

J. M. PARKER, from the Committee on Judiciary, submitted the following report:

MR. SPEAKER:

Your Committee on Judiciary, to whom was referred house files Nos. 313 and 316, bills for an act: 1—Concerning the re-submission of cases to the grand jury. 2—To amend sections 4248 and 4273, and to repeal sections 4289 and 4293 of the Code, and to enact a substitute therefor, beg leave to report they have had the same under consideration, and have adopted a substitute therefor, and have instructed me to report the same back to the house with the recommendation that it do pass.

J. M. PARKER, *Chairman.*

Ordered passed on file.

SUBSTITUTE FOR HOUSE FILES NOS. 313 AND 316.]

[BY STOCKTON.

## A BILL

FOR AN ACT TO AMEND SECTIONS 4248 AND 4273, AND TO REPEAL SECTIONS 4289 AND 4293, AND ENACT SUBSTITUTES THEREFOR: IN RELATION TO EVIDENCE BEFORE GRAND JURIES.

SECTION 1. *Be it enacted by the General Assembly of the State of Iowa,* That section number 4248 of the Code be amended by inserting after the word "answer," in the fifth line of said section, the following words, to-wit: "when required in the further progress of cause."

SEC. 2. That section number 4273 of the Code be amended by adding to said section the following words, to-wit: "or upon the minutes of evidence given by witnesses before a committing magistrate."

SEC. 3. That section 4289 of the Code be and the same is hereby repealed, and the following is enacted in lieu thereof:

Sec. 4289. All the papers and other matters of evidence relating to the arrest and preliminary examination of the charge against defendants who have been held to answer, returned to the court by magistrate, shall be laid before the grand jury, and shall be competent evidence upon which an indictment may be found, if the grand jury are satisfied that such evidence alone, or with other evidence, if unexplained, would warrant a conviction by the trial jury; and the grand jury need not have before them for examination any witness who was examined before the committing magistrate and a minute of whose evidence has been

10 returned by said magistrate, unless requested by the district attorney. And if indictment is  
 11 found in whole or in part upon the minutes of evidence taken before a committing magis-  
 12 trate, the clerk of the grand jury shall write out a brief minute of the substance of such ev-  
 13 idence, and the same shall be returned to the court with the indictment. If, upon investiga-  
 14 tion, the grand jury refuses to find an indictment it shall return all of said papers to the  
 15 court, with an indorsement thereon, signed by the foreman, to the effect that the charge is  
 dismissed, and thereupon the court must order the discharged of the defendant from custody,  
 17 if in jail, or the exhonoration of the bail, if bail be given, unless the court should, upon good  
 18 cause shown, be of opinion that the charge should be again submitted to the grand jury, in  
 19 which case the defendant may be continued in custody, or on bail, until the next term of the  
 20 court.

SEC. 4. That section 4293 of the Code be repealed and the following enacted in lieu  
 2 thereof:

3 SEC. 4293. When an indictment is found the names of all witnesses, on whose evidence  
 4 it is found, must be indorsed thereon before it is presented to the court, and the minutes of  
 5 the evidence of such witnesses must be presented with the indictment to the court, and filed  
 6 by the clerk of the court and remain in his office as a record; but the minutes of evidence  
 7 shall not be open for the inspection of any person except the judge of the court, the district  
 8 attorney or his clerk, the defendant and his counsel, or the clerk of such counsel; and the  
 9 clerk of the court must, within two days after demand made, furnish the defendant or his  
 10 counsel a copy thereof without charge, or permit the defendant's counsel or the clerk of such  
 11 counsel to take a copy.

SEC. 5. That when on demurrer, motion to set aside or otherwise, an indictment is held in-  
 2 sufficient, and an order is made to re-submit the case to the same or other grand jury, or where  
 3 the grand jury have ignored a bill and the same has been ordered back to the same or other  
 4 grand jury for further investigation, it shall be unnecessary to summons the witnesses again  
 5 before such jury in such cases, but the minutes of the testimony returned with the defective  
 6 indictment, or ignored bill, or information, shall be detached and returned to the grand jury,  
 7 and thereupon, without more, such grand jury may find a bill, and attach said minutes of  
 8 the evidence thereto and return said indictment therewith into court in the usual manner;  
 9 and the grand jury may also, in either case, take additional testimony.

SEC. 6. All acts and parts of acts inconsistent with this act are hereby repealed.

SEC. 7. This act, being deemed of immediate importance by the general assembly, shall  
 2 take effect on and after its publication in the *Iowa State Register* and *Iowa State Leader*, news-  
 3 papers published at Des Moines, Iowa.