

Supplement.

Approved April 13, 1876. P. L. 1576, p. 124.

30. Sec. 1. That in any action brought or to be brought in the supreme court or any circuit court or court of common pleas in this state, wherein judgment shall have been or may hereafter be recovered against two or more defendants thereto, and the party in whose favor said judgment is rendered shall have received satisfaction thereof from any defendant or defendants less than the whole number of defendants, it shall and may be lawful for the person so receiving satisfaction, either by himself or his attorney, to enter an acknowledgment of satisfaction as to said defendant or defendants from whom satisfaction thereof shall have been received upon the record of said judgment, or in case the judgment shall not have been made up and recorded, then such satisfaction may be entered in the minutes of the court where such judgment shall have been rendered, and such acknowledgment of satisfaction when so entered shall not operate as a release or discharge of said judgment as to any defendant liable thereon primarily to or equally with the defendant or defendants as to whom such acknowledgment of satisfaction shall have been entered, but may be assigned to such defendant or defendants as have satisfied the same, and he or they shall have full control of said judgment, and may issue execution thereon against such defendant or defendants as to whom there has been no satisfaction entered the same as if there had been no payment whatever, and no satisfaction had been entered; *provided*, that such defendant or defendants shall only recover on such execution the proportional share of said judgment for which the defendants as to whom such satisfaction has not been entered were originally liable; *and provided further*, that previous to issuing said execution the amount for which it shall issue shall have been fixed by a judge of the court out of which said execution shall be issued upon application of the party desiring to issue the same made upon two days' notice to the person or persons against whom it is intended said execution shall issue.<sup>(a)</sup>

When a judgment is recovered against two or more defendants satisfaction may be entered as to defendant or defendants satisfying same.

Not to operate as a release or discharge of other defendants.

Proviso.

(a) See *White ads. Brown, 5 Dutch. 307, 514.*

Juries.

1. Process for jury.
2. To what county awarded.
3. Fees of jurors.
4. Not discharged except by court.
5. Penalty for non-attendance.
6. Fines, how collected.
7. Vacancy in grand jury supplied.
8. Foreman of grand jury to swear witnesses and certify list of.

I. OF THE GENERAL PANEL.

9. List of jurors to be laid before the court.
10. How general panel reduced.
11. How venire shall be executed by coroners and elisors.

II. STRUCK JURIES.

12. Struck juries in civil and criminal cases.
13. After rule for struck jury, cause not to be tried by common jury.
14. Plaintiff to have preference on motion for.
15. Thirty days' notice of trial, if defendant has rule for struck jury.
16. Panel to be delivered to plaintiff twelve days before trial.
17. If cause not tried, new jury to be struck.
18. How jury struck. Notice, etc.
19. Court or judge may order struck jury.
20. Who to pay fees for striking.

III. EMPANNELING JURIES.

21. How jury selected from general panel. Tales and challenges.
22. How venire returned.

23. Names replaced in box.
24. How jury selected from struck jury.

IV. JURY OF VIEW.

25. Jury of view, process, for.
26. View by struck jury.
27. Trial to proceed, though no view had.
28. Expenses of view, etc.
29. Court may order view during trial of any cause.

V. FOREIGN JURY.

30. Supreme court may order.
31. Foreign juries in criminal cases.
32. How venire directed and juries selected.

VI. CHALLENGES.

33. Interest as taxpayer not a ground of challenge.
34. Peremptory challenges, how many.
35. Peremptory challenges by state.
36. Peremptory challenges on trial by a struck jury.
37. Challenges tried by court.

VII. EXEMPTIONS FROM JURY DUTY.

38. Names of exempt firemen to be filed in clerk's office.
39. Clerk to keep register of names.
40. Officer not to take reward for excusing juror, nor summon any person applying.
41. Qualification of jurors.
42. Sheriffs to procure lists of persons qualified as jurors.
43. Jurors, how summoned.
44. How general panel of jurors selected.
45. In case of death of clerk judge of pleas to act.
46. Repealer.

## An act concerning juries.

Revision—Approved March 27, 1874.

R. S. 196, 965.  
 P. L. 1849, p. 129.  
 " 1851, p. 92.  
 " 1852, p. 32.  
 " 1857, p. 242.  
 " 1864, p. 390.  
 " 1867, p. 833.  
 " 1869, p. 619.  
 " 1871, p. 711.

Process for jury.  
 R. S. 196, § 9.  
 Amended.

To what county  
 awarded.

R. S. 965, § 1.

Fees of jurors.  
 Ib. § 30.

P. L. 1867, p. 833.

Not discharged  
 except by court.

R. S. 965, § 32.

Penalty for non-  
 attendance.  
 Ib. § 6, 8.  
 Amended.

Fines, how  
 collected.  
 Ib. § 9.

Vacancy in  
 grand jury sup-  
 plied.

Foreman of  
 grand jury to  
 swear witnesses  
 and certify list of.  
 Ib. § 3.

List to be laid  
 before court.

