

with the name and postoffice address of the respective owners thereof; *Provided*, This act shall not apply to any railroad company for planting trees within 200 feet of its track for the purpose of making a snow fence, nor to any trees planted upon land held, entered and acquired under the timber culture laws of the United States; *Provided, further*, That not more than one hundred (100) dollars shall be paid annually for the trees raised on any one quarter section of land.

§ 4. AUDITOR TO PAY BOUNTY.] If the State Auditor shall find that the provisions of this act have been duly complied with, he shall issue to the several applicants entitled thereto his warrant upon the State Treasurer for the bounty so earned.

§ 5. All acts or parts of acts in conflict with the foregoing act are hereby repealed.

Approved February 5, 1890.

GRAND JURIES.

CHAPTER 71.

[H. F. 77.]

REPEAL OF GRAND JURY LAW EXCEPT IN CERTAIN CASES.

AN ACT Entitled "An Act to Provide for the Prosecution and Trial of Crimes and Offenses on Information and to Dispense with the Calling of Grand Jurors, Except by Order of the District Court Judges."

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. PROSECUTION ON INFORMATION.] That the several district courts of this State shall possess and may exercise the same power and jurisdiction to hear, try and determine prosecutions upon information, for felonies, misdemeanors and other offenses, to issue writs and process, and do all other acts therein, as they do now, or may hereafter possess and may exercise in cases of like prosecutions upon indictments by a grand jury.

§ 2. INFORMATIONS, HOW FILED.] All informations shall be filed in the district court of the county having jurisdiction of the crime or offense specified therein, by the state's attorney of the proper county, as informant, and during the term of the said district court held in and for such county, the state's attorney shall subscribe his name to the information and endorse thereon the names of all witnesses for the prosecution known to him at the time of

filing the same; but other witnesses may testify on the trial of such cause in behalf of the prosecution thereof the same as if their names had been endorsed thereon.

§ 3. VERIFICATION OF INFORMATION.] The state's attorney, prosecuting witness or some other person shall verify the information and the crime or offense charged therein shall be stated and set forth in ordinary and concise language, without repetition, and in substance as is now provided and required by law on indictments in like cases.

§ 4. INFORMATION TO CHARGE BUT ONE CRIME—RIGHTS OF DEFENDANT.] The information must charge but one crime or offense, but the same crime or offense may be set forth in different forms or degrees and joined in one information, in all cases where the same might or may be done by different counts in one indictment; and the defendant or defendants in all cases of such prosecution shall have the same rights, as to proceedings therein, as if prosecuted for the same crime or offense upon indictment.

§ 5. PROVISIONS OF LAW TO APPLY TO PROSECUTIONS BY INFORMATION.] That all of the proceedings of the Code of Criminal Procedure and all other provisions of law either relating or in any manner applying to prosecutions upon indictments, to writs and process therein, and the issuing and service thereof, to motions, pleadings, trials, penalties and punishments, the passing 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 and effect, as near as may be, apply to prosecutions by information and to all proceedings thereon, the same as if prosecuted by indictment.

§ 6. RECOGNIZANCE AND BAIL.] Any person who may, as provided by law, be committed to jail, or become recognized, or held to bail with surety or sureties for his appearance in court to answer to any indictment may, in like manner, be so committed or recognized and held to bail for his appearance, to answer to any information or indictment, as the case may be.

§ 7. PRELIMINARY EXAMINATION—DUTY OF STATE'S ATTORNEY.] It shall be the duty of the state's attorney of the proper county to inquire into and make full examination of all the facts and circumstances connected with any case of preliminary examinations, as provided by law, touching the commission of any offense wherein the offender shall be committed to jail, or wherein he has become recognized or held to bail, and if upon such examination the state's attorney shall determine in any such case that an information ought not to 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 court at which the offender shall be held for his appearance; *Provided*, That in such case the 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 state's attorney shall be directed by the court to file the proper information and bring the case to trial.

§ 8. PRELIMINARY EXAMINATION BEFORE FILING OF INFORMATION.] No information shall be filed against any person for any crime or offense until such person shall have had a preliminary examination therefor, as provided by law, before a committing magistrate or other officer having authority to make preliminary examinations, unless such person shall waive his right to such examination, or the offense committed during the sitting of the court then holden in and for the county where committed; *Provided, however,* That information may be filed without such examination against fugitives from justice, and any fugitive from justice against whom an information shall 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 like cases of demand upon indictment filed.

§ 9. HOW AND WHEN GRAND JURIES MAY BE DRAWN.] Grand juries shall not hereafter be drawn, summoned or required to attend the sittings of any court within this State, as provided by law, unless the judge thereof shall so direct by order in writing under his hand, and filed with the clerk of said court; and in case such order is made and filed the grand jury shall be drawn and summoned in the manner now or as may hereafter be provided by law; *Provided, however,* That on the written request of the members of the board of county commissioners or a petition signed by at least twenty-five resident freeholders and taxpayers of the county wherein the court is to be held presented to the judge at least fifteen days before the commencement of the term, the said judge shall make and file with the clerk of the court an order calling a grand jury for said term and in such case the grand jury shall be summoned to attend said court in the manner as above provided.

§ 10. REPEAL.] All acts and parts of acts in conflict herewith are hereby repealed.

§ 11. EMERGENCY.] Whereas, an emergency exists, in that the Constitution authorizes criminal prosecutions by information and there being no provision of law carrying the same in effect and it being necessary, in order to save expense to the several counties that this act take effect long before July first next; therefore this act shall take effect and be in force immediately from and after its passage and approval.

Approved February 6, 1890.