

Not to operate as a discharge of other defendants.

Proviso.

Proviso.

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 decree, or in case the judgment or decree shall not have been made up and recorded, then such satisfaction may be entered in the minutes of the court where such judgment or decree shall have been rendered or entered, and such acknowledgment of satisfaction heretofore or hereafter entered shall not operate as a release or discharge of said judgment or decree 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 or decree, 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 or decree 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 the chancellor or 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.]

A supplement to an act entitled "An act concerning judgments," approved March twenty-seventh, one thousand eight hundred and seventy-four.

P. L. 1887, p. 161.

Approved April 11, 1887.

Clerk of court to enter satisfaction upon record of judgments or decrees when execution is returned satisfied.

**32. SEC. 1.** That whenever any execution issued on any judgment or decree which may be a lien on real estate shall have been returned to the court out of which such execution issued by the sheriff of any county to whom such execution was directed, fully paid and satisfied, it shall be the duty of the clerk of the court out of which such execution issued and in whose office the same is on file, to enter an acknowledgment of satisfaction upon the record of any such judgment or decree, on the request of any party who shall produce to the said clerk proof that he is interested in any real estate which might be affected by any such judgment or decree, for which the clerk shall be entitled to receive twenty-five cents, to be paid by the party making such request.

## Juries.

1. Process for jury.
2. To what county awarded.
3. Fees of jurors.
4. Not discharged except by court.
5. Amended by section 46.
6. Amended by section 47.
7. Amended by section 48.
8. Amended by section 49.
9. Penalty for non-attendance.
10. Fines, how collected.
11. Vacancy in grand jury supplied.
12. Foreman of grand jury to swear witnesses and certify list of.

### I. OF THE GENERAL PANEL.

13. Amended by section 50.
14. Amended by section 51.
15. List of jurors to be laid before the court.
16. How general panel reduced.
17. How venire shall be executed by coroners and elisors.

### II. STRUCK JURIES.

18. Struck juries in civil and criminal cases.
19. After rule for struck jury, cause not to be tried by common jury.
20. Plaintiff to have preference on motion for.
21. Thirty days' notice of trial, if defendant has rule for struck jury.
22. Panel to be delivered to plaintiff twelve days before trial.
23. If cause not tried, new jury to be struck.
24. Amended by section 62.
25. Court or judge may order struck jury.
26. Who to pay fees for striking

### III. IMPANELING JURIES.

27. How jury selected from general panel. Tales and challenges.
28. How venire returned.
29. Names replaced in box.
30. How jury selected from struck jury.

IV. JURY OF VIEW.

- 31. Jury of view, process for.
- 32. View by struck jury.
- 33. Trial to proceed, though no view had.
- 34. Expenses of view, &c.
- 35. Court may order view during trial of any cause.

V. FOREIGN JURY.

- 36. Supreme court may order.
- 37. Foreign juries in criminal cases.
- 38. How venire directed and juries selected.

VI. CHALLENGES.

- 39. Interest as taxpayer not a ground of challenge.
- 40. Peremptory challenges, how many.
- 41. Peremptory challenges by state.
- 42. Peremptory challenges on trial by a struck jury.
- 43. Challenges tried by court.

VII. EXEMPTIONS FROM JURY DUTY.

- 44. Names of exempt firemen to be filed in clerk's office.
- 45. Clerk to keep register of names.

VIII. SUPPLEMENTS.

- 46. Officer not to take reward for excusing juror, nor summon any person applying.
- 47. Qualification of jurors.
- 48. Sheriffs to procure lists of persons qualified as jurors.
- 49. Jurors, how summoned.
- 50. How general panel of jurors selected.
- 51. In case of death of clerk, judge of pleas to act.
- 52. Repealer.
- 53. Circuit courts may order trials by foreign juries.
- 54. When challenges to jurors shall be made.

- 55. Repealer.
- 56. Who to select and draw juries when none have been selected as provided by law.
- 57. When lawful for justice of supreme court to direct what notice shall be given to jurors to attend, &c.
- 58. Repealer.
- 59. Compensation of grand jurors.
- 60. Defendants in all criminal cases entitled to at least ten peremptory challenges.
- 61. Repealer.
- 62. Proceedings on order for struck jury.
- 63. Superseded by section 60.
- 64. Peremptory challenges allowed prosecutor.
- 65. Mileage to be paid petit jurors in addition to per diem.
- 66. Manner of estimating distances.
- 67. Book of record and receipt kept by county clerk.
- 68. Repealer.

