

MAINE STATE LEGISLATURE

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REVISED STATUTES

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THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA

Chapter 116.

Jury Commissioners. Jurors.

Former provisions construed. — See State v. Smith, 67 Me. 328 (time for issuing venire for grand jurors); State v. Albert, 125 Me. 325, 133 A. 693 (liable to service once in every three years); State v. Day, 79 Me. 120, 8 A. 544 (persons under 70 to be listed); State v. Wheeler, 64 Me. 532 (time of posting notices of meeting for drafting of jurors).

Sec. 1. Jury commissioners.—The chief justice of the supreme judicial court shall appoint in the several counties of the state 2 residents of each county who shall be jury commissioners within and for their respective counties and who shall serve for a term of 4 years from their appointment, subject to earlier removal at the pleasure of the chief justice. It shall be the duty of said jury commissioners to prepare a jury list, summon jurors for attendance at the several terms of the superior court in their respective counties and to revise said list as often as they may deem it necessary. (R. S. c. 103, § 1.)

Sec. 2. Salaries of jury commissioners.—The jury commissioners for the several counties shall each receive for their services the following sums per year, and expenses, viz.: Androscoggin, \$100; Aroostook, \$75; Cumberland, \$125; Franklin, \$50; Hancock, \$50; Kennebec, \$100; Knox, \$50; Lincoln, \$50; Oxford, \$50; Penobscot, \$100; Piscataquis, \$50; Sagadahoc, \$50; Somerset, \$50; Waldo, \$50; Washington, \$50; York, \$50.

Said salaries shall be paid by the respective counties in quarterly payments on the last day of each quarter, and their expenses shall be paid from time to time by the respective counties on bills approved by a justice of the superior court. (R. S. c. 103, § 7.)

Sec. 3. Vacancies.—If at any time one of the jury commissioners in any county shall die, resign or be removed or by reason of absence, sickness or other disability shall be unable to perform the duties of his office, the other jury commissioner for that county shall have all the powers and perform all the duties of the jury commissioners for that county until such vacancy shall have been filled by the chief justice or such absent or disabled jury commissioner shall resume the performance of the duties of his office. If such vacancy is filled by appointment by the chief justice, the appointment shall be only for the remainder of the term for which the jury commissioner, whose vacancy is to be filled, was originally appointed.

In filling the vacancy as provided in this section or in filling a vacancy created through the expiration of the term of office of any jury commissioner heretofore appointed, the chief justice shall appoint as said jury commissioners, from among the residents of said respective counties as heretofore provided, only those who do not hold a state or county office for which they receive a salary from the state or county. Should any jury commissioner during the tenure of his office accept any other state or county office, he shall forfeit the office of jury commissioner. (R. S. c. 103, § 8.)

Sec. 4. Preparation of lists of persons qualified to serve as jurors.—The municipal officers of the several cities, towns and plantations shall, on request, send forthwith to said jury commissioners in their respective counties a list of such persons only as are of good moral character, of approved integrity, of sound judgment and well-informed, and qualified as the constitution directs to vote for representatives in such town, with their full names, occupations and post-office addresses, whom they deem qualified for service as jurors. From the list received or from such persons as may be known personally or by reputation to the commissioners, said commissioners shall select persons who, in their judg-

ment, are deemed qualified for jury service, and the names of persons finally selected shall be placed on a list kept by said commissioners. A copy of said list shall be deposited with the clerks of courts for their respective counties and shall, at all times during business hours, be open to public inspection.

The list shall contain such a number of names of persons, male and female, qualified for jury service as the commissioners shall deem necessary.

In the selection of persons for jury service due regard shall be given to their mental, moral and physical fitness. Persons rejected by said commissioners shall not be placed on said jury list for a period of at least 3 years.

The commissioners may add names to such list as often as may be necessary to maintain the number herein provided. They may also drop from the list names of persons who, by reason of age, infirmity, death or other disability, could not reasonably be expected to serve as jurors if called, and shall drop therefrom names of persons engaged in the unlawful traffic in intoxicating liquors or who are known to be habitually addicted to the use of intoxicating liquors or who have been convicted of any scandalous crime or gross immorality. (R. S. c. 103, § 2.)