R. S. 965, § 21, 22.  
 Amended.

1. That the process for summoning a jury shall be by *venire facias*, issued out of the court in which the cause shall be triable, except in issues joined in the supreme court or removed there for trial, in which cases the *venire* shall be issued out of the supreme court, directed to the sheriff of the county in which the circuit court in which such issue is triable is to be held, and shall be returned to such circuit court to be there filed.

2. Every *venire* for the trial of any issue shall be awarded to the county in which such issue is triable, except where a foreign jury shall have been ordered.

3. Every person summoned as a petit juror in the supreme court, the circuit courts, the courts of oyer and terminer and general jail delivery, common pleas and of general quarter sessions of the peace, shall receive the sum of two dollars for every day's attendance at such courts, to be paid at the expiration of each term of service, by the sheriff of the county in which the juror shall serve.

4. No person summoned as a juror shall be discharged from attendance except by order of the court in which his attendance may be required.

[Sec. 5 amended and supplied by *Sec. 40, post*].

[Sec. 6 amended and supplied by *Sec. 41, post*].

[Sec. 7 amended and supplied by *Sec. 42, post*].

[Sec. 8 amended and supplied by *Sec. 43, post*].

5. SEC. 9. Every person summoned as a grand or petit juror and failing to attend without reasonable excuse, shall be fined by the court in any sum not exceeding twenty dollars, to the use of the county where such offence was committed; and may be punished as for contempt of court.

6. SEC. 10. The clerk of the court shall deliver a certified list of the names of all defaulting jurors, specifying the fine awarded against each of them, to the sheriff of the county, who shall, by himself or his deputy, either personally or in writing, give notice to each defaulting juror of the fine so awarded against him, at least six days before the next term of the said court; which notice, if in writing, shall be signed by the said sheriff or his deputy, and left at the dwelling house of the said juror; and if such fine shall not be paid to the said sheriff by the second day of the next term as aforesaid, or be then remitted by the court, the said court shall issue process directed to the sheriff, commanding him to levy and make the said fine, with costs, by distress and sale of so much of the goods and chattels of such defaulting juror as shall be sufficient to satisfy the same; and the sheriff for every such notice shall be allowed one dollar, to be paid by the juror so making default, provided he shall have been summoned as such agreeably to law.

7. SEC. 11. In case of the sickness, death, or non-attendance of any grand juror after he shall be sworn or affirmed, the court in its discretion, may cause another grand juror to be sworn or affirmed in his stead.

8. SEC. 12. The foreman of the grand jury shall, from the time of his appointment until his discharge, have power to administer the usual oath or affirmation to such witnesses as shall give evidence before the grand jury whereof he is foreman; and it shall be the duty of such foreman, before he be discharged, to certify to the court, under his hand, the names of such witnesses as shall have been by him so sworn or affirmed.

## I. Of the general panel.

[Sec. 13 amended and supplied by *Sec. 44, post*].

[Sec. 14 amended and supplied by *Sec. 45, post*].

9. SEC. 15. The sheriff shall, as soon as may be after the commencement of the term of each of the said courts, deliver a list of the jurors by him summoned for service at such term, certified by him to be a true list, to the clerk of such court, who shall thereupon file the said list, and forthwith lay the same before the said court; and no person shall serve as a juror whose name is not contained on said list, if the objection be made before such person is sworn or affirmed as a juror, unless when a *tales de circumstantibus* is ordered, or an order has been made for a special *venire*

for a jury of view or for a struck jury; *provided, nevertheless*, that if on a challenge to the array or for other good cause, the whole panel of jurors returned for the term shall be set aside, the court may order the sheriff or other proper officer forthwith to return a competent number of jurors to serve for the term, to be by him selected in the manner prescribed by the thirteenth section of this act.

No other person to serve, except etc.

10. SEC. 16. If at any time the number of jurors in attendance at any court shall be greater than is necessary for the business of the court, the court may discharge a specific number of such jurors from further attendance at that term; in which case the clerk or sheriff, or some person under the direction of the court, shall in open court draw from the said box such number of the papers therein contained as the court shall direct; and the jurors whose names shall be found written thereon shall be discharged from further attendance at that time; *provided, however*, that nothing herein contained shall be construed to prevent any court from excusing or discharging individual jurors for sufficient reason.(a)

How general panel reduced. Ib. § 28. Amended.

Proviso.

11. SEC. 17. Nothing in the four preceding sections shall apply to cases in which any writ of *venire facias* shall be directed to the coroners, or to elisors, for the trial of any particular cause; in which case such writ shall be executed, and the jury thereby required shall be summoned by such coroners or elisors in the same manner as by law was required to be done in such cases before the ninth day of March, one thousand eight hundred and thirty-six.(b)

How venire in particular cases shall be executed by coroners and elisors. Ib. § 27.