IX. MISCELLANEOUS ACTS.

- 69. Physicians exempt from jury duty.
- 70. Members of fire department serving seven years exempt from jury duty.
- 71. Board of chosen freeholders to fix salary of clerk of grand jury.
- 72. Salary of clerks of grand juries in counties of 100,000 or more.
- 73. Repealer.
- 74. Salary in counties of 75,000 and less than 100,000.
- 75. Repealer.
- 76. Clerk of grand jury to act as clerk to the prosecutor of the pleas in certain counties.
- 77. Repealer.
- 78. Clerk of grand jury, how appointed and term of office.
- 79. When court of oyer and terminer may appoint clerk of grand jury.
- 80. How salary paid.

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. 111.

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.

An act concerning juries.

Revision—Approved March 27, 1874.

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

5. [Amended by Sec. 46, *post.*]

6. [Amended by Sec. 47, *post.*]

7. [Amended by Sec. 48, *post.*]

8. [Amended by Sec. 49, *post.*]

9. That 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 offense was committed; and may be punished as for contempt of court. (a)

(a) In the justice's court, the only penalty laid upon a defaulting juror is a fine. *Rhinehart v. Lance*, 14 Vr. 318.

Fines, how collected.  
Ib., § 9.

10. That 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.

Vacancy in grand jury supplied.

11. That 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.

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

12. That 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.

13. [Amended by Sec. 50, *post.*]

14. [Amended by Sec. 51, *post.*]

List to be laid before court.  
R. S. 965, §§ 21, 22.  
Amended.

15. That 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, &c.

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

16. That 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)

Proviso.

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

17. That 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

(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. *Pater-son Gastight Co. v. Brady*, 3 *Dutch*, 215, 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.

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. (a)

**II. Struck juries.**

**18.** That 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. (b)

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

In civil actions affidavit required.

**19.** That 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.

**20.** That 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. (c)

Plaintiff to have preference on motion for.

**21.** That 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.

**22.** That 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 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.

Panel to be delivered to plaintiff twelve days before trial if defendant obtain struck jury. Amended.

**23.** That 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.

If cause not tried at next term new jury to be struck.

**24.** [Amended by Sec. 62, *post.*]

**25.** That 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.

Court or judge may order list to contain thirty-six names.

Nine to be struck by each party.

(a) 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.

(b) *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.

(c) Where there were two rules (before the statute) to strike juries before different judges, the plaintiff had the preference. *Denn v. Totem, Coxe* 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. *Fulter ads. Den, Saxton, Spen.* 61.

Who to pay fees  
for striking.  
R. S. 965, § 18.

**26.** That 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. Impaneling jury.

How jury selected  
from general  
panel.  
R. S. 965, §§ 23, 31.

**27.** That 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 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; (b) 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 willfully 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, Sec. 72, for mode of selecting jury, when the defendant is entitled to twenty peremptory challenges.]

How venire  
returned.  
Ib., § 25.

**28.** That 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.

Names replaced  
in box.  
Ib., § 26.

**29.** That after a jury shall have been impaneled 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 impaneled 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.

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

**30.** That 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.

(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 ads. Ogden*, 2 Hal. 122.

(b) The court may award a tales, though the jury be special and summoned from a remote county. *Den, Lee v. Ewaul, Cox* 233. Tales awarded in a criminal case. *State v. Aaron*, 1 South. 231.

(1) For mode of striking and expenses of a struck jury in the county of Essex, see P. L. 1868, p. 568.

IV. Jury of view.

31. That 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. (a)

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

32. That 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.

View by struck jury. Twelve jurors to attend. P. L. 1884, p. 396.

33. That 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.

Trial to proceed though no view had. R. S. 985, § 12.

34. That 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. (b)

Expenses of view, &c. Ib., § 13.

35. That 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 impaneled 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.

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

V. Foreign jury.

36. That 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.

Supreme court may order. R. S. 196, § 6. Amended.

37. That 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.

Foreign juries in criminal cases. Ib., § 16. Amended.

38. That 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;

How venire directed and jurors selected.

(a) 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 *Har.* 314. 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. *Ib.*

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

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

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.

Peremptory challenges by the state.

P. L. 1852, p. 32.  
Amended.

Struck jury, peremptory challenges.

