

# GENERAL STATUTES

OF THE

# STATE OF MINNESOTA

36

IN FORCE

JANUARY 1. 1889.

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COMPLETE IN TWO VOLUMES.

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VOL. 2.

SUPPLEMENT, 1879-1888,

WITH

ANNOTATIONS AND GENERAL INDEX TO BOTH VOLUMES.

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he is entitled to the same fees as though made on a warrant, but is not entitled to any reward offered for the arrest of such person. *Id.*

§ 40. (Sec. 36.) **Attorney not entitled to witness fees.**

See *Barry v. McGrade*, 14 Minn. 286, (Gil. 214;); *Thomas v. County Com'rs*, 15 Minn. 324, (Gil. 254.)

§ 42. (Sec. 38.) **Performance of same duties by other officers—Fees.**

See *Davis v. Board of County Com'rs*, 35 N. W. Rep. 365.

§ 45. (Sec. 41.) **Witnesses to attend without prepayment of fees.**

See *State v. Bliss*, 21 Minn. 458, 460.

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## CHAPTER 71.

### PETIT JURORS.\*

§ 2. **Number of jurors drawn for each general term.**

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, and the judge of said court may, in his discretion, by an order filed with the clerk, direct that no petit juror be drawn or summoned for such term. (*As amended* 1883, c. 26.)

§ 4. **How drawn and summoned.**

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: *provided*, that in the county of Hennepin the petit jurors shall be summoned to appear at nine o'clock A. M. on the second Tuesday of each general term of the district court for said county, unless said court, by an order made at least fifteen days before the term, shall direct that the petit jurors be summoned to appear at an earlier day in the term: *provided, further*, that at any time before the issuing of the *venire* the judge of the district court may, by his order in writing, filed with the clerk, fix a time in the term other than the first day thereof for the appearance of the petit jurors; in which case the *venire* shall command the sheriff to summon the persons so drawn as jurors as aforesaid to appear before the court at the time so fixed by the judge to serve as petit jurors. (*As amended* 1881, c. 45, § 1; 1883, c. 62, § 1.)

[See *post*, as to Hennepin county.]

See *State v. Stokely*, 16 Minn. 282, (Gil. 249, 255;); *Mark v. St. Paul, M. & M. Ry. Co.*, 32 Minn. 203, 20 N. W. Rep. 131.

See section 15 and note, *post*.

§§ 12, 13, 14. **Talesmen.**

See *State v. Stokely*, 16 Minn. 282, (Gil. 249, 255.)

\*For proceedings upon the failure of a juror to report at the term for which he is summoned, and for grounds of excuse from service, see *post*, c. 107, \*§ 9a et seq.

## JURIES IN HENNEPIN COUNTY.

**\*§ 14a. Manner of selecting jurors.**

That one or more of the judges of the district court of the Fourth judicial district of the state of Minnesota, residing in the county of Hennepin, together with the auditor and register of deeds of said county, or one of them, shall annually, on some day during the month of March of every year, at the court-house in said county, select from the qualified electors of said county one hundred persons properly qualified to serve as grand jurors, and one thousand persons properly qualified to serve as petit jurors, and shall make out separate lists thereof, which lists shall be certified by such judge or judges, and forthwith delivered to the clerk of the district court of said county; and from lists of persons to serve as grand jurors and as petit jurors shall respectively be drawn all grand jurors and petit jurors at any time required for the transaction of business in the district court of said county: *provided*, that if, in any year, such selections and lists shall not be made in the month of March, the same may be done at any time thereafter that any judge of said court may designate; and if, from any cause, there shall be a deficiency of persons resident in said county, and properly qualified in either of such lists, such judge or judges, together with such auditor and register, or either, may, at any time designated by any such judge, select from such qualified electors of said county other persons to cover such deficiency, and in like manner make, certify, and deliver to such clerk lists of the persons so selected, which supplementary or additional lists shall thereafter stand as parts of the original lists: *and provided, further*, that the validity or legality of such selection or lists shall not be affected by the fact that any person or persons so selected may be disqualified from serving as grand or petit jurors, or by the selection of a greater or less number of persons than is specified in this act. (*Sp. Laws 1885, c. 294, § 1, as amended 1887, Sp. Laws, c. 97, § 1.*)

**\*§ 14b. Same—Who to be selected.**

In selecting such persons, and making such lists, the officials above-named shall select such persons as they believe are well fitted by education, business habits, moral character, and physical health to discharge the duties of jurors, and as are not by law exempt from jury service. (*Id.* § 2.)

