CHAPTER 631

TRIAL; JUDGMENT, SENTENCE

631.01 ISSUES OF FACT; HOW TRIED; APPEARANCE IN PERSON. An issue of fact arises upon a plea of not guilty, or upon a plea of former conviction or acquittal of the same offense. Except where defendant waives a jury trial, every issue of fact shall be tried by a jury of the county in which the indictment was found or information filed, unless the action shall have been removed by order of court as provided in sections 627.01 to 627.04. If the defendant shall waive a jury trial, such waiver shall be in writing signed by him in open court after he has been arraigned and has had opportunity to consult with counsel and shall be filed with the clerk. Such waiver may be withdrawn by the defendant at any time before the commencement of the trial. If the charge against the accused be a misdemeanor, the trial may be had in the absence of the defendant, if he shall appear by counsel; but, if it be for a felony or gross misdemeanor, he shall be personally present.

[R. L. s. 5358; 1935 c. 194 s. 2] (10705)

631.02 CONTINUANCE; DEFENDANT COMMITTED, WHEN. When an indictment shall be called for trial, or at any time previous thereto, upon sufficient cause shown by either party, the court may direct the trial to be postponed to another day in the same term, or to another term, and all affidavits read upon the application shall be filed with the clerk at the same time. When a defendant who has given bail shall appear for trial, the court may, in its discretion, at any time after such appearance, order him committed to the custody of the proper officer of the county, to abide the judgment or further order of the court.

[R. L. s. 5359] (10706)

631.03 JOINT INDICTMENT, SEPARATE TRIAL. When two or more defendants shall be jointly indicted for a felony, any defendant who shall require it shall be tried separately. In other cases defendants jointly indicted may be tried jointly or separately, in the discretion of the court, and any one or more may be convicted or acquitted.

[R. L. s. 5360] (10707)

631.04 EXCLUDING MINORS; DUTY OF OFFICER; PENALTY. No person under the age of 17 years, not a party to, witness in, or directly interested in a criminal prosecution or trial being heard before any district, municipal, police, or justice court, shall attend or be present at such trial; and every police officer, constable, sheriff, or other officer in charge of any such court and attending upon the trial

of any such criminal case in any such court, shall exclude from the room in which such trial is being had every such minor, except when he is permitted to attend by order of the court before which the trial shall be had; and every police officer, constable, sheriff, or deputy sheriff who shall knowingly neglect or refuse to carry out the provisions of this section shall be guilty of a misdemeanor, and punished by a fine of not less than $10.00, nor more than $25.00.

[*R. L. s. 5361*] *(10708)*

631.05 JUROR MAY TESTIFY, WHEN; VIEW. If a juror has any personal knowledge respecting a fact in controversy in a cause, he shall declare it in open court during the trial; if, during the retirement of a jury, a juror shall declare a fact, which could be evidence in the cause, as of his own knowledge, the jury shall return into court; and in either of these cases the juror making the statement shall be sworn as a witness and examined in the presence of the parties. The court may order a view by any jury impaneled to try a criminal case.

[*R. L. s. 5362*] *(10709)*

631.06 QUESTIONS OF LAW AND FACT, HOW DECIDED. On the trial of an indictment for any offense, questions of law shall be decided by the court, except in cases of libel, saving the right of the defendant to except, and questions of fact by the jury; and, although the jury may find a general verdict which shall include questions of law as well as of fact, it shall receive as law what shall be laid down by the court as such.

[*R. L. s. 5363*] *(10710)*

631.07 ORDER OF ARGUMENT. When the evidence shall be concluded upon the trial of any indictment, unless the cause shall be submitted on either or both sides without argument, the plaintiff shall commence and the defendant conclude the argument to the jury.

[*R. L. s. 5364*] *(10711)*

631.08 CHARGE OF COURT. In charging the jury the court shall state to it all matters of law which it thinks necessary for its information in rendering a verdict and, if it shall present the facts of the case, shall, in addition, inform the jury that it is the exclusive judge of all questions of fact.

[*R. L. s. 5365*] *(10712)*

631.09 JURY; HOW AND WHERE KEPT WHILE DELIBERATING; SEPARATE ACCOMMODATIONS FOR WOMEN JURORS. After hearing the charge the jury may either decide in court, or retire for deliberation, if it shall not agree without retiring, one or more officers shall be sworn to take charge of it, and it shall be kept together in some private and convenient place, without food or drink except water, unless otherwise ordered by the court, and no person shall be permitted to speak to or communicate with it or any one of its number unless by order of court, nor listen to the deliberations; and it shall be returned into court when agreed, or when so ordered by the court. In case of mixed juries counties shall provide adequate, separate quarters for women jurors with proper accommodations and, in the event the county shall so fail to provide such proper accommodations, the court shall order such women jurors kept in a suitable hotel for the night.