P. L. 1871, p. 111.

Challenges tried by court.

**39.** That 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, constables or jurors are inhabitants of the county, township, or city, interested in such action, or liable to be taxed therein.

**40.** That 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. (a)  
[See CRIMINAL PROCEDURE, Sec. 71.]

**41.** That 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. (b)

**42.** That 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.

**43.** That all challenges to the array or to individual jurors, for any cause whatever, shall be triable by the court. (c)

## VII. Exemptions from jury duty.

Names of exempt firemen to be filed in clerk's office.

P. L. 1857, p. 242.

Clerk to keep register of names of firemen.

**44.** That no firemen 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.

**45.** That 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 exempt 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 per-

(a) See *Moschell v. State*, 24 Vr. 498.

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

(c) It is not good cause for challenge to the array that one of the jurors struck for the trial was dead, another an exempt fireman and another not regularly summoned. *Smith v. Smith*, 23

Vr. 207. A challenge to the array will not be sustained founded on the fact that in making up the jury-list before the pleas the assistant clerk, and not the clerk, who was sick, officiated ; for such function the assistant has full competency. *Stephens v. State*, 24 Vr. 245. See *Moschell v. State*, 24 Vr. 511.

forming 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.

[Militia exempt. See title National Guard, P. L. 1869, p. 274, § 72.]  
 [Officers, attendants and assistants of the New Jersey State Hospitals exempt. See title Lunatic Asylums, P. L. 1893, p. 212, § 18.]  
 [Telegraph operators exempt. See title Telegraph, Telephone and Electric Light Companies, P. L. 1862, p. 69.]  
 [See Secs, 69 and 70, *post.*]

**VIII. Supplements.**

**Supplement.**

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

**46. SEC. 1.** That the fifth section of the act to which this is a supplement, which is in the following words, viz. [see P. L. 1876, p. 360], be and the same is hereby amended so as to read as follows :

[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 offense, 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.

**47. SEC. 2.** That the sixth section of the act to which this is a supplement which reads as follows [see P. L. 1876, p. 360], be and the same is hereby amended so as to read as follows :

[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.](a)

Qualification of jurors.

Proviso.

**48. SEC. 3.** That the seventh section of the act to which this is a supplement, which is in the following words, viz. [see P. L. 1876, p. 360], be and the same is hereby amended so as to read as follows :

[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 offense, the

Sheriff to procure list of persons qualified as jurors.

(a) A juror has no right to challenge himself although good ground exists. *Den, Bickham v. Pissant, Cove 220.* If above the age of sixty-five he may be sworn by consent. *Sutton v. Petty, 2 South. \*504.* A struck juror is not a petit juror within the meaning of this section which makes service on a petit

juror within three previous stated terms of the court a ground of challenge. *Moschell v. State, 24 Vr. 498.* It is not a ground of exception that one of the talesmen is exempt from jury duty. That which exempts, but does not disqualify, is no cause for a challenge. *Patterson v. State, 19 Vr. 381.*

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.](a)

49. SEC. 4. That the eighth section of the act to which this is a supplement, which is in the following words, namely [see P. L. 1876, p. 360], be and the same is hereby amended so as to read as follows :

Jurors, how  
summoned.

[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.]

50. SEC. 5. That the thirteenth section of the act to which this is a supplement, which is in the following words, namely [see P. L. 1876, p. 360], be and the same is hereby amended so as to read as follows :

How general panel  
of jurors selected.

[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, 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.](b)

(a) A challenge to the array will not be sustained by proof that the sheriff neglected to procure and keep in his office, open to inspection, a list of the names of the persons qualified to serve as jurors. The provisions of this section are directory only. *Gardner v. State*, 26 Vr. 17.  
(b) The general panel of jurors for the term must be drawn in the presence of the court of common pleas. In Monmouth county, the presence of three judges is necessary to constitute

the court of common pleas. *Patterson v. State*, 19 Vr. 381. See *Gardner v. State*, 26 Vr. 20. It is sufficient for the judges to certify, generally, as required by the act, that the jurors were selected in all respects according to the provisions of the act, without a specification of the particulars of the proceedings. *Poulson v. Union Nat. Bank*, 11 Vr. 563. The provisions of this section are all merely directory, except that which requires the certificate of the judges. *Id.*

**51. SEC. 6.** That the fourteenth section of this act shall read as follows, namely [see P. L. 1876, p. 360], be, and the same is hereby amended so as to read as follows :

[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.]

