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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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court, the amount for which he was bound as surety, with such costs as the court shall direct, and be thereupon forever discharged.

Sec. 30. When any action is brought in the name of the territory of Minnesota against a principal or surety in any recognizance entered into, either by a party or a witness in any criminal prosecution, and the penalty of such recognizance shall be adjudged forfeited; the court may, on application of any party, defendant, remit any part of the whole of such penalty and may render judgment thereon for the territory, according to the circumstances of the case, and the situation of the party, and upon such terms and conditions as to such court shall seem just and reasonable.

Action on recognizance.

Sec. 31. No such action brought on a recognizance as mentioned in the preceding section shall be barred or defeated, nor shall judgment thereon be arrested by reason of any neglect or omission to note or record the default of any principal or surety, at the term when such default shall happen, nor by reason of any such defect in the form of the recognizance; if it sufficiently appear from the tenor thereof at what court the party or witness was bound to appear, and that the court or magistrate before whom it was taken was authorized by law to require and take such recognizance.

Such action when barred or defeated.

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CHAPTER 115.

OF GRAND JURIES.

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SECTION

1. Grand jury defined.
2. Grand jury how drawn.
3. Who liable to be drawn as grand jurors.
4. Who exempt from serving on juries.
5. Grand jury how drawn, duties of clerk.
6. Jurors to be drawn fifteen days before court.
7. Clerk to issue venire.
8. Grand jury how summoned.
9. Penalty for refusal to attend.
10. Proceeding where a deficiency of jurors exists.
11. Proceeding where a deficiency of jurors exists.
12. How many grand jurors to be sworn.
13. Defendant may challenge.
14. Challenge to grand jury for what reason interposed.
15. Challenge to individual juror for what cause interposed.

SECTION

16. Challenge must be entered in minutes of the court.
17. Decision of court to be entered by the clerk in the minutes.
18. If challenge allowed, jury not to find indictment against defendant.
19. If a challenge to an individual juror be allowed he cannot take part in action of the jury.
20. Jury must inform court of a violation of last section.
21. Court must appoint foreman.
22. Oath to be administered to grand jury.
23. Oath to be administered to grand jury.
24. Oath to be administered to grand jury.
25. Court must charge jury.
26. Grand jury must then retire to their room.
27. Grand jury must appoint clerk; duties of clerk.
28. Grand jury when to be discharged.

Sec. 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 offences, committed or triable in the county.

Grand jury defined.

Grand Jury how drawn.

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

Who liable to be drawn as grand jurors.

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

Who exempt from serving on juries.

SEC. 4. The following persons shall be 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 territory, territorial librarian, clerks of courts, registers of deeds, sheriffs and their deputies, coroners, constables, attorneys and counsellors at law and solicitors in chancery, 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 more than sixty years of age, and all persons not of sound mind or discretion, and persons subject to any bodily infirmity amounting to any disability; and all persons shall be disqualified from serving as grand jurors who have been convicted of any infamous crime.

Grand Jury how drawn.

SEC. 5. On receiving the list of grand jurors from the register of deeds, as selected by the board of county commissioners, the clerk of the district court shall write names of the persons contained therein, on separate pieces of paper, and shall 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.

Duties of clerk.

Jurors to be drawn fifteen days before court.

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.

Clerk to issue venire.

SEC. 7. The clerk of the district court shall, twelve days at least before the first day of the court, issue and deliver to the sheriff or his deputy, 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.

Grand Jury how summoned.

SEC. 8. The sheriff, or his deputy, shall summon the persons so named in the venire, to attend such court as grand jurors, at least six days before the sitting of such court, 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.

Penalty for refusal to attend.

SEC. 9. If any person duly drawn and summoned to attend as a grand juror in any court, shall neglect to attend, without any 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.

Proceeding where a deficiency of jurors exists.

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 may be required.

Proceeding where a deficiency of jurors exists.

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.

SEC. 12. No 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 be present.

How many grand jurors to be sworn.

SEC. 13. A person held to answer a charge for a public offence, may challenge the panel of the grand jury, or an individual grand juror.

Defendant may challenge.

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

Challenge to grand jury, for what reason interposed.

1. That the requisite number of ballots was not drawn from the grand jury box of the county:

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

3. 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:

Challenge to individual juror for what cause interposed.

1. That he is a minor:

2. That he is an alien and has not resided in the United States two years, and in this territory six months, and has not declared his intention to become a citizen according to the laws of this territory:

3. That he is insane:

4. That he is the prosecutor upon a charge against the defendant:

5. That he is a witness on the part of the prosecution, and has been served with process, or bound by an undertaking as such:

6. 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 cannot act impartially and without prejudice to the substantive rights of the party challenging.

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

Challenge must be entered in minutes of the court.

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

Decision of court to be entered by the clerk in minutes.

SEC. 18. If a challenge to the panel be 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 must direct it to be set aside.

If challenge allowed, jury not to find indictment against defendant.

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

If a challenge to an individual juror be allowed he cannot take part in action of the jury.

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

Jury must inform court of a violation of last section.

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

Court must appoint foreman.

SEC. 22. The following oath must be administered to the foreman of the grand jury:

Oath to be administered to foreman of grand jury.

You, as foreman of this grand jury, shall diligently inquire, and true presentment make of all public offences against the people of the United States or this territory committed or triable within this county, of which you shall have or obtain legal evidence, you shall present no person through malice, hatred, or ill will; nor leave any unrepresented, through fear, favor, or affection, or for any reward or the promise or hope thereof; but in all your presentments or indictments you shall present the truth, the whole truth, and nothing but the truth, according to the best of your skill and understanding, so help you God.

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.

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## CHAPTER 116.

### OF THE POWERS AND DUTIES, OF THE GRAND JURY.

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SECTION

- 29. Powers and duties of grand juries.
- 30. When to find indictment against defendant.
- 31. When to make presentment.
- 32. Indictment defined.
- 33. Presentment defined.
- 34. Foreman may administer oath.
- 35. What evidence can be received.
- 36. Must be legal evidence.
- 37. Must weigh the evidence.
- 38. Grand jury when to find indictment.

SECTION

- 39. Grand juror when to make complaint.
- 40. Grand jury into what to inquire.
- 41. Grand jury to have access to prison.
- 42. May ask advice of court.
- 43. Grand jury must keep certain matters secret.
- 44. What grand juror may be required to disclose.
- 45. Grand juror not liable for his proceedings before the grand jury.

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.