II. Struck juries.

12. SEC. 18. The supreme court, the circuit courts, the courts of common pleas, court of oyer and terminer and general jail delivery, and the courts of general quarter sessions of the peace, respectively, may on motion in behalf of the state, or of any prosecutor or defendant in any indictment or information in the nature of a *quo warranto*, or on motion in behalf of the state, or of any plaintiff or defendant, in any action triable by a jury, order a jury to be struck for the trial thereof; *provided*, that no order for a struck jury shall be made in any civil action unless the court or judge to whom the application is made shall be satisfied, by affidavit, that the nature and importance of the matter or matters in controversy, in such suit or action, render it reasonable and proper that said order be made.(c)

Struck juries in civil and criminal cases. Ib. § 15, 16. P. L. 1851, p. 92.

In civil actions affidavit required.

13. SEC. 19. If a rule for a struck jury shall be entered in any cause, it shall remain in force until the cause shall be tried, and no common jury shall be summoned therein, unless the said rule shall be first vacated by the court, except as is hereinafter provided.

After rule for struck jury cause not to be tried by common jury, unless. &c.

14. SEC. 20. In motions for a struck jury, the plaintiff shall have the preference; and the defendant shall not apply for a struck jury without two days' notice to the plaintiff, unless he shall have a rule for trial by proviso, and then he shall have the preference; and in that case the plaintiff shall not apply for a struck jury without two days' notice to the defendant; and there shall not be two such rules existing in the same cause at the same time.(d)

Plaintiff to have preference on motion for.

15. SEC. 21. Where the defendant has a rule for a struck jury, or has a rule for trial by proviso, and the plaintiff has a rule for a struck jury, in order to give reasonable time to strike the same according to law, there shall be thirty days' notice of trial; but the party having such rule may, at any time, before notice of trial, procure such jury to be struck at his peril, giving to the adverse party the lawful notice thereof.

Thirty days' notice of trial if defendant has rule for struck jury.

16. SEC. 22. Where the defendant shall have a rule for a struck jury and shall not procure such jury to be struck, and the panel thereof duly certified to be delivered to the plaintiff or his attorney, twelve days at least before the day appointed for trial, the plaintiff may issue his venire

Panel to be delivered to plaintiff twelve days before trial

(a) The jury for the trial of an *appeal* must be drawn from the general panel, as in other cases, and a discharge of all the jurors from two townships, without drawing, is illegal, *Paterson Gas Light Co. v. Brady*, 3 *Dutch*. 245, 249. If the court by a general order to the clerk to discharge such jurors as desire to be excused, reduce the panel below the number required for the trial of a cause, it is good ground for a challenge to the array; but if there is no challenge to the array and the court order a *tales*, although such order is excepted to, their verdict is good, *Smith v. Clayton*, 5 *Dutch*. 357.

(b) If there is an objection to the sheriff the common

pleas can order the coroner to return a jury to try an appeal, *De Wit v. Decker*, 4 *Hal*. 148.

(c) *Query*. Whether it is any cause of challenge to a judge on a trial that the jury was struck before him, *Bassett v. Johnson*, 1 *Gr. Ch*. 154.

(d) Where there were two rules (before the statute) to strike juries before different judges, the plaintiff had the preference, *Denn v. Tatem, Coze* 164. Where the plaintiff now applies no notice thereof need be given to the defendant unless the latter have a rule by proviso, when two days notice is requisite, *Fuller ads. Den, Saxton, Spen*. 61.

- if defendant obtain struck jury. Amended. for a common jury; and if the defendant shall have a rule for trial by proviso, and the plaintiff a rule for a struck jury, then if the plaintiff shall not procure such jury to be struck and the panel thereof to be delivered to the defendant as aforesaid, the defendant may issue his venire for a common jury.
- If cause not tried at next term new jury to be struck. 17. SEC. 23. If the cause wherein any jury shall be struck shall not be brought to trial at the next term of the court after the said striking, the jury so struck shall not be summoned or returned, but a new jury shall be struck.
- How jury struck. R. S. 965, § 17. 18. SEC. 24. When an order shall be made for a struck jury, the sheriff of the proper county, or other officer who ought to empanel the jury in such case, shall deliver at a certain day and place, to the judge of the court before whom the jury is to be struck, a book containing the names of the several persons in his county qualified to serve as jurors, with their places of abode; and the party applying for such struck jury, or his attorney, shall give six days' previous notice to the adverse party or his attorney, and to the judge, sheriff, or other officer aforesaid, of the time and place of striking the said jury; at which time and place the judge shall, in the presence of the parties or their agents or attorneys, or such of them as shall attend for that purpose, select and transcribe from the said book the names of forty-eight such persons, with their places of abode, as he shall think most impartial and indifferent between the parties, and best qualified as to talents, knowledge, integrity, firmness and independence of sentiment, to try the said cause; and thereupon the party applying for such jury, his agent or attorney, shall first strike out one of the said names, and then the adverse party, his agent or attorney, shall strike out another, and so on, alternately, until each shall have stricken out twelve; but if the adverse party shall not attend such striking, nor any person in his behalf, then the said judge shall strike for him; and when each shall have stricken out twelve, as aforesaid, the remaining twenty-four shall be the jury to be returned to try the said cause; and the said judge shall thereupon make a fair copy of the names of the remaining twenty-four persons, with their places of abode, and certify the same under his hand to be the list of jurors struck as aforesaid, for the trial of the said cause; which list shall be delivered to the sheriff or other officer, who ought to summon such jury, together with the *venire facias*, by the person applying for such struck jury, his agent or attorney, at least ten days previous to the time appointed for the trial of such cause, and such sheriff or other officer shall thereupon annex the same list to the said *venire facias*, and return the same as the panel of the jury to try the said cause, and summon them according to the command of the said writ; and in case of neglect or refusal to deliver the list and venire as aforesaid, the cause shall be tried by a common jury of the county, unless the court shall for some good cause determine otherwise.
- Notice. 19. SEC. 25. The order for a struck jury for the trial of any civil cause may be made by the court or any judge thereof, and the court or judge, in their or his discretion, may order that the list of names from which such jury shall be struck shall contain the names of thirty-six persons, instead of forty-eight, and in such case the parties shall be entitled, respectively, to strike the names of nine persons from said list, and the remaining eighteen shall be returned as the list of persons from whom the jury shall be selected to try the cause.
- Mode of selecting. Forty-eight persons to be selected. Twelve to be struck by each party. Remaining twenty-four to be returned. List delivered with venire, ten days before trial. Court or judge may order list to contain thirty-six names. Nine to be struck by each party. Who to pay fees for striking. R. S. 965, § 18. 20. SEC. 26. The party applying for such struck jury shall pay the fees for striking the same, and shall not have any allowance therefor upon the taxation of costs.(a)(1)