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

**52. 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.

Repealer.

Supplement.

Approved April 2, 1884.

P. L. 1884, p. 123.

**53. SEC. 1.** That the circuit courts of the respective counties of this state may, in their discretion, order trials by foreign juries in all cases which have been or which shall hereafter be commenced in any of such courts.

Circuit courts may order trials by foreign juries.

Supplement.

Approved April 1, 1887.

P. L. 1887, p. 132.

**54. SEC. 1.** That from and after the passage of this act all challenges to jurors, for any cause whatever in any kind of a suit, civil or criminal, in all courts of this state, may be made at any time before the juror is actually sworn.

When challenges to jurors may be made.

**55. SEC. 2.** That all acts and parts of acts, whether local, general, special or private, inconsistent with this act, be and the same are hereby repealed, and that this act shall take effect immediately.

Repealer.

Supplement.

Approved March 14, 1889.

P. L. 1889, p. 54.

**56. SEC. 1.** That whenever for any reason a general panel of petit jurors shall not have been selected and drawn for any term of the courts of any county in the state at the time provided by law, it shall be lawful for the sheriff, or, in case of his death or disability, of the coroners of such county or elisors appointed by the court, at a day to be fixed by the justice holding the circuit court of such county, to select and draw such jury in the manner provided by law.

Who to select and draw jurors when none have been selected as provided by law.

**57. SEC. 2.** That in case there be not time to give to the jurors so drawn the notice to attend as jurors provided by law, or if for any cause such notice has not been or shall not be given to the jurors drawn in any county, it shall be lawful for the justice of the supreme court holding the circuit in such county to direct what notice shall be given, and notice given in accordance with his direction shall be legal and valid for all purposes.

When lawful for justice of supreme court to direct what notice shall be given to jurors to attend, &c.

**58. SEC. 3.** That all acts and parts of acts inconsistent with this act be and the same are hereby repealed, and that this act take effect immediately.

Repealer.

Supplement.

Approved March 25, 1889.

P. L. 1889, p. 86.

**59. SEC. 1.** That the grand jurors of the several counties of this state shall receive the same compensation, and shall be paid in the same manner, as the petit jurors of the several counties.

Compensation of grand jurors.

Supplement.

Approved February 16, 1891.

P. L. 1891, p. 24.

**60. SEC. 1.** That upon the trial of any indictment where twenty peremptory challenges are not allowed, the defendant or defendants shall be entitled to challenge peremptorily, at any time before the jury is sworn, ten

Defendants in all criminal cases entitled to at least ten peremptory challenges.

of the general panel of jurors summoned and returned by the sheriff or other officer. [Sec Sec. 63, *post.*]

Repealer.

**61. SEC. 2.** That all acts and parts of acts inconsistent herewith, be and the same are hereby repealed, and that this act shall take effect immediately.

**Supplement.**

Approved May 8, 1894.

P. L. 1894, p. 211.

**62. SEC. 1.** That the twenty-fourth section of the act to which this is a supplement be and the same is hereby amended so as to read as follows :

Proceedings on order for struck jury.

[That when an order shall be made for a struck jury, the sheriff of the proper county, or other officer who ought to impanel the jury in such a 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 one of the said names, and then the adverse party, his agent or attorney shall strike out another, and so on, alternately, until each 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 case; or the said judge may in his discretion permit either party to make a copy of said list so selected by him and postpone the actual striking of said jury until a future day to be fixed by him not less than five nor more than ten days from the day of selecting the said list, at which time the said parties or their agents, or such of them as may attend for that purpose, shall proceed to strike the said jury in the manner hereinabove directed, or as directed in the twenty-fifth section of this act, as the case may require; and then 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 aforesaid, the cause shall be tried by a common jury of the county, unless the court shall for some good cause determine otherwise.]

Notice.

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.

**A further act concerning juries, approved March twenty-seventh, eighteen hundred and seventy-four.(a)**

P. L. 1878, p. 284.

Approved April 4, 1878.

**63. SEC. 1.** [Superseded by Sec. 60, *ante.*]

(a) No contest has been made over the validity of this act, although its peculiar title may render its validity highly questionable. *Moschell v. State*, 24 Vr. 503.

**64. SEC. 2.** That upon the trial of any indictment, the attorney-general or prosecutor of the pleas of the state shall be entitled to challenge peremptorily, at any time before the jurors are sworn, six of the panel of jurors summoned and returned for the trial thereof.

