

CHAPTER 51.

AN ACT TO PROVIDE FOR TRIALS IN CERTAIN CASES BEFORE JUSTICES OF THE PEACE.

Be it enacted by the Legislative Assembly of the Territory of Dakota :

When title to lands is disputed, case goes to district court.

SECTION 1. If it appear, on the trial of any cause before a justice of the peace, from the evidence of either party, that the title to lands is in question, which title shall be disputed by the other party, the justice shall immediately make an entry thereof in his docket, and cease all further proceedings in the cause, and shall certify and return to the district court of the county a transcript of all the entries made in his docket relating to the case, together with all the process and other papers relating to the suit, in the same manner and within the same time as upon an appeal; and thereupon the district court shall proceed in the cause to final judgment and execution, the same as if the said suit had been originally commenced therein, and the costs shall abide the event of the suit.

Take effect, when.

SECT. 2. This act to take effect from and after its passage.

Approved May 12, 1862.

W. JAYNE, *Governor.*

JURIES.**CHAPTER 52.**

AN ACT RESPECTING JURORS.

Be it enacted by the Legislative Assembly of the Territory of Dakota :

Qualifications of jurors.

SECTION 1. All free white males residing in any of the counties of this territory, having the qualifications of electors,

and being over the age of twenty-one years, and of sound mind and discretion, and not being judges of the supreme court or district courts, clerks of the supreme or district courts, sheriffs, coroners, or jailers, or subject to any bodily infirmity amounting to a disability, and who have not been convicted of a criminal offence punishable by imprisonment in the penitentiary, and are not subject to disability for the commission of any offence which by special provision of law does or shall disqualify them, are and shall be competent persons to serve on all grand and petit juries within their counties respectively: *Provided*, That persons over sixty years of age, ministers of the gospel, probate judges, county commissioners, registers of deeds, licensed attorneys, practising physicians, postmasters or assistant postmasters, and carriers of the United States mail, shall not be compelled to serve as jurors.

Proviso.

SECT. 2. In each of the counties of this territory wherein a district court is appointed or directed to be holden, the county commissioners of the county shall, at least fifteen days before the first day of the session of the court, meet together—or any two of them may meet—and select sixty persons, possessing the qualifications prescribed in section one, and as nearly as may be, a proportionate number from each precinct in the county, and shall, within five days thereafter, furnish to the clerk of the district court of the county, or his deputy, a list of the names of the persons selected.

Where district court is held, commissioners of county to select jury, how.

SECT. 3. The clerk or deputy clerk receiving the names, shall write the name of each person selected on a separate ticket, and place the whole number of tickets in a box or other suitable and safe receptacle, and shall preserve the list of names furnished by the commissioners, in the files of his office.

Duty of clerk receiving list of names.

SECT. 4. The clerk of the district court or his deputy, and the sheriff, or, if there is no sheriff, the deputy-sheriff, or, if there is no deputy-sheriff, or if there is no sheriff or deputy-sheriff, the coroner of the county shall, at least ten days before the first day of the session of the district court, meet together and draw by lot out of the box or receptacle wherein shall be kept the tickets aforesaid, sixteen names, and the persons whose names are drawn shall be grand jurors, and the clerk and sheriff shall then draw twelve additional names,

How grand and petit jurors selected, and when.

and the persons whose names are drawn shall be the petit jurors.

Order to sheriff to summon jurors.

SECT. 5. The clerk shall, on the day of the drawing aforementioned, issue an order to the sheriff, deputy-sheriff, or coroner, as the case may be, commanding him to summon the persons whose names are drawn to appear before the district court, at or before the hour of eleven o'clock, on the morning of the first day of the term (stating in the order the day of the week and month, and the place of the sitting of the court), to serve as grand jurors, and a like order commanding the sheriff, deputy-sheriff, or coroner to summon the petit jurors.

Duty of sheriff receiving order.

SECT. 6. The sheriff, deputy-sheriff, or coroner, having received the order, shall, at least five days before the first day of the session of the court, serve upon each person whose name was selected and drawn as grand juror, a true copy of the command, except that the copy shall contain only the name of the grand juror served, and not the name of any other grand juror; and the sheriff, deputy-sheriff, or coroner shall, at least five days before the first day of the session of the court, in like manner summon each person whose name was selected and drawn as petit juror, and such service shall be made by reading or delivering the copy to the person to be summoned, or by leaving the copy at his residence.

Jurors to appear when, and not depart without leave.

SECT. 7. Each grand juror and petit juror summoned, shall appear before the court on the day and at the hour specified in the summons, and shall not depart without leave of court.

If all do not appear, places how filled.

SECT. 8. If all the persons summoned as grand and petit jurors do not appear before the court, or if by any cause the panel of grand jurors or petit jurors is not complete, the court may order the sheriff, deputy-sheriff, or coroner to summon, without delay, good and lawful men, having the qualifications of jurors, and the person summoned shall forthwith appear before the court, and, if competent, shall serve on the grand jury or petit, as the case may be, unless such person may be excused from serving or lawfully challenged.

Qualified persons to serve in rotation.

SECT. 9. It shall be the duty of the county commissioners in selecting and furnishing to the clerk the names of persons qualified to serve as grand or petit jurors, so to select and arrange that no one person shall serve on the jury a second

time before all qualified persons shall have served respectively in rotation, according to the best information that can be obtained.

SECT. 10. The sheriff, deputy-sheriff, or coroner, having received the order or service issued by the clerk, shall make return thereof, with his proceedings, to the clerk before the session of the court.

Sheriff make return, when.

SECT. 11. If any person summoned to appear as grand juror or petit juror, fails, refuses, or neglects to appear, such person shall be considered guilty of contempt of the court, and may be fined by the court in any sum not less than five nor more than fifty dollars; and if any person when a second order or attachment is issued, neglects or refuses to appear, such person may be fined as above provided, and imprisoned by the court not longer than ten days in the county jail; and if the county commissioners of any county neglect or fail to select and furnish to the clerk names of persons as hereinbefore provided, such persons so offending may be fined by the court not less than five nor more than fifty dollars, and if any clerk of the district court, or deputy clerk, or sheriff, deputy-sheriff, or coroner, neglect or fails to perform the duties imposed by this act, the person so offending shall be considered guilty of contempt of court, and may be fined by the court not less than five nor more than fifty dollars, and if guilty of gross misconduct in office and contempt, may be imprisoned by the court not longer than thirty days in the county jail.

If person summoned fails or refuses. Penalty.

If commissioners fail in their duty.

If clerk fails in his duty.

SECT. 12. This act shall take effect and be in force from and after its passage.

Take effect, when.

Approved May 13, 1862.

W. JAYNE, *Governor.*