

Nineteen Hundred Thirty-One
Supplement

to

Mason's Minnesota Statutes

(1927 thru 1931)

Containing the text of the acts of the 1929 and 1931 Sessions of the
Legislature, both new and amendatory, and notes showing repeals,
together with annotations from the various courts, state
and federal, construing the constitution, statutes,
charters and court rules of Minnesota



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CHAPTER 78

Juries

§9460. How drawn and summoned.

Laws 1929, c. 7, repeals Sp. Laws 1883, c. 314, as to making up jury lists in Washington county.

§9468. Selection of jurors.—The county board, at its annual session in January, shall select, from the qualified voters of the county, seventy-two persons to serve as grand jurors, and one hundred and forty-four persons to serve as petit jurors, and make separate lists thereof, which shall be certified and signed by the chairman, attested by the auditor, and forthwith delivered to the clerk of the district court. If in any county the board is unable to select the required number, the highest practicable number shall be sufficient. In counties where population exceeds ten thousand no person on such list drawn for service shall be placed on the next succeeding annual list, and the clerk shall certify to the board at its annual January session the names on the last annual list not drawn for service during the preceding year, nor shall any juror at any one term serve more than thirty days and until the completion of the case upon which he may be sitting; provided however that the Court may with the consent of any such juror or jurors and with the consent of any parties having matters for trial after such 30 day period has expired hold and use such jurors so consenting to try and determine any jury cases remaining to be tried at such term between parties so consenting. And in counties having two or more terms of court in one year, after the jurors have been drawn for any term of such court, the clerk shall strike from the original list the names of all persons who were drawn for such term, and notify the board thereof, which at its next session shall likewise select and certify an equal number of new names, which shall be added by such clerk to the names in the original list. If such list is not made and delivered at the annual meeting in January, it may be so made and delivered at any regular or special meeting thereafter. Whenever at any term there is an entire absence or deficiency of jurors whether from an omission to draw or to summon such jurors or because of a challenge to the panel or from

any other cause, the court may order a special venire to issue to the sheriff of the county, commanding him to summon from the county at large a specified number of competent persons to serve as jurors for the term or for any specified number of days, provided that before such special venire shall issue the jurors who have been selected by the county board and whose names are still in the box provided for in Section 9462 of said Mason's Minnesota Statutes, shall first be called and upon an order of the court the number of names required for such special venire shall be drawn from said box in the manner required by law and the jurors so drawn, shall be summoned by the sheriff as other jurors; and as additional jurors are needed successive drawings shall be ordered by the court until the names contained in said box have been exhausted. (As amended Feb. 13, 1929, c. 13; Apr. 20, 1931, c. 218.)

Where party to cause was member of jury panel it was error to deny continuance or the calling in of other jurors not on panel. 179M557, 230NW91.

Statute contemplates the striking of the names drawn without regard to actual service. Op. Atty. Gen., April 30, 1931.

§9469-1. Juries in certain cities.—In all counties of this state now or hereafter having a population of more than 400,000 the jury in civil actions shall consist of six persons; provided, that any party may have the right to increase the number of jurors to twelve by paying to the clerk a jury fee of two dollars at any time before the trial commences. Failure to pay such jury fee shall be deemed a waiver of a jury of twelve. (As amended Apr. 18, 1929, c. 236, §1.)

§9469-2. Same—Jury of six.

The text of this and the next succeeding section is reenacted by Laws 1929, c. 236, but the title of the act purports to amend "section 1, chapter 345, Laws of 1927," set forth ante as §9469-1. Inasmuch as no change is made in sections 2 and 3, except that the closing words of section 2 are "the jury," instead of "a jury," the insufficiency of the title is probably immaterial.

§9469-3. Same—Challenges.

See note under §9469-2.

CHAPTER 79

Costs and Disbursements

§9470. Agreement as to fees of attorney—Etc.**10. Contract with attorney.**

Burden was upon attorney to prove that his services were rendered under circumstances from which a promise to pay should be implied. Erts-gaard v. B., 237NW1. See Dun. Dig. 702(93).

§9471. Costs in district court.**1. Who prevailing party.**

173M559, 218NW730.

6. See in general.

A party who succeeds and is awarded and

paid his taxable costs and disbursements has no further claim against his adversary for attorney's fees and expenses in excess of taxable costs. 181M322, 232NW515. See Dun. Dig. 2194(4).

§9473. Disbursements—Taxation and allowance.

173M559, 218NW730.

§9478. Taxation—Objections and Appeal.**1. Time.**

Costs cannot be taxed and judgment entered where a verdict has been vacated and a new trial granted. 178M232, 226NW700.