

## CHAPTER XCVII.

[ S. B. No. 249.]

PROVIDING FOR AND REGULATING THE SELECTION  
OF JURORS.

AN ACT providing for and regulating the selection of jurors in the superior courts of the state ; and providing for the appointment of jury commissioners, prescribing their duties, qualifications and compensation, and providing for their removal from office ; declaring certain violations of this act to be contempt of court and providing for the punishment thereof as such ; and repealing all laws and parts of laws in conflict therewith.

*Be it enacted by the Legislature of the State of Washington :*

SECTION 1. The Superior Court for each county from the first to seventh classes inclusive shall upon the opening of court on the last Saturday in June of each year, by an order made in open court and entered of record, appoint as jury commissioners two electors of the county chosen by the court from four recommended by the bar of the county at a meeting of the bar called by the court for that purpose ; the persons so appointed shall not be of the same political party ; and such court shall cause the persons so appointed to appear and in open court take, and such court shall administer to them jointly an oath in the following form : " You do solemnly swear (or affirm) that you will, during your term of office, perform the duties of jury commissioners faithfully and to the best of your ability ; that in selecting persons to be drawn as jurors you will select none but persons whom you believe to be of good repute for intelligence and honesty ; that you will select none that you have been or may be requested to select ; and in all your selections you will endeavor to promote only the impartial administration of justice ; so help you God."

SEC. 2. The commissioners so appointed shall hold their office for the term of one year and until their successors are appointed and qualified. .

SEC. 3. In open court within ten days the commissioners shall select the names of all the qualified jurors in the county as far as they may be able to ascertain the

Length of term.

Appoint jury commissioners.

Form of oath.

Term of office of commissioners.

same from the latest tax rolls and poll books of the county and deposit the same written on separate slips of paper of uniform size, shape and color in a box to be furnished by the clerk of the court for that purpose.

Selection of jurors—  
manner of.

In selecting and depositing such names, the said commissioners shall in all things observe their oath and they shall not select the name of any person who is to them known to be interested in any cause pending in the court by which such commissioners were appointed. When such names have been selected and deposited in such box the jury commissioners shall deliver the box, locked, and the key thereof, to the clerk of the court by which the commissioners were appointed; and such clerk shall at all times keep said locked box and said key, separately, in some safe and convenient place in his office. A list of the names so chosen shall be spread at large upon the journal of the court and all names subsequently drawn from the box shall at the time of the drawing be compared and checked in open court with the list as so recorded.

List of names.

SEC. 4. On the second Saturday in August and on the second Saturday in each calendar month thereafter except when the court may be in vacation, the Superior Court, on the opening of the court in the forenoon of such day, shall by an order made in open court and entered of record, direct to be drawn from such box such number of names as the judge of said court shall think requisite for the selection of petit jurors to serve during the ensuing calendar month, or shall think requisite for any grand jury which may have been or may be ordered for or during the ensuing three calendar months. Immediately upon the making of such order and before the transaction of any other business the jury commissioners and the clerk of such court, or the deputy of such clerk, shall assemble in open court, and in the presence of such persons who may be or desire to be present, the clerk of such court or his deputy shall be blindfolded, and thereupon the box containing the names previously deposited therein by the jury commissioners or such of such names as may yet remain

Selection of petit jurors,  
when.

Clerk to draw names in open court—how so drawn, etc.

Entry on  
journal.

Names drawn  
to constitute  
petit jurors,  
etc.

Discharge of  
jury, when.

Proviso.