### III. Empanneling jury.

- How jury selected from general panel. R. S. 965, § 23, 31. 21. SEC. 27. The name of each person who shall be summoned and returned by any sheriff or coroners as petit jurors in any of the aforesaid courts, shall be written or printed on separate pieces of paper, of the same size, color and shape, as nearly as may be; which pieces of paper shall be

(a) The costs must be paid by the party applying for the jury, *Den v. Stigar*, 1 *South*. \*360. Even where the trial is put off by the defendant, *Kennedy v. Nixon*, 1 *Hal*. 159. But not the costs where the trial goes off on account of a mistake of the judge or sheriff in making out the panel, *Gibbons v. Ogden*, 2 *Hal*. 122.

(1) For mode of striking and expenses of a struck jury in the county of Essex, see P. L. 1868, p. 588.

severally rolled up by the sheriff, coroners or clerk, or by some person employed by him for that purpose, and put into a box; and whenever for the trial of a cause, civil or criminal, a jury shall be required, the said box shall be shaken so as to intermix the said papers; and thereupon the sheriff or clerk, or some other person, by the direction of the court, publicly and in open court, shall draw such papers from the said box, one at a time, until twelve persons, whose names are found written thereon, shall appear; and if any of the twelve persons so appearing shall be successfully challenged or be excused from serving on that jury, the said drawing shall be continued until twelve persons not thus challenged or excused shall appear; and such twelve being severally sworn or affirmed, shall constitute a jury for the trial of the said cause; and if by reason of challenges, or the default of jurors or otherwise, a sufficient number cannot be had of the jurors on the original panel to try the issue or cause, then either party may pray for, and the court shall award a *tales de circumstantibus*; (a) whereupon the sheriff or other proper officer shall summon such number of talesmen as may be necessary to complete the said jury, and make return thereof immediately; which talesmen shall be liable to the same challenges as the principal jurors; and if any talesman, when present, be called and shall not appear, or if he appear, shall wilfully withdraw from the court, then the said court may set a reasonable fine upon him, to be levied and made by distress and sale, in the manner prescribed by this act.

Tales when awarded.

Talesmen liable to challenge as principal jurors.

[See CRIMINAL PROCEDURE, § 72, for mode of selecting jury, when the defendant is entitled to twenty peremptory challenges].

22. SEC. 28. After the jury shall be selected and sworn or affirmed as aforesaid, the sheriff or other proper officer shall annex their names to the venire in the cause, and return the same as the panel of jurors summoned therein; but the trial of the cause may forthwith proceed in the same manner as if such return had already been made.

How venire returned.  
Ib. § 25.

23. SEC. 29. After a jury shall have been empaneled and sworn or affirmed for the trial of any cause, the clerk, sheriff or other proper officer shall, before another jury shall be drawn, replace in the said box all the papers which may have been drawn therefrom, except those containing the names of the jurors so empaneled and sworn or affirmed; but as soon as they shall have rendered a verdict, or be discharged therefrom by the court, their names shall also be replaced in the said box.

Names replaced in box.  
Ib. § 26.

24. SEC. 30. Whenever a struck jury shall have been returned for the trial of any cause, civil or criminal, a jury for the trial of such cause shall be selected from the persons whose names have been certified by the judge as the list of jurors, in the same manner, as near as may be, as is provided for the selection of a jury from the general panel.

How jury selected from struck jury.  
P. L. 1864, p. 390.

