

JURORS.

CHAPTER XVIII.

AN ACT RELATING TO THE CHALLENGING OF JURORS IN CIVIL AND CRIMINAL CASES.

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

Section 1. It shall be sufficient cause for challenge to a juror that he is interested in another suit begun or contemplated, involving the same or similar matter. Cause of challenge

Sec. 2. The number of jurors to try a civil action shall not exceed twelve nor less than eight. The parties may determine the number of persons by agreement, and in case of disagreement the number shall be twelve ; Number of jurors

Provided, That in no case shall the jury consist of less than eight jurors.

Sec. 3. In all civil cases where the jury consists of eight or more persons, each party shall have three peremptory challenges. Number of challenges in civil cause

Sec. 4. Before the commencement of the trial an oath must be administered to each juror, that he will well and truly try the matter in issue between the parties, and a true verdict give according to law and evidence. Jurors to take oath

Sec. 5. In all criminal cases the defendant is entitled to the following challenges : Number of challenge in criminal cases

For capital offences, the defendant may challenge peremptorily, twenty jurors.

In prosecution for offences punishable by imprisonment in the Territorial prison, ten jurors.

In other prosecutions, three jurors.

Where several defendants are tried together they must join in their challenges.

Number of
challenges of
attorney

Sec. 6. The prosecuting attorney in capital cases may challenge peremptorily six jurors; in other cases, three jurors.

Conflicting acts
repealed

Sec. 7. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

When to take
effect

Sec. 8. This act shall take effect and be in force from and after its passage and approval.

Approved, December 24, 1868.

CHAPTER XIX.

AN ACT RESPECTING GRAND AND PETIT JURORS OF THE DISTRICT COURTS.

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

Who compe-
tent to serve on
juries

Section 1. All male citizens 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 judges of the supreme court or district courts, clerks of the supreme or district courts, sheriffs, coroners, licensed attorneys or jailors, or subject to any bodily infirmity amounting to a disability, and who have not been convicted of a criminal offense punishable by imprisonment in the penitentiary, and not subject to disability for the commission of any offense, 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, practicing physicians, postmasters and carriers of the United States mail, shall not be compelled to serve as jurors.

Selecting jurors

Sec. 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 a majority may meet, and select sixty persons possessing the qualifications prescribed in section one, and as many as may be a proportionate number, from

each precinct in the county, and shall within five days thereafter furnish to the district clerk of the county, or his deputy, a list of the names of the jurors selected.

Sec. 3. No jury shall be summoned except by order of the judge of the district court, who shall issue an order to the clerk of said court that a jury shall be summoned, and in such order shall specify the number of petit jurors that shall be summoned, and the time and place where they shall appear. Summoning jurors

Sec. 4. The order mentioned in the preceding section of this act, may be issued at any time within ten days before the first day of the term of the district court, or at any time during the term of said court. When order to be issued

Sec. 5. A grand jury shall be summoned in the same manner provided for summoning petit juries; Manner of summoning a grand jury

Provided, That in all cases a grand jury shall consist of sixteen jurors.

Sec. 6. Whenever an order shall be issued by the judge of any district court of the Territory, ordering a jury to be summoned for a term of the district court, the clerk or deputy clerk receiving the names from the county commissioners as provided by section two of this act, 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. List of jurors to be preserved

Sec. 7. 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 sheriff or deputy sheriff the coroner of the county shall immediately upon or within two days from the receipt of the order directing a jury to be summoned, meet together and draw by lot out of the box or receptacle wherein shall be kept the tickets aforesaid, the number of jurors directed to be summoned by the judge of the district court. The sixteen jurors first drawn shall serve as grand jurors, if a grand jury shall be ordered to be summoned, and the remainder drawn in compliance with said order shall serve as petit jurors. Drawing by lot

Sec. 8. The clerk shall on the day of the drawing before mentioned, 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 the hour, day and place as directed by the order of the district judge to appear as grand jurors if a grand jury is ordered, a like order commanding the sheriff, deputy sheriff or coroner, to summon the petit jurors. Clerk to direct Sheriff to summon jury

Serving of
summons

Sec. 9. The sheriff, deputy sheriff or coroner, having received the order, shall forthwith serve upon such person whose name was selected and drawn as grand jurors 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, or by leaving said copy at his residence, or by sending the same to him; and the sheriff, deputy sheriff or coroner, shall immediately in like manner, summon such persons whose name was selected or drawn as a 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.

When jurors to
appear

Sec. 10. Each grand 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.

In case of jury
not appearing

Sec. 11. If all persons summoned as grand and petit jurors do not appear before the court, or if by any cause the panel of the grand jurors or petit jurors is not complete, or if no jury be drawn, as above provided, 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 or persons summoned shall forthwith appear before the court and if competent shall serve on the grand jury or petit jury as the case may be unless such person or persons may be excused from serving or lawfully challenged.

In case of petit
jury being
exhausted by
challenges

Sec. 12. Whenever the panel of petit jurors shall be exhausted by the challenges of either party, in any action, the judge of the court shall order the sheriff, deputy sheriff or coroner, to summon without delay a sufficient number of persons possessing the qualifications of jurors as before provided to complete the number requisite for a jury in that particular case.

No person to
serve a second
time till list is
exhausted

Sec. 13. It shall be the duty of the county commissioners in selecting and furnishing to the clerk the number of persons qualified to serve as grand and petit jurors, so to select and arrange that no one person shall come 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.

Sheriff to make
returns

Sec. 14. The sheriff, deputy sheriff or coroner, having received the summons issued by the clerk, shall make return thereof with his proceedings to the clerk as soon as he has executed the order.

Penalty for
contempt

Sec. 15. 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 herein before provided, such person so offending may be fined by the court not less than five nor more than fifty dollars, and if the clerk of the district court, or deputy clerk, or sheriff, deputy sheriff or coroner, neglect or fail to perform the duties imposed by this act, the persons 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 in disregarding the provisions of this act, may be imprisoned by the court not longer than thirty days in the county jail.

Sec. 16. Jurors summoned in accordance with this act shall be entitled to two dollars per each day for their services for the time they shall actually serve, and five cents per mile for each mile traveled in going and returning, such compensation to be paid out of the county treasury upon the order of the judge of the district court. Compensation of jurors

Sec. 17. Chapter fifty-two of the session laws of 1862, and chapter twenty-six (26) of the session laws of 1862-63, and all other acts and parts [of acts] in conflict with the provisions of this act, are hereby repealed. Certain acts repealed

Sec. 18. This act shall take effect and be in force from its passage and approval. When to take effect

Approved, December 24, 1867.

LIBRARY.

CHAPTER XX.

AN ACT TO PROVIDE FOR CATALOGUING THE TERRITORIAL LIBRARY AND TO COMPENSATE THE LIBRARIAN.

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

Section 1. That the Dakota Historical Society are hereby