Method of  
procedure by  
court when req-  
uisite number  
has not or may  
not be drawn.

in said box, shall be first well shaken so that the names therein shall be thoroughly mixed, and said clerk or his deputy, blindfolded as above provided, shall then draw from the box, one name at a time; the number of names previously ordered by such court; and the names so drawn shall be entered upon the journal of the court by the clerk together with the certificate of the clerk of the drawing as above provided; and the names so drawn shall constitute the persons to be summoned to serve as petit jurors, or as grand jurors, as may be in accordance with the court's order previously made; and thereupon the clerk shall issue a venire for summoning the said persons as petit jurors or as grand jurors as the case may be. On or before the opening of court in the forenoon of the second Saturday in the next ensuing calendar month all persons theretofore drawn as petit jurors shall be discharged as jurors, and shall be incompetent to serve upon any petit jury within two years thereafter: *Provided*, That if upon the opening of court upon the day last mentioned any of such persons shall be then serving upon the jury in such court in any cause the trial of which shall not then be concluded, or upon which such jury may then be deliberating, the persons upon such jury shall not be discharged until the conclusion of such trial or of the deliberation of such jury.

SEC. 5. Whenever the judge of such court shall be of opinion that by reason of numerous challenges in any cause, or for any other reason, there will or may not be sufficient persons drawn as in the last section provided, to constitute the necessary jury or juries for the trial of causes in such court during and before the time for the next drawing of jurors prescribed in section 4 of this act, such court may, by an order made and entered of record, direct the jury commissioners and the clerk of such court to appear in open court at a time fixed in such order for the purpose of drawing as many names from such box as the court may in said order prescribe; and thereupon at the time fixed in said order the said commissioners and the clerk, or the deputy of such

clerk, shall in open court appear, and the number of names prescribed in said order shall, by said clerk or his deputy, in the manner prescribed in section four of this act be drawn from such box; and thereupon the clerk shall issue a special venire for the summoning of the persons so drawn to serve as jurors. If for any reason the names in such box shall be exhausted, or so nearly exhausted that the number of names prescribed in any order of such court made, as in this section or in section four of this act provided, can not be drawn therefrom, the jury commissioners shall forthwith and in the manner provided in section 3 of this act select and deposit in said box the names of all the qualified jurors in the county, ascertained in the manner hereinbefore provided.

Issuance of clerk's special venire.

Duty of jury commissioners when names in box are exhausted.

SEC. 6. The clerk of such court shall safely keep said box, and the same shall not be unlocked or opened except for the deposit or drawing of names as above required; and any person opening said box for any other purpose shall be deemed guilty of a contempt of court, and be punished summarily by the court by either fine or imprisonment or both in the discretion of the court.

Clerk custodian of box.

Violation and penalty.

SEC. 7. It shall not be a cause for challenge to any juror nor shall any juror be incompetent or excused for the reason that the name of such juror was selected and deposited in such box by a jury commissioner who was or is interested as a party or as an attorney or counsel or otherwise in any action pending in said court or which is to be or may be tried by or before any jury upon which such jury is called or chosen.

No cause for challenge if jury commissioner an interested party.

SEC. 8. Any person appointed a jury commissioner who shall, except for cause deemed sufficient by the court appointing him, fail to take upon himself said office or fail or refuse to discharge any of the duties thereof shall be deemed guilty of contempt of court, and shall be summarily punished by the court by fine or imprisonment, or both in the discretion of the court.

Failure to qualify when appointed and penalty therefor.

SEC. 9. Should a vacancy occur in the office of jury commissioner at any time, either by death, resignation or removal or for any cause the court shall fill such

Vacancy—how filled.

vacancy by appointment as in section 1 of this act provided; and the person so appointed shall serve during the unexpired term of his predecessor.

Compensation  
of jury com-  
missioners.

Shall file a  
statement of  
time employed.

Presenting of  
statement in  
open court.

Payment.

SEC. 10. For the time actually employed in the performance of his duties each jury commissioner shall receive five dollars per day; and each jury commissioner shall present to and file with the clerk of the court appointing him at least once in three months an itemized statement of the time employed together with his claim for compensation therefor at the rate aforesaid which bill shall be verified by the oath of such commissioner that the same is true and correct and has not been paid; and thereupon such bill or statement shall be presented to the judge of the court appointing such commissioner, either in open court or in chambers, and if said bill or statement appears to said judge to be correct he shall endorse thereon his approval signed by him as such judge, and thereupon the same shall be paid in the like manner as the fees of jurors are or may be paid.

Issuance of  
open venire or  
venires.

