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LEGISLATIVE ASSEMBLY,

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Petit or trial jury defined.

SEC. 146. A petit or trial jury, is a body of men not less than twenty-four, nor more than thirty-six in number, returned at stated periods from the citizens of the county, before the district court of each of the organized counties of this territory, chosen by the county commissioners in the several organized counties, as hereinbefore provided by law, to try all issues of fact, either civil or criminal before said court.

Trial jury how drawn.

SEC. 147. A petit or trial jury must be drawn for every term of the district court, in each of the organized counties of this territory.

Qualifications of petit jurors.

SEC. 148. The qualifications and disabilities of petit or trial jurors are the same as those by law prescribed for grand jurors.

Petit jury how elected and chosen.

SEC. 149. The petit or trial jury, shall be chosen, elected, drawn and summoned at the same time, and in the same manner, as is by law provided for the choosing, election, drawing and summoning of the grand jury.

When less than thirty-six may be summoned.

SEC. 150. It shall and may be lawful for the judge of the district court, in any of the organized counties of this territory to order a less number of petit or trial jurors, than thirty-six to be summoned to attend the sessions of said court, and such order made and filed in the clerk's office of the proper county, shall be deemed sufficient authority to the clerk to issue a venire for the number mentioned in such order; *Provided*, That the number shall not be less than twenty-four; and *provided further*, That if no order shall have been made at least fifteen days before the sitting of such court, the clerk shall proceed to draw thirty-six in number.

OF THE FORMATION OF THE TRIAL JURY.

Ballots of jurors drawn to be put in a box.

SEC. 151. At the opening of the court, the clerk must prepare separate ballots, containing the names of the persons returned as jurors, which must be folded as nearly alike as possible, and so that the name cannot be seen, and must deposit them in a sufficient box.

When names of all the jurors to be called, attachment may issue.

SEC. 152. When the indictment is called for trial, and before drawing the jury, either party may require the names of all the jurors in the panel to be called, and that an attachment issue against those who are absent; but the court may, in its discretion, wait or not, for the return of the attachment.

Drawing the jury.

SEC. 153. Before the name of any juror is drawn, the box must be

closed, and shaken, so as to intermingle the ballots therein, the clerk must then, without looking at the ballots, draw them from the box, through a hole in the lid, so large only as conveniently to admit the hand.

SEC. 154. When the jury is completed, the ballots containing the names of the jurors sworn, must be laid aside, and kept apart from the ballots containing the names of the other jurors, until the jury so sworn is discharged.

Ballots of jurors drawn how disposed of.

SEC. 155. After the jury are so discharged, the ballots, containing their names, must be again folded, and returned to the box ; and so on, as often as a trial is had.

Ballots of jurors drawn how disposed of.

SEC. 156. If a juror be absent, when his name is drawn, or be set aside, or excused from serving on the trial, the ballot containing his name must be folded, and returned to the box, as soon as the jury is sworn.

Ballots of absent jurors how disposed of.

SEC. 157. When by reason of challenge, or otherwise, a sufficient number of jurors duly drawn and summoned, cannot be obtained for the trial of any cause, civil or criminal, the court shall cause jurors to be returned from the by-standers, or from the county at large, to complete the panel.

When court may order by-standers to be summoned.

SEC. 158. The jurors so returned from the by-standers, shall be returned by the sheriff or his deputy, or by a coroner, or by any disinterested person appointed therefor by the court.

Jurors so summoned how returned.

SEC. 159. The persons so returned shall be such as are qualified and liable to be drawn as jurors, according to the provisions of law.

Jurors so returned to be qualified jurors.

SEC. 160. The jury consists of twelve men, chosen by lot, as prescribed in this chapter, and sworn to try and determine the issue by an unanimous verdict

Jury to consist of twelve men.

SEC. 161. If a sufficient number cannot be obtained from the box to form a jury, the court may, as often as is necessary, order the sheriff to summon so many persons, qualified to serve as jurors, as it deems sufficient to form a jury, the jurors so summoned must be called from the list returned by the sheriff, and so many of them, not excused or discharged, as may be necessary to complete the jury, must be impanelled and sworn.

When court may order additional jurors summoned.

CHAPTER 127.

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SEC. 162. The clerk must prepare a calendar of the indictments pending to be tried at the term, enumerating them according to the date of the filing of the indictment, and specifying opposite to the title of each action, whether it be for a felony, or a misdemeanor, and whether

Clerk to prepare calendar.