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THE
REVISED STATUTES,
OF THE
TERRITORY OF MINNESOTA,

PASSED AT THE SECOND SESSION OF THE
LEGISLATIVE ASSEMBLY,

COMMENCING JANUARY 1, 1851.

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Oath to be administered to grand jury.

SEC. 23. The following oath must immediately thereupon be administered to the other grand jurors present:

The same oath which your foreman has now taken before you, on his part, you, and each of you, shall well and truly observe on your part, so help you God.

Oath to be administered to grand jury.

SEC. 24. If after the foreman is sworn, any grand juror appear and be admitted as such, the oath as prescribed in section twenty-two, must be administered to him, commencing: "you, as one of this grand jury," and so on to the end.

Court must charge jury.

SEC. 25. The grand jury being impanelled and sworn, must be charged by the court; in doing so, the court must read to them the provisions of chapter one hundred and sixteen, from section twenty-nine, to section forty-five, both inclusive, and must give them such information as it may deem proper, as to the nature of their duties, and any charges for public offences 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.

Grand jury must then retire to their room.

SEC. 26. The grand jury then must retire to a private room and inquire into the offences cognizable by them.

Grand jury must appoint clerk. Duties of clerk.

SEC. 27. The grand jury must appoint one of their number as clerk, who must 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.

Grand jury when to be discharged.

SEC. 28. The grand jury on the completion of the business before them, must be discharged by the court, but whether the business be completed or not, they are discharged by the final adjournment of the court.

CHAPTER 116.

OF THE POWERS AND DUTIES, OF THE GRAND JURY.

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Powers and duties of grand juries.

SEC. 29. The grand jury has power and it is their duty to inquire into all public offences committed or triable in the county, and to present them to the court, either by presentment or indictment, as provided in the next two sections.

SEC. 30. Upon such inquiry they may, where the defendant has been held by the magistrate to answer the charge, and in no other case, if they believe him guilty thereof, find an indictment against him.

When to find indictment against defendant.

SEC. 31. In all other cases, if upon investigation the grand jury believe that a person is guilty of a public offence, they can proceed by presentment only.

When to make presentment.

SEC. 32. An indictment is an accusation in writing presented by a grand jury, to a competent court, charging a person with a public offence.

Indictment defined.

SEC. 33. A presentment is an informal statement in writing, by the grand jury, representing to the court that a public offence 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. 34. The foreman may administer an oath to any witness appearing before the grand jury.

Foreman may administer oath.

SEC. 25. 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 can be received.

1. Such as is given by witnesses, produced and sworn before them ; or,
2. By legal documentary evidence.

SEC. 36. The grand jury can receive none but legal evidence, and the best evidence in degree, to the exclusion of hearing or secondary evidence.

Must be legal evidence.

SEC. 37. 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 should order such evidence to be produced, and for that purpose may require the district attorney to issue process for the witnesses.

Must weigh the evidence.

SEC. 38. 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 of the trial jury.

Grand jury when to find indictment.

SEC. 39. If a member of the grand jury knows, or has reason to believe, that a public offence has been committed which is triable in the county, he must declare the same to his fellow jurors, who must thereupon investigate the same.

Grand juror when to make complaint.

SEC. 40. The grand jury must inquire :

1. Into the condition of every person imprisoned on a criminal charge triable in the county, and not indicted :
2. Into the condition and management of the public prisons in the county ; and,
3. Into the willful and corrupt misconduct in office, of public officers of every description in the county.

Grand jury into what to inquire.

SEC. 41. They are also 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 to have access to prison.

SEC. 42. The grand jury may at all reasonable times ask the advice of the court, or of the district attorney of the county ; and whenever required by the grand jury, it shall be the duty of the district attorney of the county to attend them for the purpose of framing indictments, or of examining witnesses in their presence, but no district 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.

SEC. 43. Every member of the grand jury must keep secret whatever he himself, or any other grand juror may have said, or in what

Grand juror must keep certain matters secret.

manner he or any other grand juror may have voted on a matter before them.

What grand juror may be required to disclose.

SEC. 44. A member of the grand jury may, however, be required by any court to disclose the testimony of any witnesses examined before the grand 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.

Grand juror not liable for his proceedings before the grand jury.

SEC. 45. A grand juror cannot be questioned for any thing he may say, or any vote he may give in the grand jury, relative to a matter legally pending before the jury, except for a perjury of which he may have been guilty in making an accusation, or giving testimony to his fellow jurors.

CHAPTER 117.

PRESENTMENT AND PROCEEDINGS THEREON.

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- 46. When presentment may be made.
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SECTION

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- 55. When clerk to issue bench warrant.
- 56. Form of bench warrant.
- 57. Bench warrant when and how served.
- 58. Magistrate how to proceed when defendant brought before him.
- 59. Clerk must furnish copies of presentment and depositions.

When presentment may be made.

SEC. 46. A presentment cannot be found without the concurrence of at least twelve grand jurors. When so found, it must be signed by the foreman.

When found to be presented by foreman.

SEC. 47. The presentment, when found, must be presented by the foreman, in the presence of the grand jury, to the court, and must be filed with the clerk.

Testimony must be returned with presentment.

SEC. 48. When the grand jury make a presentment, they must 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.

Deposition must be filed and kept secret.

SEC. 49. When the depositions are returned, as provided in the last section, they must be filed with the clerk of the court, and cannot be inspected by any person except the court, the attorney general, the clerk and his deputies or assistants, and the district attorney, until after the arrest of the defendant.

Violation of last section a misdemeanor.

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

When clerk to furnish copies of depositions.

SEC. 51. After the arrest of the defendant, the clerk must, on payment of his fees, at the rate of twenty-five cents for every hundred