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GENERAL STATUTES

OF THE

STATE OF MINNESOTA.

PREPARED BY THE COMMISSIONERS APPOINTED TO REVISE
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CHAPTER CXVI.

CHALLENGING JURORS.

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- C. S. p. 772, Sect. 4. 1 SECTION 1. A challenge is an objection made to the tri-
2 al jury, and is of two kinds :
3 *First*.—To the panel.
4 *Second*.—To an individual juror.
- C. S. p. 772, Sect. 5. 1 SECT. 2. When several defendants are tried together,
2 they cannot sever the challenges but shall join therein.
- C. S. p. 772, Sect. 6. 1 SECT. 3. A challenge to the panel is an objection made
2 to all the petit or trial jurors returned, and may be taken
3 by either party.
- C. S. p. 772, Sect. 7. 1 SECT. 4. A challenge to the panel can be founded only
2 on a material departure from the forms prescribed by law,
3 in respect to the drawing and return of the jury.
- C. S. p. 773, Sect. 8. 1 SECT. 5. A challenge to the panel shall be taken before
2 a jury is sworn, and shall be in writing, specifying
3 plainly and distinctly the facts constituting the ground of
4 challenge.
- C. S. p. 773, Sect. 9. 1 SECT. 6. If the sufficiency of the facts alleged as a
2 ground of challenge is denied, the adverse party may ex-
3 cept to the challenge ; the exception need not be in writing
4 but shall be entered upon the minutes of the court, and
5 thereupon the court shall proceed to try the sufficiency of
6 the challenge assuming the facts alleged therein to be true.
- C. S. p. 773, Sect. 10. 1 SECT. 7. If on the exception, the court deems the chal-
2 lenge sufficient, it may, if justice requires it, permit the
3 party excepting to withdraw his exception and to deny the
4 facts alleged in the challenge ; if the exception is allowed,
5 the court may in like manner, permit an amendment of the
6 challenge.
- C. S. p. 773, Sect. 11. 1 SECT. 8. If the challenge is denied, the denial may in
2 like manner be oral, and shall be entered upon the minutes
3 of the court, and the court shall proceed to try the question
4 of fact.
- 1 SECT. 9. Upon the trial of the challenge, the officers,

2 whether judicial or ministerial, whose irregularity is com-
 3 plained of, as well as any other persons, may be examined
 4 to prove or disprove the facts alleged as the ground of the
 5 challenge. C. S. p. 773, Sect. 13. c 114

1 SECT. 10. Before a juror is called the defendant shall
 2 be informed by the court or under its direction, that if he
 3 intends to challenge an individual juror, he shall do so when
 4 the juror appears and before he is sworn. C. S. p. 773, Sect. 14.

1 SECT. 11. A challenge to an individual juror is either :
 2 : *First.*—Peremptory ; or, C. S. p. 773, Sect. 15.
 3 *Second.*—For cause.

1 SECT. 12. It shall be taken when the juror appears, and
 2 before he is sworn ; but the court may, for good cause,
 3 permit it to be taken after the juror is sworn and before the
 4 jury is completed. C. S. p. 773, Sect. 16.

1 SECT. 13. A peremptory challenge can be taken by the
 2 defendant only, and may be oral ; it is an objection to a
 3 juror for which no reason need be given, but upon which
 4 the court shall exclude him. C. S. p. 773, Sect. 17.

1 SECT. 14. If the offense charged is punishable with
 2 death or with imprisonment in the state prison for life, the
 3 defendant is entitled to twenty peremptory challenges ; on
 4 a trial for any other offense he is entitled to five perempto-
 5 ry challenges. C. S. p. 773, Sect. 18.

1 SECT. 15. A challenge for cause may be taken either by
 2 the state or by the defendant. C. S. p. 773, Sect. 19.

1 SECT. 16. It is an objection to a particular juror, and is
 2 either :
 3 *First.*—General, that the juror is disqualified from serv-
 4 ing in any case ; or, C. S. p. 773, Sect. 20.
 5 *Second.*—Particular, that he is disqualified from serving
 6 in the case on trial.

