By DUNGAN.] [SENATE FILE No. 208—JUDICIARY.

A BILL

FOR AN ACT TO PROVIDE FOR HOLDING PERSONS TO ANSWER FOR CRIMINAL OFFENSES UPON INFORMATION WHEN SO ORDERED BY THE JUDGE OF THE COURT.

Be it enacted by the General Assembly of the State of Iowa:

SECTION 1. Persons may be held to answer for any criminal offense upon information to
2 be filed by the county attorney, as hereinafter provided.

SEC. 2. It shall be within the discretion of the judges of the district courts of the State
2 to dispense with the grand jury at any sitting thereof. In such case the judge shall, ten
3 days prior to the convening of any term of his court, make and file with the clerk of such
4 court an order in writing directing that grand jury shall be summoned for that term.

SEC. 3. The district court shall possess and exercise the same power and jurisdiction to
2 hear, try and determine prosecutions upon information for crimes, misdemeanors and of-
3 fenses, to issue writs and process and do all other acts therein as they possess and may exer-
4 cise in cases of like prosecution upon indictment.

SEC. 4. All informations shall be filed during the term in the court having jurisdiction
2 of the offense specified therein, except as hereinafter provided, by the county attorney of
3 the proper county as informant, and he shall subscribe his name thereto.

SEC. 5. Wherever the term indictment occurs in the laws of Iowa, it shall hereafter
2 mean and be taken and construed as though the words or information immediately followed
3 the word indictment, except as hereinafter provided.

SEC. 6. Such informations may be in the following form:

2 ..... COUNTY,
3 THE STATE OF IOWA, } In the District Court.
4 *vs.*
5 A. B., *Defendant.*

6 I.....
7 county attorney for said county, hereby inform the court that on the .....
8 .....day of..... in the year....., at said county, A. B., (name or alias)
9 did (State the offense) against the peace and dignity of the State of Iowa.

10 Dated..... .....,
11 County Attorney.

SEC. 7. The information shall all requisites of an indictment, and its sufficiency shall
2 be determined by the same rules; and in all cases the defendant shall have the same rights
3 as to all proceedings therein as he would have if prosecuted for the same offense upon in-
4 dictment.

SEC. 8. All provisions of law applying to prosecutions upon indictments, to writs and
2 process therein, and the issuing and service thereof, to motions, pleadings, trials and pun-
3 ishments, or the passing or executing of any sentence, and to all other proceeding in cases
4 of indictment, whether in the court of criminal or appellate jurisdiction, shall, to the same
5 extent and in the same manner, as near as may be, apply to informations and to all prose-
6 cutions and proceedings thereunder.

SEC. 9. Any person who may, according to law, be committed to jail or become recog-
2 nized or held to bail, with sureties for his appearance in court, to answer to any indictment,
3 may in like manner, be so committed to jail or become recognized and held to bail for his
4 appearance to answer to any information or indictment as the case may be.

SEC. 10. The county attorney of the proper county shall inquire into and make full ex-
2 amination of all facts and circumstances connected with any case of preliminary examina-
3 tion, as provided by law, touching the commission of any offense whereon the offender shall
4 have been committed to jail, or become recognized or held to bail, and to file an information
5 setting forth the crime committed, according to the facts ascertained on such examination,
6 and from the written testimony taken thereon, whether it be the offense charged in the
7 complaint on which the examination was had or not; but if the county attorney shall de-
8 termine in any such case that an information ought not to be filed, he shall make, subscribe
9 and file with the clerk of the district court, a statement in writing, containing his reasons,
10 in fact and in law, for not filing an information in such case; such statement shall be filed
11 at and during the term of the court at which the offender shall be held for appearance for
12 trial; and in such case the court shall examine such statement, together with the evidence
13 filed in the case, and if, upon such examination, the court shall not be satisfied with such
14 statement, the county attorney shall be directed by the court to file the proper information
15 and bring the case to trial.

SEC. 11. No information shall be filed against any person for any offense until such per-
2 son shall have had a preliminary examination, as provided by law, before a justice of the
3 peace or other examining magistrate or officer, unless such person shall waive his right to
4 such examination; *provided*, that information may be filed without such examination,
5 against fugitives from justice, within the meaning of the constitution and laws of the
6 United States; but no failure or omission of such preliminary examination shall in any
7 case invalidate any information in any court, unless the defendant shall take advantage
8 failure or omission before pleading to the merits, by a plea in abatement.

SEC. 12. Whenever any information shall be filed by any county attorney against a fu-
2 gitive from justice, without a preliminary information, and the defendant in such informa-
3 tion shall be acquitted or discharged without trial therefor, it shall be the duty of the court
4 in which the defendant shall be so acquitted or discharged to determine in writ-
5 ing whether such information was filed upon probable cause and in good faith, and when

6 found to be so filed, shall file such determination with the clerk. And when such court
7 shall not file such determination, the defendant in such case information may maintain an
8 action against such county attorney for malicious prosecution, but the absence of such de-
9 termination shall only be prima facia evidence of his right to recover in such action.

SEC. 13 In case any preliminary examination has been had as provided by law, and the
2 person complained of has been discharged for want of sufficient evidence to raise a proba-
3 bility of his guilt, and the county attorney shall afterwards discover admissable evidence
4 sufficient, in his judgment, to convict the person charged, he may notwithstanding such
5 discharge, cause another complaint to be made before any officer authorized to make such
6 examination, and thereupon a second arrest and examination shall be had.