IV. Jury of view.

25. SEC. 31. In actions in the supreme court, or any circuit court, or court of common pleas, where it shall be proper or necessary that the jurors who are to try the issue should view the messuages, lands, or place in question, in order to their better understanding the evidence that will be given on the trial, the court, or a judge thereof, may order a special writ of *venire facias* to issue, by which the sheriff, or other officer to whom the same shall be directed, shall be commanded to have six or more of the first twelve of the jurors, named in the panel to such writ annexed, at the place in question, at a day therein named, prior to the first day of the court, who then and there shall have the matters in question shown to them by two persons in the said writ named, to be appointed by the court, or judge; and the sheriff or other officer who is to execute the said writ, shall, by a special return on the same, certify under his hand that the view hath been had according to the command of the said writ. (b)

Jury of view, process for.  
R. S. 965, § 12.  
Amended.

(a) The court may award a *tales*, though the jury be special and summoned from a remote county, *Den, Lee v. Evcut, Case 283, supra* § 16, (a). *Tales* awarded in a criminal case, *State v. Aaron, 1 South. 231*.  
(b) When a rule for a jury of view is once entered, it continues in force until the cause is tried, or the rule discharged, *Houston ads. Woodward, 2 Harr. 344*. If the

shewers have been obstructed there may be a special rule for the *posse comitatus*, *Den, Snyder v. Van Natta, 2 Hal. 25*. But it will not ordinarily be granted or on mere apprehension of interference, *Den v. Woodward, 1 South. 122*. *Query*. Whether the sheriff can take the jury over adjoining land not in dispute, *Ibid*.

View by struck jury.

Twelve jurors to attend.

P. L. 1864, p. 396.

Trial to proceed though no view had.

R. S. 965, § 12.

Expenses of view, &c.  
Ib. § 13.

Court may order view during trial of any cause, civil or criminal.

How conducted.

26. SEC. 32. Whenever a jury shall be struck for the trial of a civil cause, the court or judge by whom the order for a struck jury was made, may direct that a view be had of the lands or place in question; in which case the venire shall contain a clause of view, and the officer summoning such jury shall have twelve or more of the persons named in the list certified by the judge before whom such jury is struck, at said view, and the view shall in all respects be conducted as in case of an ordinary jury of view.

27. SEC. 33. When a view shall have been ordered under either of the last two preceding sections, the trial shall proceed notwithstanding no view shall be had; and no objection shall be made by either side for want of a view, or that a view was not had by any particular number of jurors named in the venire, or for want of a proper return to the writ.

28. SEC. 34. When a view shall be ordered, the expenses thereof shall be equally borne by both parties, and no evidence shall be given on either side at the time of taking thereof.<sup>(a)</sup>

29. SEC. 35. The court in which any cause of a criminal or civil nature is pending, may at any time after the jury for the trial of the same is drawn, or at any time during the trial, order that the jury empaneled for the trial thereof shall view any lands or place, if in the judgment of the court such view is necessary to enable the jury better to understand the evidence given in the cause, and such view shall thereupon be had in such manner as the court shall direct.

#### V. Foreign jury.

Supreme court may order.

R. S. 196, § 6.  
Amended.

Foreign juries in criminal cases.

Ib. § 16.  
Amended.

How venire directed and jurors selected.

Expense of summoning and returning such jury and of their attendance.

30. SEC. 36. The supreme court may, in its discretion, order trials by foreign juries in all cases, civil or criminal, which may have been commenced in that court, or may be removed to that court from any other court.

31. SEC. 37. The supreme court, whenever in their opinion a fair and impartial trial cannot be had before a jury of the proper county, may upon motion in behalf of the state, or on the part of any defendant or prisoner, order any indictment, found at any court of oyer and terminer and general jail delivery, or at any court of general quarter sessions of the peace, to be tried by a foreign jury in the court and county in which such indictment was found.

32. SEC. 38. Whenever a foreign jury shall be ordered, the order for a jury shall specify the number of jurors to be returned, and the venire shall be directed to the sheriff of the county from which such jury shall be taken, and shall be returnable to the circuit court in which the issue is triable; the jurors shall be selected in the same manner as the general panel of jurors is selected, and shall be such as are competent jurors for the county from which they are taken; and the expense of summoning and returning such jurors, and of their attendance at the court, shall be paid by the county within which such court shall be held.

#### VI. Challenges.

Interest as taxpayers not a ground of challenge.

P. L. 1849, p. 129.

Peremptory challenges in civil causes and by defendants on indictments.

R. S. 965, § 24.

P. L. 1869, p. 619.

33. SEC. 39. It shall not be a ground of exception or challenge to the array or to the polls, in any action wherein the board of chosen freeholders of any county, or the inhabitants of any township or city, are or may be parties to the record, or otherwise interested, that the sheriff, constable, or jurors or inhabitants of the county, township, or city, interested in such action, or liable to be taxed therein.