Peremptory challenges allowed prosecutor.

A further supplement to the act entitled "An act relative to juries and verdicts," approved April seventeenth, one thousand eight hundred and forty-six.(1)

Approved March 29, 1892.

P. L. 1892, p. 345.

**65. SEC. 1.** That hereafter every person summoned to serve as a petit juror in the supreme court, the circuit courts, the courts of oyer and terminer and general jail delivery, the courts of common pleas and the courts of quarter sessions of the peace, who shall reside more than six miles from the court-house, shall be entitled once in each week, while engaged in attending court, in addition to the per diem allowance, to mileage at the rate of four cents per mile each way from the juror's residence and return thereto.

Mileage at four cents per mile each way to be paid petit jurors in addition to per diem.

**66. SEC. 2.** That the distance from the residence of the juror to the county court-house shall be counted by the most direct and usual route of travel between the two points, and that it shall be the duty of the presiding judge, aided by the lay judges and sheriff of the county, to estimate and determine such distances and enter the same opposite each juror's name on a suitable list to be prepared for the purpose by the sheriff, and to certify the same by his signature, to the county clerk, who shall file the same in his office.

Manner of estimating distances.

**67. SEC. 3.** That in a book suitably ruled, the county clerk shall record the names of jurors summoned, and the distance from his residence to the court-house, as certified by the presiding judge, and opposite his name the amount due him, and have such juror write his name opposite said amount as evidence of the receipt thereof, and that the county clerk shall be entitled to receive eight cents per name for recording the same; *provided*, that this act shall not apply to counties of the first class.

Book of record and receipt kept by county clerk.

Proviso.

**68. SEC. 4.** That all acts and parts of acts inconsistent with the provisions of this act be and the same are hereby repealed, and that this act shall take effect immediately.

Repealer.

### IX. Miscellaneous acts.

An act to regulate the selection of grand and petit jurors in this state.

Approved March 10, 1880.

P. L. 1880, p. 131.

**69. SEC. 1.** That hereafter regularly-licensed and practicing physicians in this state shall be exempt from liability to be drawn upon any panel of grand or petit jurors returned to any court in this state.

Physicians exempt from jury duty.

An act exempting firemen in cities from serving on juries.

Approved March 10, 1880.

P. L. 1880, p. 168.

**70. SEC. 1.** That any person who has served, or who shall have served, seven years consecutively as a member of the fire department of any city of this state which is authorized to organize and control a fire department, shall be thereafter exempt from serving as a juror; *provided*, he shall have filed in the office of the clerk of the county in which he shall reside, a certificate of such service, made by the chief of such fire department, or by the city clerk of such city.

Members of fire department serving seven years exempt from jury duty.

Proviso.

(1) The act to which this act purports to be a further supplement was repealed by the general repealer of 1875 to the Revision.

## An act concerning clerks of grand juries.

P. L. 1877, p. 164.

Approved March 9, 1877.

Board of chosen freeholders to fix salary of clerk of grand jury.

Proviso.

**71. SEC. 1.** That it shall be lawful for the board of chosen freeholders of any county of this state wherein clerks of grand juries are now allowed by law, to fix and determine the salary which shall be paid to the clerk of the grand juries of such county; *provided*, that in counties having by the census of the year one thousand eight hundred and seventy-five a population of less than fifty thousand inhabitants, it shall not exceed the sum of two hundred dollars per annum, and in counties having by said census a population exceeding fifty thousand and less than one hundred thousand inhabitants, it shall not exceed the sum of three hundred dollars per annum; and in counties having by said census a population of one hundred thousand or more inhabitants, it shall not exceed the sum of four hundred and fifty dollars per annum.

## Supplement.

P. L. 1887, p. 130.

Approved April 1, 1887.

Salary in counties of 100,000 or more.

**72. SEC. 1.** That the salary of the clerks of grand juries in all counties of this state having by the state census of one thousand eight hundred and seventy-five a population of one hundred thousand or more inhabitants shall be three hundred dollars per term of court and no more.

Repealer.

**73. SEC. 2.** That all acts and parts of acts inconsistent with the provisions of this act be and the same are hereby repealed, and this act shall be a public act and take effect immediately.

## Supplement.

P. L. 1889, p. 262.

Approved April 11, 1889.