1 SECT. 17. General causes of challenge are :
 2 *First.*—A conviction for a felony.
 3 *Second.*—A want of any of the qualifications prescribed
 4 by the laws to render a person a competent juror. C. S. p. 773, Sect. 21
 5 *Third.*—Unsoundness of mind, or such defect in the fac-
 6 ulties of the mind, or organs of the body, as render him in-
 7 capable of performing the duties of a juror.

1 SECT. 18. Particular causes of challenge are of two
 2 kinds :

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C. S. p. 774, Sect. 22.

3 *First*.—For such a bias, as when the existence of the
 4 facts is ascertained in judgment of law, disqualifies the
 5 juror, and which is known in this chapter as implied bias;
 6 *Second*.—For the existence of a state of mind on the part
 7 of the juror, in reference to the case, or to either party,
 8 which satisfies the triers, in the exercise of a sound discre-
 9 tion, that he cannot try the issue impartially and without
 10 prejudice to the substantial rights of the party challenging,
 11 and which is known in this statute, as actual bias.

C. S. p. 774, Sect. 23.

1 SECT. 19. A challenge for implied bias, may be taken
 2 for all or any of the following causes, and for no other:
 3 *First*.—Consanguinity or affinity within the ninth degree,
 4 to the person alleged to be injured by the offense charged,
 5 or on whose complaint the prosecution was instituted, or to
 6 the defendant;
 7 *Second*.—Standing in relation of guardian and ward, at-
 8 torney and client, master and servant, or landlord and ten-
 9 ant, or being a member of the family of the defendant, or of
 10 the person alleged to be injured by the offense, or on whose
 11 complaint the prosecution was instituted, or in his employ-
 12 ment on wages;
 13 *Third*.—Being a party adverse to the defendant in a civil
 14 action, or having complained against, or been accused by
 15 him in a criminal prosecution;
 16 *Fourth*.—Having served on the grand jury which found
 17 the indictment, or on a coroner's jury which inquired into
 18 the death of the person, whose death is the subject of the
 19 indictment;
 20 *Fifth*.—Having served on a trial jury, which has tried
 21 another person for the offense charged in the indictment;
 22 *Sixth*.—Having been one of a jury formerly sworn to try
 23 the same indictment, and whose verdict was set aside, or
 24 which was discharged without a verdict, after the cause was
 25 submitted to it;
 26 *Seventh*.—Having served as a juror, in a civil action,
 27 brought against the defendant, for the act charged as an of-
 28 fense;
 29 *Eighth*.—If the offense charged is punishable with death,
 30 the entertaining of such conscientious opinions, as would
 31 preclude his finding the defendant guilty, in which case he
 32 shall neither be permitted nor compelled to serve as a juror.

C. S. p. 774, Sect. 24.

1 SECT. 20. A challenge for actual bias, may be taken for
 2 the cause mentioned in the second subdivision of section
 3 eighteen, and for no other cause.

C. S. p. 774, Sect. 25.

1 SECT. 21. An exemption from service on a jury, is
 2 not a cause of challenge, but the privilege of the person
 3 exempted.

1 SECT. 22. In a challenge for implied bias, one or more
 2 of the causes stated in section nineteen, shall be alleged; in
 3 a challenge for actual bias, the cause stated in the second
 4 subdivision of section eighteen, shall be alleged; in either
 5 case the challenge may be oral, but shall be entered upon
 6 the minutes of the court. C. S. p. 774, Sect. 26. C 114

1 SECT. 23. The adverse party may except to the chal-
 2 lenge, in the same manner as to a challenge to a panel, and the
 3 same proceedings shall be had thereon, as prescribed in sec-
 4 tions five, six and seven, except that if the exception is al-
 5 lowed, the juror shall be excluded. The adverse party
 6 may also orally deny the facts alleged as the ground of
 7 challenge. C. S. p. 774, Sect. 27.