34. SEC. 40. Upon the trial of any issue in any civil suit or action in any court of this state, each party shall be entitled to challenge peremptorily, as their names are drawn from the box, three of the general panel of jurors summoned and returned by the sheriff or other officer; and upon the trial of any indictment where twenty peremptory challenges are not allowed, the defendant or defendants shall be entitled to challenge peremptorily, as their names are drawn from the box, three of the general panel of jurors summoned and returned by the sheriff or other officer.

[See CRIMINAL PROCEDURE, § 71].

(a) *Den, Miller v. Reed*, 1 South. 350.

35. SEC. 41. Upon the trial of any indictment, the attorney general or prosecutor of the pleas of the state shall be entitled to challenge peremptorily three of the panel of jurors summoned and returned for the trial thereof; and upon the trial of any indictment in cases where the defendant is entitled to twenty peremptory challenges, the attorney general or prosecutor of the pleas shall be entitled to challenge peremptorily, and without assigning any cause, ten of the jurors returned for the trial of such indictment.<sup>(a)</sup>

Peremptory challenges by the state.  
P. L. 1852, p. 32. Amended.

36. SEC. 42. Upon the trial of any civil cause or indictment, for which a struck jury shall be summoned and returned, three peremptory challenges shall be allowed, as in other cases.

Struck jury, peremptory challenges.  
P. L. 1871, p. 111.

37. SEC. 43. All challenges to the array or to individual jurors, for any cause whatever, shall be triable by the court.

Challenges tried by court.

VII. Exemptions from jury duty.

38. SEC. 44. No fireman shall be entitled to claim exemption from jury duty in any of the courts of this state, except courts for the trial of small causes, unless he shall give evidence of his enrollment in a fire company, in addition to the requirements of existing laws, by filing his name in the office of the clerk of the county in which he resides, with the title and location of said company, at least thirty days before the commencement of the term at which he may offer his excuse.

Names of exempt firemen to be filed in clerk's office.  
P. L. 1857, p. 242.

39. SEC. 45. The clerk of each county shall provide, at the expense of the county, a suitable book, which shall be entitled "The Firemen's Register," in which he shall arrange in alphabetical order the names thus filed in his office, the date of filing, and the name of the company to which each person belongs, and also the time when he ceased to be such exempted fireman, which information shall be furnished annually on the first day of January, by the chief officer of each company, by his sending to the clerk a certified list of those whose names have been taken off during the year; said book to be open for inspection without charge, for which services the clerk performing the same shall be entitled to demand and receive twenty-five cents from the person filing his name, before the same shall be marked filed or registered.

Clerk to keep register of names of firemen.

[Militia exempt. See title MILITIA, P. L. 1869, p. 274, Sec. 72].

[Telegraph operators exempt. P. L. 1862, p. 69].

Supplement.

Approved April 21, 1876. P. L. 1876, p. 360.

40. SEC. 1. That the fifth section of the act to which this is a supplement, which is in the following words, viz :

"5. *And be it enacted*, That no sheriff, coroner or other officer, or any deputy of such sheriff, coroner or other officer, shall directly or indirectly take, accept or receive any money or other reward or thing, to excuse any person from serving or being summoned or returned, on any jury or inquest, or under that color or pretence, on pain of forfeiting one hundred and fifty dollars for every such offence, the one moiety to the state, and the other moiety to any person who shall prosecute for the same, to be recovered with costs, by action of debt, in any court of record having cognizance of that sum;" be and the same is hereby amended so as to read as follows :

5. *And be it enacted*, That no sheriff, coroner or other officer, or any deputy of any sheriff, coroner or other officer, shall, directly or indirectly take, accept or receive any money or other reward or thing to summon or return, or to excuse any person from being summoned or returned, or from serving on any jury or inquest; and no sheriff, coroner or other officer shall summon or return any person who may have applied to him to be summoned or returned as a juror, on pain of forfeiting one hundred and fifty dollars for every such offence, the one moiety to go to the state, and the other moiety to any person who shall prosecute for the same, to be recovered with costs, by action of debt in any court of record having cognizance of that sum.

Officer not to take reward for excusing juror. Nor to summon any person who has applied.

41. SEC. 2. That the sixth section of the act to which this is a supplement, which reads as follows :

(a) See *Cook v. State*, 4 Zab. 843.

"6. *And be it enacted*, That every person summoned as a grand juror in any court of this state, and every petit juror returned for the trial of any action or suit of a civil or criminal nature, shall be a citizen of this state and resident within the county from which he shall be taken, and above the age of twenty-one and under the age of sixty-five years; and if any person, who is not so qualified, shall be summoned as a grand juror or as a juror on the trial of any such action in any of the courts of this state, it shall be good cause of challenge to such juror, who shall be discharged upon such challenge being verified according to law, or on his own oath or affirmation in support thereof; *provided*, that no exception to any such juror on account of his citizenship, or age, or any other legal disability, shall be allowed after he is sworn or affirmed," be and the same is hereby amended so as to read as follows:

Qualification of jurors.