This section shall apply only in cases where the jury has failed to agree.

[*R. L. s. 5366; 1927 c. 210 ss. 1, 2*] *(10713) (10713-1)*

631.10 WHAT PAPERS MAY GO TO JURY ROOM. Upon retiring for deliberation, the jury may take all papers which have been received as evidence in the cause, or copies of such parts of public records or private documents given in evidence as ought not, in the opinion of the court, to be taken from the person having them in possession. It may also take with it notes of the testimony or other proceedings on the trial taken by one of its number, but none taken by any other person.

[*R. L. s. 5367*] *(10714)*

631.11 JURY MAY RETURN INTO COURT FOR INFORMATION. After the jury has retired for deliberation, if there shall be a disagreement as to any part of the testimony, or a desire for information upon any point of law arising in the cause, it may require the officer to conduct it into court. Upon being brought into court, the information required shall be given in the presence of, or after notice to, the prosecuting officer and the defendant or his counsel.

[*R. L. s. 5368*] *(10715)*

631.12 DISCHARGE OF JURY WITHOUT VERDICT. If, after the retirement of the jury, one of the jurors shall become so sick as to prevent the continuance of his duty, or if the jury shall be unable to agree upon a verdict, or any other accident or cause shall occur to prevent the jury being kept together for deliberation, it may be discharged by the court.

[*R. L. s. 5369*] *(10716)*

631.13 SECOND TRIAL. In all cases where a jury shall be discharged or prevented from giving a verdict by reason of accident, disagreement, or other cause, except when the defendant shall be discharged from the indictment during the progress of the trial, or after the cause shall be submitted to it, the cause may be again tried at the same or another term.

[*R. L. s. 5370*] *(10717)*

631.14 VERDICT FOR LESSER OFFENSE. Upon an indictment for an offense consisting of different degrees, the jury may find the defendant not guilty of the degree charged in the indictment, and guilty of any degree inferior thereto; upon an indictment for any offense, the jury may find the defendant not guilty of the commission thereof, and guilty of an attempt to commit the same; upon an indictment for murder, if the jury shall find the defendant not guilty thereof, it may, upon the same indictment, find the defendant guilty of manslaughter in any degree. In all other cases, the defendant may be found guilty of any offense, the commission of which is necessarily included in that with which he is charged in the indictment.

[*R. L. s. 5371*] *(10718)*

631.15 VERDICT AS TO SOME DEFENDANTS, AND DISAGREEMENT AS TO OTHERS. On an indictment against several, if the jury cannot agree upon a verdict as to all, it may render a verdict as to those in regard to whom it does agree, on which a judgment shall be entered accordingly; and the case as to the rest may be tried by another jury.

[*R. L. s. 5372*] *(10719)*

631.16 POLLING JURY; FURTHER DELIBERATION, WHEN. When a verdict shall be rendered, and before it is recorded, the jury may be polled on request of either party, in which case each member thereof shall be asked whether it is his verdict; and, if any one shall answer in the negative, the jury shall be sent out for further deliberation.

[*R. L. s. 5373*] *(10720)*

631.17 RECEPTION OF VERDICT. When a verdict such as the court may receive shall be returned, the clerk shall immediately record it in full upon the minutes, read it to the jury, and inquire of the jurors if it is their verdict. If any juror shall disagree, that fact shall be entered upon the minutes, and the jury again sent out; but, if no disagreement is expressed, the verdict shall be complete, and the jury be discharged from the case.

[*R. L. s. 5374*] *(10721)*

631.18 INSANITY OF DEFENDANT. When any person under indictment or information, and before or during the trial thereon and before verdict is rendered, shall be found to be insane, an idiot, or an imbecile, the court in which such indictment or information is filed shall forthwith commit him to the proper state hospital or asylum for safe-keeping and treatment; and when at such time any such person shall, in addition, be found to have homicidal tendencies, such court shall forthwith commit him to the asylum for the dangerous insane for safe-keeping and treatment; and in either case the person shall be received and cared for at the institution to which he is thus committed until he shall recover, when he shall be returned to the court from which he was received to be placed on trial upon such indictment or information.