**\*§ 14c. Exemptions.**

In addition to the persons now exempt by law from serving as jurors, the county commissioners and other county officers of said Hennepin county, the mayor, aldermen, and other officers of the city of Minneapolis, and the school directors of said city, are hereby exempted from jury service in said district court. (*Id.* § 3.)

**\*§ 14d. Filing lists—Summoning grand jury.**

Such lists shall be kept on file by the clerk of said district court, and from the names upon the list of persons to serve as grand jurors, so made and certified, prepared for drawing as is provided by chapter one hundred and seven of the General Statutes, said clerk shall, at least fifteen days before the commencement of any general term of said district court in said county, in the presence of one of said judges, proceed to draw the names of twenty-three persons to serve as grand jurors at such term of court. All provisions of the General Statutes relative to the issuing of *venires*, summoning of grand jurors, and proceedings subsequent thereto, shall apply, except that if there be a deficiency of grand jurors, the clerk shall, in open court, under the direction of the judge, draw from the box containing the names on the grand jury list the names of additional persons to supply such deficiency, and writs

of *venire facias* shall issue summoning such persons, and returnable forthwith, or at such time as the judge or court may direct. (*Id.* § 4.)

**\*§ 14e. Summoning petit jurors.**

From the names on the list of persons to serve as petit jurors, so made and certified and prepared for drawing as in the case of grand jurors, the clerk aforesaid shall, in open court, on the second day of any general term of said district court, under the direction of the judge or judges of said court, draw the names of as many persons as the court or judge shall direct, not to exceed sixty persons for each panel, to serve as petit jurors for the period of two weeks in such term, commencing with the first Monday of such term; and shall then continue in like manner to draw the names of other persons for each panel for as many successive panels of petit jurors as the court or judge may direct for successive periods of two weeks, covering the time that petit jurors are expected to be needed during such general term. Such clerk shall forthwith issue to the proper officers *venires* for such panels of petit jurors, returnable on the proper Mondays as to each, respectively, at ten o'clock in the forenoon, and the officer shall forthwith thereafter, as soon as may be, serve all such *venires* and summon all such jurors, and shall be entitled to the same mileage, and no more, than would be the case if the names of all the jurors in all the *venires* were contained in a single *venire*. If there be a deficiency of petit jurors, the clerk shall, in open court, under the direction of the judge, draw, from the box containing the names on the petit jury list, the names of additional persons to supply such deficiency; and writs of *venire facias* shall issue summoning such persons, and returnable forthwith, or at such time as the judge or court may direct. (*Id.* § 5, as amended 1887, *Sp. Laws*, c. 97, § 2.)

**\*§ 14f. Term of service—Talesmen.**

No person shall be required to serve as a petit juror longer than two weeks during the same general term of said court, unless he shall be impaneled and sworn as a juror in the trial of a cause which shall not have been concluded at the expiration of such period, in which case he shall continue to serve until the conclusion of such trial, and his discharge from the consideration of such cause: *and provided*, that the panel so summoned for the latest period during said term may be required by the court to serve as petit jurors for a longer time than two weeks, and for a sufficient length of time to dispose of all the causes which are for trial at that term. Upon the trial of any cause, civil or criminal, the judge, in case of a deficiency of petit jurors, may cause talesmen to be summoned by the sheriff or his deputy for such trial. (*Id.* § 6.)