6. *And be it enacted*, That every person summoned as a grand juror in any court of this state, and every petit juror returned for the trial of any action or suit of a civil or criminal nature, shall be a citizen of this state and resident within the county from which he shall be taken, and above the age of twenty-one and under the age of sixty-five years; and if any person, who is not so qualified, shall be summoned as a grand juror, or as a juror on the trial of any such action in any of the courts of this state, or if any person shall be summoned as a petit juror at any stated term of any court of this state, who has served as such at any of the three stated terms, next preceding that to which he may be summoned, it shall be good cause of challenge to any such juror, who shall be discharged upon such challenge being verified according to law, or on his own oath or affirmation in support thereof; *provided*, that no exception to any such juror on account of his citizenship, or age, or any other legal disability, shall be allowed after he has been sworn or affirmed.<sup>(a)</sup>

Proviso.

42. SEC. 3. That the seventh section of the act to which this is a supplement, which is in the following words, viz:

"7. *And be it enacted*, That it shall be the duty of the respective sheriffs of the several counties of this state, at their own expense, to procure every year a list of the names of the persons who, in their respective counties, are qualified to serve as jurors;" be and the same is hereby amended so as to read as follows:

Sheriff to procure list of persons qualified as jurors.

7. *And be it enacted*, That it shall be the duty of the respective sheriffs of the several counties of this state, (at their own expense), to procure every year a list of the names of the persons who, in their respective counties, are qualified to serve as jurors, with their places of abode by designating their respective townships and wards; said list to be made out and completed by the first day of January in each year, and kept in the respective offices of said sheriffs, open to the inspection of all persons who may wish to examine the same, without charge; and any sheriff who shall neglect or refuse to comply with any or all of the provisions of this section, shall forfeit the sum of five hundred dollars for every such offence, the one-half to be paid to the state, and the other half to any person who shall prosecute for the same; to be recovered with costs, by action of debt, in any court of record having cognizance of that sum.

43. SEC. 4. That the eighth section of the act to which this is a supplement, which is in the following words, namely:

"8. *And be it enacted*, That the summons of every grand or petit juror shall be made by the sheriff or his deputy, or by one of the coroners, when the venire shall be awarded to the coroners, either personally to, or in writing, under his hand, left at the dwelling house of such juror, six days at least before the day on which such juror is required to appear," be and the same is hereby amended so as to read as follows:

Jurors how summoned.

8. *And be it enacted*, That every grand and petit juror shall be summoned by the sheriff or his deputy, or by one of the coroners or elisors, when the venire shall be awarded to the coroners or elisors, by notice in writing, under his or their hands, and served either personally, or left at the dwelling house of such juror, six days at least before the day on which such juror is required to appear.

<sup>(a)</sup> A juror has no right to challenge himself although above the age of sixty-five he may be sworn by consent, good ground exists, *Den, Bickham v. Pissant, Coze* 220. If *Sutton v. Petty, 2 South. \*504.*



44. SEC. 5. That the thirteenth section of the act to which this is a supplement, which is in the following words, namely:

"13. *And be it enacted*, That it shall be the duty of every sheriff in this state, or in case of his death or disability, of the coroners of the respective counties, at least twenty days before the commencement of every circuit court, court of oyer and terminer and general jail delivery, common pleas and quarter sessions of the peace, to be holden in such county, at the office of the clerk of the said county, and in the presence of the said clerk, between the hours of ten o'clock in the forenoon and four o'clock in the afternoon, to select from among the residents of the county qualified to serve as jurors, the names of at least twice as many persons as he or the said coroners shall deem necessary to be summoned as jurors at the then next ensuing term of any of the aforesaid courts; and the names so selected shall be written on separate pieces of paper; which pieces of paper shall then be separately rolled up, concealing the name of each juror, and put into a box, and which, when so rolled up, shall be of the same size, color and shape, as nearly as may be; after which the said box shall be closed up and shaken in such a manner as to intermingle the pieces of paper, so as aforesaid rolled up and put therein; the box shall then be opened, and the said sheriff, coroners or clerk, or some person appointed by them for that purpose shall, in an open and public manner, in the presence of said officers, and of such other persons as may choose to be present on the occasion, between the hours aforesaid, draw out of the said box, as many pieces of paper as the number of jurors the said sheriff or coroners shall deem necessary to summon as aforesaid; and the several persons whose names shall be found written on the papers so drawn out, shall constitute the general panel of jurors, to be summoned and returned by the said sheriff or coroners to the next ensuing term of the said court; and the said sheriff, coroners or clerk shall make or cause to be made, two complete lists of the names so drawn, and certify the same under their hands, to be the panel of jurors selected to serve at such ensuing court or courts, one whereof shall be filed by the said clerk, and the other shall be delivered to the said sheriff or coroners," be and the same is hereby amended so as to read as follows:

13. *And be it enacted*, That it shall be the duty of each sheriff in this state, or in case of his death or disability, of the coroners of the respective counties, or elisors appointed by the court on the fourth Tuesday before the commencement of the regular term of any circuit court, court of oyer and terminer, and general jail delivery, common pleas and quarter sessions of the peace to be holden in each county, at the court house in each county, in the presence of the county clerk, and before the court of common pleas, which shall meet at the hour of ten o'clock in the forenoon of said day in open court, to select from among the residents of the county, qualified to serve as jurors, the names of at least twice as many persons as the said court shall deem necessary to be summoned as jurors at the next ensuing term of the aforesaid courts; and the names so selected shall be written on separate pieces of paper, which pieces of paper shall be separately folded so as to conceal the name of each juror, and put into a box; and which when so folded shall be of the same size, color and shape as nearly as may be, after which the said box shall be closed and shaken in such a manner as to intermingle the pieces of paper so folded, as aforesaid, and put therein, and the said sheriff, coroner, or elisors, or some person appointed by the court for that purpose, shall in an open and public manner, in the presence of the said clerk and court, and of such other persons as may choose to be present on the occasion, draw out of said box separately, as many of said papers as the number of jurors the said court shall deem necessary to summon as aforesaid; which names shall be publicly announced as drawn and transcribed by said clerk, as they are read by the person drawing them from the box; and the several persons whose names shall be so found written on the papers so drawn out, shall constitute the general panel of jurors to be summoned by the said sheriff, coroners or elisors at the next ensuing term of the said courts; and the sheriff, coroners, elisors or person appointed by the court as aforesaid, shall make or cause to be made, two complete lists of the names so drawn,

How general  
panel of jurors  
selected.

and certify the same under his or their hands, to be the panel of jurors selected to serve at such ensuing court or courts, and the judges of the said court of common pleas, or a majority of those present, shall also certify under their hands that the jurors named in the said lists were selected in all respects according to the provisions of this act, which said certificates shall be annexed to each of the said lists of jurors, one whereof shall then be filed by the said clerk in his office, and the other shall be delivered to the sheriff, coroners, or elisors; and if the judges of said court of common pleas, or a majority of those present at the time, shall not certify as required by this section, it shall be good ground for a challenge to the array of jurors.

45. SEC. 6. That the fourteenth section of this act shall read as follows, namely:

"14. *And be it enacted*, That in case of the death, disability, or absence of the clerk, any judge of the court of common pleas of such county may perform the duties directed to be performed by the clerk in the last preceding section; and one copy of the list of jurors drawn and certified by such judge and sheriff or coroners, shall be filed in the clerk's office of the county," be, and the same is hereby amended so as to read as follows:

In case of death,  
&c., of clerk  
judge of pleas  
to act.

14. *And be it enacted*, That in case of the death, disability or absence of the clerk, any judge of the court of common pleas of such county may perform the duties directed to be performed by the clerk in the last preceding section; and one copy of the list of jurors drawn and certified as directed in said section, shall be filed in the clerk's office of the county.

Repealer.

46. SEC. 7. That the act entitled "A supplement to an act entitled 'An act relative to jurors and verdicts,'" approved April seventeenth, one thousand eight hundred and forty-six; which said supplement was approved April fourth, eighteen hundred and seventy-three, and all other acts or parts of acts inconsistent with this act be and the same are hereby repealed.

## Justices of the Peace.

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| <ol style="list-style-type: none"> <li>1. How elected.</li> <li>2. Number ascertained.</li> <li>3. Officers of election.</li> <li>4. Vacancy, how supplied.</li> <li>5. Manner of conducting election.</li> <li>6. Statements of results.</li> <li>7. Commissioned by the governor.</li> <li>8. Where election for vacancy.</li> <li>9. Resignations to be to the governor.</li> <li>10. Bond required.</li> <li>11. How prosecuted.</li> <li>12. When bond filed.</li> <li>13. Penalty for acting before taking oath.</li> <li>14. May be voted for on same ballot as township officers.</li> </ol> | <ol style="list-style-type: none"> <li>15. Repealer and provisions as to certain cities.</li> <li>16. Compensation of election officers, etc.</li> <li>17. Mode of ascertaining number of justices for each township and ward.</li> <li>18. Time and manner of conducting elections.</li> <li>19. Manner of conducting election.</li> <li>20. Justice to report fines imposed and pay over same to county collector monthly.</li> <li>21. Fines heretofore imposed to be paid in thirty days.</li> <li>22. Penalty for failure to report and make payment.</li> <li>23. Fines not appropriated to any distinct use, payable to county collector.</li> </ol> |
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### An act relative to justices of the peace.

R. S. 829.

Approved April 17, 1846.

How elected.

1. That justices of the peace shall be elected by ballot, at the annual meetings of the townships and wards in the several counties of this state.

Number ascertained.

2. That in order to ascertain the number of justices of the peace which each township or ward may elect, at each annual meeting of the inhabitants thereof, the abstract of the last preceding census, as published by law, shall be conclusive evidence of the number of inhabitants in each township or ward. (See *Sec. 17*).

Officers of election.

3. That the judge of election elected at the previous town meeting, shall preside at and conduct the election; and the lawful voters present at the opening of the poll shall elect *viva voce*, a person being a lawful voter in the township, to be clerk of such election.