Sec. 5. Selection.—On receipt of written or verbal notice from the clerk or deputy clerk of courts of their respective counties designating the number of jurors required and date on which they are to report for duty, said commissioners shall forthwith select, by such method as will give a fair and just distribution according to population, a sufficient number of persons to perform jury service at the prospective term. Such selection shall be made with reasonable allowances for supernumeraries and for unforeseen causes of inability to attend. Summonses for those so elected shall be prepared by said commissioners and mailed by registered mail, postage prepaid, to each person selected at his regular place of abode. A returned registered receipt shall be sufficient evidence that additional jurors may in like manner be drawn and summoned at any time during a term of court by direction of the presiding justice, and they may be summoned to attend at such time as the court may direct. When, by reason of challenge or other cause, a sufficient number of jurors duly drawn and summoned cannot be obtained for the trial of a cause, the court shall cause jurors to be returned from the bystanders or from the county at large to complete the panel. Such jurors shall be returned by the sheriff or his deputy or such other disinterested person as the court appoints. Grand jurors shall be selected in like manner prior to the first term of the superior court to be held for the transaction of criminal business on or after the 1st day of September annually, and grand jurors shall serve at each criminal term during the year. When the number of grand jurors is reduced by death or otherwise, additional grand jurors may be selected and summoned under direction of the court at any time. (R. S. c. 103, § 3.)

A person competent to serve as a grand juror. *State v. Quimby*, 51 Me. 395.
traverse juror is competent to serve as

Sec. 6. Fine for failure to attend.—Any person summoned and in court as a juror shall, if satisfactory to the court, be competent to sit as a juror, and no verdict shall be attacked by reason of any irregularity or informality in selecting or summoning a juror. Any juror who, after being notified, unnecessarily fails in his attendance shall be fined as for contempt, not exceeding \$20. (R. S. c. 103, § 4.)

Sec. 7. Persons exempt from serving.—The following persons are exempt from serving as jurors and their names shall not be placed on the list: the governor, councilors, judges, clerks and deputy clerks of common-law courts, secretary and treasurer of state, all officers of the United States, judges and registers of probate, registers of deeds, settled ministers of the gospel, officers of

colleges, school teachers, physicians and surgeons, dentists, nurses, cashiers of incorporated banks, sheriffs and their deputies, counselors and attorneys at law, county commissioners, county treasurers and constables. Enginemen of fire departments shall also be excused from serving as jurors in any court, unless their towns otherwise decide. (R. S. c. 103, § 5. 1947, c. 139, § 1.)

Cross reference.—See c. 14, § 71, re persons in military service.

This directory provision is construed to create an exemption only. State v. Quimby, 51 Me. 395; State v. Albert, 125 Me. 325, 133 A. 693.

Which is a personal privilege and may be waived.—Exemption, not being a

disqualification, is a personal privilege of the person exempted, which he may waive, and if he does so, parties have no ground of complaint. State v. Wright, 53 Me. 328; State v. Day, 79 Me. 120, 8 A. 544.

And a postmaster, though exempt, was not disqualified to serve. State v. Quimby, 51 Me. 395; State v. Wright, 53 Me. 328.

Sec. 8. Fees.—Grand and traverse jurors attending the superior court and jurors attending on any other occasion prescribed by law shall be allowed \$8 a day for their attendance, and 8¢ a mile for their travel out and home, to be paid out of the county treasury. (R. S. c. 103, § 6. 1945, c. 193. 1953, c. 148.)

Not entitled to pay for days embraced in two weeks' recess.—See Snow v. Small, 129 Me. 485, 149 A. 808.

Payment for attendance on Sabbath.—

See Rowe v. Shaw, 56 Me. 306.

Quoted in Opinion of the Justices, 69 Me. 596.