**\*§ 14g. Excused from service—Exemption from future service.**

That no person shall be excused from service as a grand juror or petit juror in said court on account of the necessities of his business or employment, unless he shall satisfy the court that he is a clerk or employe, and will probably lose his situation or employment if required to serve as such juror. The names of all persons drawn as grand jurors, and who shall actually serve as grand jurors at any term of said court, shall be left out of the box at the drawing of grand jurors for the next succeeding term. And the names of persons drawn as petit jurors for any period of two weeks, who shall actually serve as such during such period, shall be left out of the box during the drawing of petit jurors to serve as such within six months of the period during which they so served. (*Id.* § 7.)

**\*§ 14h. Juror's fees.**

That each grand and petit juror shall receive the sum of two dollars for each day's service as such juror, and ten cents for each mile traveled in go-

ing to and returning from said court, the distance to be computed by the usual traveled route, to be paid by the county treasurer upon the certificate of the clerk of said district court. (*Sp. Laws 1885, c. 294, § 8, as amended 1887, Sp. Laws, c. 97, § 3.*)

**\*§ 14i. Application of General Statutes.**

That the provisions of the General Statutes relative to grand and petit jurors and jury trials shall be applicable to the said district court, so far as the same are not changed by the provisions of this act, or inconsistent therewith. (*Id. § 9.*)

**\*§ 14j. Additional panels.**

If, near the end of the periods for which petit jurors shall be drawn at the commencement of any general term, it shall be found that the jury business of said term will extend materially beyond such periods, the court or judge may cause additional panels of petit jurors, of as many persons as the court or judge shall direct, each to be drawn and summoned for periods of two weeks for each panel, to cover the additional time during which jurors may be needed at such terms; such drawing and summoning to be had substantially, as near as may be, as in the case of the first drawing for the term. (*Id. § 10, as amended 1887, Sp. Laws, c. 97, § 4.*)

JURIES IN RAMSEY COUNTY.

**\*§ 14k. Manner of selecting jurors.**

That the judge of the district court and court of common pleas, together with the chairman of the board of county commissioners, and the county assessor for the county of Ramsey, Second judicial district, shall annually, on or before the first Monday of April, select, from the qualified electors of the several wards in the city of St. Paul and towns of said county, one hundred persons properly qualified to serve as grand jurors, and two hundred or more persons properly qualified to serve as petit jurors for said court, and make out separate lists thereof, which lists shall be certified by said judges or one of them, and delivered to the clerk of the district court of said county, from which lists so to be selected, and the other lists herein provided for, shall be drawn all grand and petit jurors at any time required for the transaction of the business of said courts, or either of them: *provided*, that in case of a failure to so select and certify within the times provided, or in case a deficiency shall be found of either grand or petit jurors, and other or additional jurors shall be required, the said judges, and said chairman and assessor, or any one of said judges and said chairman or assessor, shall make out and certify to said clerk an additional number of names of electors sufficient to supply such deficiency. The validity of any of the lists herein provided for, or the legality of any jury, shall not be affected by the selection and naming at any time of more or less than the number of persons in this section specified. (*Sp. Laws 1876, c. 214, § 1,† as amended 1883, Sp. Laws, c. 52, § 1.*)

**\*§ 14l. Same—Who to be selected.**

In making said lists, said officials shall select such persons as they have good reason to believe are not exempt by law from such service, and shall select and list such persons of the business men and other electors as they believe are best qualified by education, moral character, and integrity to discharge the duties of jurors. (*Id. § 2.*)

† § 9 provides "that the act entitled 'An act relative to jurors and their fees in Ramsey county,' approved February 29, 1873, and the act relative to juries, approved March 1, 1873, be, and the same are hereby, repealed." There were acts approved on the days and months named in the year 1872, (cc. 178, 211, Sp. Laws,) but not in the year 1873. See, also, Sp. Laws 1873, c. 47, repealing § 3, c. 178, Sp. Laws 1872; the only act passed in 1873 relating to jurors in Ramsey county.

**\*§ 14m. Exemptions.**

That, in addition to the persons exempt from serving on juries by the provisions of section four of chapter one hundred and seven of the General Statutes, relating to grand juries, the following persons shall not be eligible to serve as grand jurors, to-wit: The commissioners of the county, all county officers, the aldermen of the city of St. Paul, the city treasurer, clerk, and comptroller, and members of the board of education of said city. (*Id.* § 3.)