Stipulations.

Sheriff to sum-  
mon sufficient  
number of  
persons to fill  
petit jury.

Proviso.

SEC. 11. By stipulation or agreement between the parties to any action pending in such court, made in open court and entered upon the minutes of journal thereof, or made in writing and signed by such parties or by their attorneys of record and filed with the clerk of such court, and if such court shall consent to and approve of such agreement or stipulation, the court may at any time order an open venire or venires to be issued by the clerk of such court summoning persons to serve as petit jurors in said cause pending between said parties; or, upon such agreement or stipulation made as in this section provided, and approved by the court, the court may order the sheriff to summon from the bystanders a sufficient number of persons to fill up any petit jury then being selected in said cause between such parties: *Provided, however,* That persons selected upon any such open venire, or in such manner summoned from the bystanders shall be subject to challenge in the same manner and for the same causes as persons otherwise selected for jurors and previous service on petit

jury within the two years last preceding shall be a ground of such challenge.

SEC. 12. If at any of the times prescribed in this act, or fixed in any order of the court made pursuant to this act for the drawing from such box of the names of persons to serve as jurors, any jury commissioner shall be absent, the court shall immediately by order made and entered of record appoint some other person to serve as jury commissioner *pro tempore* in the place of such absent jury commissioner; and thereupon such jury commissioner *pro tempore* shall first take the oath and be sworn as in section 1 of this act provided, and shall then discharge the duties of the office during the absence of the jury commissioner; and such jury commissioner *pro tempore* shall be entitled to payment for his services at the same rate and in the same manner prescribed in this act for the payment of jury commissioners; and such absent jury commissioner shall not be entitled to payment for such time; and such court may at any time thereafter require such absent jury commissioner to give an excuse for his absence upon the penalty of being removed from his office for failure to excuse his absence.

Absence of jury commissioners.

Appointments pro tempore.

Entitled to same pay.

Absent jury commissioner not entitled to pay.

SEC. 13. The superior court appointing any jury commissioner may at any time for cause deemed by such court sufficient, remove any such jury commissioner from his office; but such court shall first by order require such jury to show cause why he should not be removed, and in such order set forth the alleged cause for which it is proposed to remove such jury commissioner, and shall first give such jury commissioner a hearing thereon in open court. If after such hearing the court shall think proper to remove such jury commissioner the court shall make and enter an order of record removing such commissioner, which order shall state the cause of such removal.

Removal of jury commissioners by court.

To show cause for removal.

SEC. 14. When, pursuant to any statute of this state, there is elected but one judge of the superior court in

Procedure  
when but one  
judge elected.

and for two or more counties, the superior court of any such county may by an order made and entered of record that until such order be altered or revoked, the drawing from such box of the names of persons to serve as jurors in that court shall take place in the court room in such county and not in open court and without the presence of the judge; and while such order remains in force the drawing shall be made accordingly; but the names of the persons drawn shall nevertheless be entered upon the journal of such court, together with the clerk's certificate prescribed in section 4 of this act, and the judge of the superior court for any such county may, while he is within or without such county, make in writing and sign the order prescribed in said section 4 for drawing persons to serve as jurors; but he shall then forward such order to the clerk of such court in time to reach such clerk on or before 10 o'clock A. M. of the last Saturday in the current month; and such drawing shall then take place at said hour on said Saturday. If at the time when the said court judge would otherwise make said order, it appears to the judge of said court that no jury will be needed in the ensuing month, the judge may omit said order and no jury need be drawn for such ensuing month.

Order sent to  
clerk -- when.

Judge may  
omit order.

All juries  
selected as in  
this act.

Repeal of  
inconsistent  
acts.

SEC. 15. All juries in any of the superior courts in this state in counties of the first seven classes, whether grand or petit, and whether in special proceedings or otherwise, shall be selected as in this act provided. All acts or parts of acts inconsistent herewith are hereby repealed.

Passed the Senate March 4, 1901.

Passed the House March 13, 1901.

Approved by the Governor March 16, 1901.