

THE *J. Rogers*
GENERAL STATUTES

OF THE

STATE OF MINNESOTA:

REVISED BY COMMISSIONERS APPOINTED UNDER AN ACT APPROVED FEBRUARY 17, 1868, AND
ACTS SUBSEQUENT THERETO, AMENDED BY THE LEGISLATURE,
AND PASSED AT THE SESSION OF 1866.

TO WHICH

THE CONSTITUTION OF THE UNITED STATES, THE ORGANIC ACT, THE
ACT AUTHORIZING A STATE GOVERNMENT, AND THE
CONSTITUTION OF THE STATE OF MINNESOTA,

ARE PREFIXED;

AND A LIST OF ACTS PREVIOUSLY REPEALED,

A GLOSSARY, AND INDEX, ARE ADDED.

Edited and Published under the authority of Chapters 15 and 16 of
the Laws of 1866.

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of fees in advance, when—penalty for failing to attend.

behalf of the state or county, without paying or tendering fees in advance; and in criminal cases the witnesses for the defendant shall also be compelled to attend without payment or tender of fees in advance, and any witness failing or neglecting to attend, after being served with a subpoena, may be proceeded against, and shall be liable in the same manner as provided by law in other cases where fees have been paid or tendered.

Clerk to certify amount of fees, when.

SEC. 42. The clerk of any court, at which any witness has attended on behalf of the state, in a civil action, shall give to such witness a certificate of travel and attendance, which shall entitle him to receive the amount from the treasurer of the county where the action arises.

Commissioner 1868-189

CHAPTER LXXI.

PETIT JURIES.

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Petit jury, what is.

SECTION 1. A petit jury is a body of twelve men impaneled and sworn, in a district court, to try and determine, by a true and unanimous verdict, any question or issue of fact, in any civil or criminal action or proceeding according to law and the evidence as given them in court.

Number of jurors to be drawn for each general term.

SEC. 2. A number of petit jurors not less than twenty-four, shall be drawn for each general term of the district court, and no greater number shall be drawn unless the court otherwise orders, but in no case shall more than thirty-six petit jurors be drawn.

Qualifications and disabilities.

SEC. 3. The qualifications and disabilities of petit jurors shall be the same as those prescribed by law for grand jurors.

How drawn and summoned.

SEC. 4. The petit jurors shall be drawn and summoned at the same time and in the same manner as is by law prescribed for the drawing and summoning of grand jurors.

Judge may order larger number to be drawn—when.

SEC. 5. The judge of the district court may, at least thirty days before the time for holding a general term of said court, order a number of petit jurors greater than twenty-four and not exceeding thirty-six, to be drawn and summoned for such term, and upon such order being made and entered upon record in the office of the clerk of the court in the county where such term is to be held, such clerk shall draw and issue a venire for the number of jurors mentioned in such order.

SEC. 6. At the opening of the court the clerk shall prepare separate ballots containing the names of the persons summoned as petit jurors, which shall be folded as nearly alike as possible, and so that the name cannot be seen, and be deposited in a sufficient box. Ballots, how prepared and deposited.

SEC. 7. When an 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. Proceedings on trial of indictment.

SEC. 8. Before the name of any juror is drawn, the box shall be closed, and shaken so as to intermingle the ballots therein; the clerk shall 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. Ballots, how drawn.

SEC. 9. When the jury are completed, the ballots containing the names of the jurors sworn shall be laid aside, and kept apart from the ballots containing the names of the other jurors, until the jury so sworn are discharged. Ballots, how kept.

SEC. 10. After the jury are so discharged, the ballots containing their names shall be again folded and returned to the box; and so on, as often as a trial is had. Ballots returned to box—when.

SEC. 11. If a juror is absent when his name is drawn, or is set aside, or excused from serving on the trial, the ballot containing his name shall be folded and returned to the box as soon as the jury is sworn. Ballot of juror absent or excused, how disposed of.

SEC. 12. 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, the court shall cause jurors to be returned from the by-standers, or from the county at large, to complete the panel. Court may cause talesmen to be summoned—when.

SEC. 13. 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. Talesmen, how returned.

SEC. 14. The persons so returned shall be such as are qualified and liable to be drawn as jurors, according to the provisions of law. Qualification of talesmen.

STRUCK JURIES.

SEC. 15. Whenever a struck jury is deemed necessary, by either party, for the trial of the issue in any action or proceeding in the district court, or brought there by appeal or otherwise, such party may file with the clerk of the court, a demand in writing for such jury, whereupon such clerk shall forthwith deliver a certified copy of such demand to the sheriff of the county, who shall give to both parties, four days' notice of the time of striking the same. At the time designated, said sheriff shall attend at his office, and in the presence of the parties, or their attorneys, or such of them as attend for that purpose, shall select from the number of persons qualified to serve as jurors within the county, forty such persons as he shall think most indifferent between the parties, and best qualified to try such issue; and then the party requiring such jury, his agent or attorney, shall first strike off one of the names, and the opposite party, his agent or attorney, another, and so on alternately, until each have struck out twelve. If either party shall not attend in person, or by attorney, the sheriff shall strike for the party not attending. When each party has stricken out twelve names, as aforesaid, the sheriff shall make a fair copy of the names of the remaining sixteen persons, and certify the same under his hand to be the list of jurors struck for the trial of such cause or proceeding, and shall deliver the same to the clerk, who shall thereupon issue and deliver to the sheriff or other officer, a venire facias, with the names in said list. Struck jury, how obtained.

contained, annexed thereto; and such sheriff or other officer, shall summon the persons named, according to the command of such writ; and upon the trial of the cause, the jury so struck shall be called as they stand upon the panel, and the first twelve of them who shall appear, and are not challenged for cause, or set aside by the court, shall be the jury, and shall be sworn to try the issue joined in said cause or proceeding: *provided*, that if a sufficient number does not appear for the trial of said cause, the court shall cause talesmen to be called as in other cases.

When sheriff is interested, court may direct who shall perform services.

SEC. 16. If the said sheriff is interested in the cause or proceeding, or related to either of the parties, or does not stand indifferent between them, the judge of the said court may name some judicious and disinterested person to strike the jury, and to do and perform all things required to be done by such sheriff, relating to the striking of the same; but in no case shall it be necessary to strike such jury more than six days previous to the term of the court at which the action or proceeding is to be tried, and three days' service of the venire shall be held sufficient.

Party asking for struck jury, to pay fees.

SEC. 17. The party requiring such struck jury, shall pay the fees for striking the same, and the legal fees for mileage and attendance, for each juror so attending, and shall not have any allowance therefor in the taxation of costs.

Struck jury may be continued—when.

SEC. 18. A jury struck for a trial of any issue at a particular term of the court, may be continued with the continuance of the cause, and summoned as jurors at a subsequent term, provided both parties consent thereto, but not otherwise.

Limitation of provisions of this title.

SEC. 19. The provisions of this title shall not extend to the trial of any indictment for any offense where the party indicted is entitled to challenge peremptorily, or without cause shown, more than two jurors.

CHAPTER LXXII.

OATHS AND ACKNOWLEDGMENTS.

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ACKNOWLEDGMENTS.

- 8. Who may take acknowledgments.

TITLE I.

OF PERSONS REQUIRED TO TAKE OATHS, WHO MAY ADMINISTER THE SAME, AND THE FORMS THEREOF.

Officers required to be sworn.

SECTION 1. Every person elected or appointed to any public office,

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