**\*§ 14n. Disposition of lists—Summoning jurors—Term of service—Talesmen.**

A list of grand jurors so made up shall be disposed of, and grand jurors shall be drawn and summoned in the manner prescribed in chapter one hundred and seven of the General Statutes, except that, if there is a deficiency of grand jurors at any term of court, the court shall direct the clerk to draw from the box the names of persons to supply such deficiency, and the persons whose names are so drawn shall be summoned to supply such deficiency. The list of petit jurors shall be disposed of, and petit jurors shall be drawn and summoned, and deficiencies supplied, in the same manner as hereinbefore prescribed in case of grand jurors, except that there shall be no petit jurors summoned for the first day of the term, but the first petit jury for the term shall be summoned for the first Monday of the term, and the number so summoned for the first Monday shall be fixed, by order of one of the judges, prior to the time of drawing the same, and shall not be less than forty, and no person shall serve as a petit juror for a longer period than two weeks, at any term of court, unless sworn as a juror in the trial of a cause which is not concluded at the expiration of said period. At least three days before the expiration of the period of service of a jury at any term of court, when a jury will be needed beyond such period, a new jury, of the number to be fixed by the judge presiding, shall be drawn by the clerk from the box, and a *venire facias* issued therefor, returnable as directed by the court; and the persons so drawn shall be summoned by the sheriff, and shall constitute the jury for an additional period of two weeks, or such portion thereof as may be necessary: *provided*, when, by reason of challenge, or otherwise, a sufficient number of jurors from those duly drawn and summoned are not obtained for the trial of any civil cause or any indictment, the court may cause jurors to be returned from the by-standers, or from the county at large, to complete the panel. No names shall be taken from the boxes except for the purposes and in the manner aforesaid, nor except in the presence of the sheriff and a justice of the peace of said county, or one of the judges of said court. (*Id.* § 4, as amended 1877, *Sp. Laws*, c. 182; 1883, *Sp. Laws*, c. 52, § 2; 1887, *Sp. Laws*, c. 94, § 1.)

**\*§ 14o. Excuse from service.**

That no person shall be excused from service as a juror, on account of being engaged in any business or employment, unless the person so claiming exemption shall satisfy the court that he is a clerk or employe, and that such service as a juror will probably cause such employe to lose his situation as such. That in case a person summoned as a juror at any term shall have served for two weeks as a petit juror in either of said courts, within six months immediately prior to the time at which an exemption shall be claimed, such prior service shall entitle such person to an exemption for and during the term of such court at which such exemption is claimed. (*Id.* § 5.)

**\*§ 14p. Juror's fees.**

That each grand and petit juror shall receive the sum of one dollar for each day's service as such, and no more, to be paid by the county treasurer, upon the certificate of the clerk of said district court. That persons summoned and attending as jurors, actually residing beyond the limits of the city of St.

Paul, may be allowed at the rate of one dollar and fifty cents per day for such service, but no mileage shall in any case be allowed. (*Sp. Laws* 1876, c. 214, § 6.)

**\*§ 14q. Application of General Statutes.**

That the provisions of the General Statutes relative to grand and petit jurors, and jury trials, shall be applicable to the said district court and court of common pleas of said county of Ramsey, so far as the same are not changed by the provisions of this act, or inconsistent therewith. (*Id.* § 7.)

**\*§ 14r. Firemen not exempt.**

That no person who shall hereafter become a member of a fire company shall for that reason be exempt from petit or grand jury duty. (*Id.* § 8.)

JURIES IN WASHINGTON COUNTY.

**\*§ 14s. Board for making list.**

The jury-lists in and for the county of Washington, this state, shall be made up, by the board hereinafter created, in the manner herein provided. The acting judge of the district court, the clerk of the district court, the county auditor, and the chairman of the board of county commissioners are hereby created a board whose duty it shall be to make up the jury-list within and for said county. The district judge aforesaid shall be chairman of said board, and the clerk of court the clerk of said board. The chairman of said board shall appoint the day of meeting of said board, and inform the clerk thereof, whose duty it shall be to notify the remaining members of the board of the time and place of such meeting. A majority of said board shall constitute a quorum for the transaction of business, but no meeting of said board shall be held or business transacted in the absence of the chairman. (*Sp. Laws* 1883, c. 314, § 1.)

