the prosecuting attorney shall determine in such case, that an information ought not be filed, he shall make, subscribe and file with the clerk of the court, a statement in writing, containing his reasons, in fact and in law, for not filing an information in such case, and such statement shall be filed at and during the term of the court at which the offender shall be held for appearance. *Provided*, That in such case, such court may examine said statement, together with the evidence filed in the case, and, if upon such examination, the court shall not be satisfied with said statement the prosecuting attorney shall be directed by the court, to file the proper information, and bring the case to trial.

When grand juries may be required.

SEC. 7. Grand juries shall not hereafter be drawn, summoned, or required to attend at the sittings of any

courts within this state, as provided by law, unless the judge thereof shall so direct by writing under his hand, and filed with the clerk of said court.

SEC. 8. No information shall be filed against any person for any offense, until such person shall have had a preliminary examination therefor, as provided by law, before a justice of the peace, or other examining magistrate or officer, unless such person shall waive his right to such examination. *Provided however,* That informations may be filed without such examination against fugitives from justice, and any fugitive from justice, against whom an information may be filed may be demanded by the governor of this state, of the executive authority of any other state or territory, or of any foreign government, in the same manner, and the same proceedings may be had thereon as provided by law in cases of demand upon indictment filed.

When information may be filed

SEC. 9. This act shall take effect and be in force from and after the proclamation by the governor, of the ratification by the people, of the legislative proposition to amend section seven (7), of article (1), of the constitution of this state.

When act to take effect.

Approved March 6, 1868.

CHAPTER LXXXVIII.

An Act to prescribe the penalty for the crime of murder in the first degree.

March 5, 1868.

- SECTION 1. Penalty of death as a punishment for crime, abolished—exceptions.
2. Upon the trial of a person indicted for murder in the first degree, jury to decide what punishment may be inflicted, if found guilty.
 3. How punished when jury fail to prescribe penalty of death.
 4. Not applicable to any offense committed prior to passage of this act.
 5. Repeal of inconsistent acts.
 6. When act to take effect.

Be it enacted by the Legislature of the State of Minnesota:

SECTION 1. The penalty of death as a punishment for