1 SECT. 24. If the facts are denied, the challenge shall be
 2 tried as follows:
 3 *First.*—For implied bias, by the court; C. S. p. 775, Sect. 28.
 4 *Second.*—For actual bias by triers; unless in cases not
 5 capital, the parties consent to a trial by the court. Amended.

1 SECT. 25. The triers shall be three impartial person not
 2 on the jury panel, appointed by the court. All challenges C. S. p. 775, Sect. 29.
 3 for actual bias shall be tried by the triers thus appointed, a
 4 majority of whom may decide.

1 SECT. 26. The triers shall be sworn generally to inquire
 2 whether or not the several persons who may be challenged,
 3 and in respect to whom the challenges are given to them
 4 in charge, are true, and to decide the same according to
 5 evidence. C. S. p. 775, Sect. 30.

1 SECT. 27. Upon the trial of a challenge to an individual
 2 juror, the juror challenged may be examined as a witness,
 3 to prove or disprove the challenge, and is bound to answer C. S. p. 775, Sect. 31.
 4 every question pertinent to the inquiry therein.

1 SECT. 28. Other witnesses may also be examined on
 2 either side; and the rules of evidence applicable to the trial C. S. p. 775, Sect. 32.
 3 of other issues shall govern the admission or exclusion of
 4 testimony on the trial of the challenge.

1 SECT. 29. On the trial of a challenge for implied bias, C. S. p. 775, Sect. 33.
 2 the court shall determine the law and the fact, and either
 3 allow or disallow the challenge, and direct an entry accord-
 4 ingly upon the minutes.

1 SECT. 30. On the trial of a challenge for an actual bias, C. S. p. 775, Sect. 34.
 2 when the evidence is concluded, the court shall instruct the
 3 triers that it is their duty to find the challenge true, if the

4 evidence establishes the existence of a state of mind on the
 5 part of the juror in reference to the case, or to either party,
 6 which satisfies them; in the exercise of a sound discretion,
 7 that he cannot try the issue impartially and without preju-
 8 dice to the substantial rights of the party challenging; and
 9 that, if otherwise, they shall find the challenge not true.
 10 The court can give them no other instruction.

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C. S. p. 775, Sect. 35. 1 SECT. 31. The triers shall thereupon find the challenge
 2 either true or not true; and their decision is final. If they
 3 find it true, the juror shall be excluded.

C. S. p. 775, Sect. 36. 1 SECT. 32. All challenges to an individual juror, shall
 2 be taken first by the defendant, and then by the state; and
 3 each party, shall exhaust all his challenges before the other
 4 begins.

C. S. p. 775, Sect. 37. 1 SECT. 33. The challenges of either party need not all
 2 be taken at once; but they may be taken separately, in the
 3 following order, including in each challenge, all the causes
 4 of challenge belonging to the same class:
 5 *First.*—To the panel;
 6 *Second.*—To an individual juror, for a general disqualifi-
 7 cation;
 8 *Third.*—To an individual juror for implied bias;
 9 *Fourth.*—To an individual juror for actual bias.
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CHAPTER CXVII.

APPEALS AND WRITS OF ERROR IN CRIMINAL
 CASES.

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C. S. p. 623, Sect. 22. 1 SECTION 1. Criminal cases may be removed by the de-
 2 fendant to the supreme court by appeal or writ of error at
 3 any time within six months after conviction.

New.

1 SECT. 2. When an appeal is taken it shall not stay the
 2 execution of the judgment, unless an order to that effect is
 3 made by the judge who tried the cause, or a judge of the
 4 supreme court. Notice of the appeal and the order staying
 5 proceedings, if any, shall be filed with the clerk of the
 6 court where the judgment is entered and served on the
 7 attorney general.

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C. S. p. 624, Sect. 27. 1 SECT. 3. No writ of error upon a judgment for any
 2 capital offense, shall issue, unless allowed by one of the