Salary in counties of 75,000 and less than 100,000.

**74. SEC. 1.** That the salary of the clerks of grand juries in all counties of this state having by the state census of one thousand eight hundred and eighty-five a population of seventy-five thousand or more inhabitants and less than one hundred thousand inhabitants, shall be two hundred dollars per term of court, and no more.

Repealer.

**75. SEC. 2.** That all acts and parts of acts inconsistent with the provisions of this act be and the same are hereby repealed, and this act shall be a public act, and take effect immediately.

## Supplement.

P. L. 1893, p. 251.

Approved March 13, 1893.

Shall act as clerk to the prosecutor of pleas in certain counties.

**76. SEC. 1.** That the clerk of the grand jury of each of the juries in all counties of this state having, by the state census of one thousand eight hundred and eighty-five, a population of two hundred thousand or more inhabitants shall also act as clerk to the prosecutor of the pleas of such county and for such service as clerk of the grand jury and as clerk to the prosecutor of the pleas, shall receive a salary of eighteen hundred dollars per year and no more, and said salary shall be payable monthly, by the collector of the county.

Salary.

Repealer.

**77. SEC. 2.** That all acts or parts of acts inconsistent with the terms of this act be and the same are hereby repealed, and this act shall be a public act and take effect immediately.

## An act respecting the appointment of clerks of the grand juries in certain counties of this state.

P. L. 1882, p. 224.

Approved March 31, 1882.

Clerk of grand juries, how appointed and term of office.

**78. SEC. 1.** That in each and every county in this state having a clerk of the grand juries in such county, such clerk shall hereafter be appointed by the court of oyer and terminer of such county, under the seal of said court; and such clerk shall hold his office for the term of one year, unless sooner removed by said court.

An act to provide for the appointment of clerks of the grand jury in certain counties in this state.

Approved March 23, 1888. P. L. 1888, p. 211.

79. SEC. 1. That hereafter, upon the application of a majority of the board of chosen freeholders, it shall be lawful for the court of oyer and terminer in the counties of this state where there is no provision now made by law, to appoint a clerk for the grand jury, under the seal of the court, who shall hold his office for the term of one year, unless sooner removed by the court, the salary to be fixed by the court, but in no case to exceed the sum of one hundred dollars per year.

When court of oyer and terminer may appoint clerk of grand jury.

Term and salary.

80. SEC. 2. That the said salary of the said clerk shall be paid by the collector of the county, quarterly, upon the certificate of the prosecutor of the pleas.

How salary paid.

### Justices of the Peace.

1. How elected.
2. Number ascertained.
3. Officers of election.
4. Vacancy, how supplied.
5. Manner of conducting election.
6. Statements of results.
7. Commissioned by the governor.
8. Where election for vacancy.
9. Resignations to be to the governor.
10. Repealed by act of March 2d, 1849.
11. Bond required.
12. How prosecuted.
13. When bond filed.
14. Penalty for acting before taking oath.
15. May be voted for on same ballot as township officers.

16. Repealer and provisions as to certain cities.
17. Compensation of election officers, &c.
18. Mode of ascertaining number of justices for each township and ward.
19. Time and manner of conducting elections.
20. Amended by section 22.
21. When election for, not to be set aside.
22. Election of justices of the peace.
23. Justice to report fines imposed and pay over same to county collector monthly.
24. Fines heretofore imposed to be paid in thirty days.
25. Penalty for failure to report and make payment.
26. Fines not appropriated to any distinct use, payable to county collector.

An act relative to justices of the peace.

Approved April 17, 1846. R. S. 829.

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.

How elected.

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. 18, *post.*]

Number ascertained.

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.

Officers of election.

4. That in case of the neglect to serve, or the absence or other disability of the judge of election, or where no judge has been elected, the lawful voters present shall proceed to fill such vacancy in the manner provided in the foregoing section for the election of the clerk.

Vacancy supplied

5. That the election for justices of the peace shall be opened at the same time, and conducted in the same manner, and be subject to the same rules, as elections for state or county officers are or shall be, and the same qualifications of voters required as are required in the election of township officers; and the same duties shall devolve upon the judge of election and the clerk as are to be performed by the board of election and clerk in other elections; they shall take the same oath or affirmation, as far as applicable, be invested with the same powers, and be liable to the same penalties, and the result ascertained and stated in the same manner. [See Secs. 18 and 19, *post.*]

Manner of conducting election.