**\*§ 14t. Manner of selecting jurors.**

Said board at the first general term of the district court, held in each year, shall select, from the qualified electors of the several elections districts of their county, seventy-two persons properly qualified to serve as grand jurors, and the same number of persons properly qualified to serve as petit jurors, and shall make out separate lists of the names thereof, which lists shall be certified and signed by the chairman of the board, attested by the clerk, and shall be forthwith deposited with the clerk of the district court. No person shall be included in such lists who was included in the last previous annual list, and was drawn and served as a juror from the same. All persons having served as a juror for one term of court shall be retired from such list, and shall not be again drawn for the period of one year. During each term of court the clerk shall notify the board of the persons serving upon the panels for said term, and thereupon the said board shall supply the names of persons qualified as hereinbefore provided, sufficient to make the number of names on said lists equal to the number originally thereon; and said names, when so supplied, shall be added to the original lists, and immediately after the term the clerk shall strike from the original lists the names of all persons who have served as jurors during said term, or have been found disqualified for such service. (*Id.* § 2.)

**\*§ 14u. Failure to make list.**

If, for any cause, such lists are not made and delivered as hereinbefore provided, said board shall make out and deliver the same at any other general or special term of said court, or by said board out of term-time. (*Id.* § 3.)

**\*§ 14v. Who to be selected.**

In preparing such lists the board shall select such persons as they know or have good reason to believe are possessed of the necessary qualifications for jurors, and are not exempt by law from such service. (*Id.* § 4.)

**\*§ 14w. Power of county commissioners withdrawn.**

The board of county commissioners within and for said county shall have no further authority or power in selecting the jury-lists for said county, and are hereby prohibited from further doing the same. (*Id.* § 5.)

## STRUCK JURIES.

**§ 15. Manner of obtaining.**

Chapter 45, Laws 1881, providing that, in Hennepin county, petit jurors shall be summoned to appear on the second Tuesday of each general term of the district court, does not amend or change the statute as to the time when a struck jury shall be drawn. *Mark v. St. Paul, Minneapolis & Manitoba Ry. Co.*, 32 Minn. 209, 20 N. W. Rep. 131.

Proceedings under sections 15 and 16, for the purpose of obtaining a struck jury, must be instituted before the commencement of the term at which the cause is tried. *O'Brien v. City of Minneapolis*, 22 Minn. 378.

A party has no right of peremptory challenge to any of the list of sixteen on the *venire* for a struck jury. *Branch v. Dawson*, 36 Minn. 193, 30 N. W. Rep. 545. The provisions of the statute as to the mode of summoning grand and petit jurors are applicable to struck juries. *Id.*

## CHAPTER 72.

## OATHS AND ACKNOWLEDGMENTS.

## TITLE 1.

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

**§ 3. Who may administer oaths.**

See *City of Minneapolis v. Wilkin*, 30 Minn. 140, 143, 14 N. W. Rep. 581.

**§ 8. (Sec. 5.) Forms of oaths.**

The proper oath to be administered to a jury impaneled to try the issue on an appeal from an assessment of damages made by commissioners appointed under Gen. St. c. 34, is the one prescribed by this section "to be administered to petit jurors, impaneled for the trial of any civil action or proceeding." *Knauff v. St. Paul, S. & T. F. R. Co.*, 22 Minn. 173. Followed, *Wilkin v. St. Paul, etc., R. Co.*, 22 Minn. 177.

A proceeding for bastardy is not a criminal action, and the proper oath to be administered to the jury in such case is the one prescribed by this section for the trial of civil actions. *State v. Worthingham*, 23 Minn. 528.

## TITLE 2.

## ACKNOWLEDGMENTS.

**\*§ 17. Forms of acknowledgments.**

That the following forms of acknowledgments may be used in the case of conveyances or other written instruments affecting real estate; and any ac-  
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