[*R. L. s. 5375; 1907 c. 358 s. 1*] *(10722)*

631.19 ACQUITTAL ON GROUND OF INSANITY; COMMITMENT; RELEASE. When, during the trial of any person on an indictment or information, such person shall be found to have been, at the date of the offense alleged in the indictment, insane, an idiot, or an imbecile and is acquitted on that ground, the jury or the court, as the case may be, shall so state in the verdict, or upon the minutes, and the court shall thereupon, forthwith, commit such person to the proper state hospital or asylum for safe-keeping and treatment; and when, in the opinion of such jury or court, such person, at such date, had homicidal tendencies, the same shall also be stated in the verdict or upon the minutes, and the court

shall thereupon, forthwith, commit such person to the hospital for the dangerous insane for safe-keeping and treatment; and in either case such person shall be received and cared for at such hospital or asylum to which he is thus committed.

The person so acquitted shall be liberated from such hospital or asylum upon the order of the court committing him thereto, when there is presented to the court the certificate, in writing, of the superintendent of the hospital or asylum where such person is confined, certifying that in the opinion of such superintendent such person is wholly recovered and that no person will be endangered by his discharge.

If the superintendent of the hospital or asylum fails or refuses to furnish such certificate at the request of the person committed, then such person may petition such court for his release, and hearing on the petition shall be had before the court upon and after service of such notice as the court shall direct.

If, at such hearing, the evidence introduced convinces the court that the person so confined has wholly recovered and that no person will be endangered by his discharge, then the court shall order his discharge and release from such hospital or asylum, and he shall then be so discharged and released.

If, at such hearing, the evidence introduced convinces the court that such person has not wholly recovered, but that no person will be endangered by his release on parole from such hospital or asylum, and a proper and suitable person is willing to take such committed person on parole, and to furnish a home for him and care for and support him, and furnishes a satisfactory bond in such amount and with such terms and conditions as the court may fix, then the court may order the release of such confined person from such hospital or asylum on parole and for such time and upon such terms and conditions as the court may determine and order, and thereupon such person shall be so released from such hospital or asylum and placed on parole with the person named by the court in its order.

Nothing herein shall be construed as preventing the transfer of any person from one institution to another by the order of the director of social welfare as he may deem necessary.

[R. L. s. 5376; 1907 c. 358 s. 1; 1931 c. 364] (10723)

631.20 HEARING ON PUNISHMENT. After a plea or verdict of guilty, in a case where a discretion is conferred upon the court as to the extent of the punishment, the court, upon the suggestion of either party that there are circumstances which may be properly taken into view, either in aggravation or mitigation of the punishment, may, in its discretion, hear the same summarily, at a specified time, and upon such notice to the adverse party as it may direct. Such circumstances shall be presented by the testimony of witnesses examined in open court.

[R. L. s. 5377] (10724)

631.21 DISMISSAL OF CAUSE; RECORD OF REASONS FOR. The court may, either of its own motion or upon the application of the prosecuting officer, and in furtherance of justice, order any criminal action, whether prosecuted upon indictment, information, or complaint, to be dismissed; but in that case the reasons for the dismissal shall be set forth in the order, and entered upon the minutes, and the recommendations of the prosecuting officer in reference thereto, with his reasons therefor, shall be stated in writing and filed as a public record with the official files of the case.

[R. L. s. 5378; 1927 c. 296] (10725)

CHALLENGING JURORS

631.22 CHALLENGES CLASSIFIED; DEFENDANTS MUST JOIN. A challenge is an objection made to a trial jury, and is of two kinds:

(1) To the panel;

(2) To an individual juror.

When several defendants are tried together, they cannot sever the challenge, but shall join therein.

[R. L. s. 5382] (10729)

631.23 CHALLENGE TO PANEL. A challenge to the panel is an objection made to all the petit jurors returned, and may be taken by either party. It can be founded only on a material departure from the forms prescribed by law in respect to the drawing and return of the jury, and shall be taken before a jury is sworn,

and be in writing, specifying plainly and distinctly the facts constituting the ground of challenge.

[*R. L. s. 5383*] *(10730)*

631.24 EXCEPTION TO CHALLENGE. If the sufficiency of the facts alleged as a ground for challenge shall be denied, the adverse party may except to the challenge. The exception need not be in writing, but shall be entered upon the minutes of the court, and thereupon the court shall proceed to try the sufficiency of the challenge, assuming the facts alleged therein to be true. If on the exception the court shall deem the challenge sufficient, it may, if justice requires it, permit the party excepting to withdraw his exception and deny the facts alleged in the challenge; if the exception is allowed, the court may in like manner permit an amendment of the challenge.

[*R. L. s. 5384*] *(10731)*

631.25 DENIAL OF CHALLENGE; PROCEEDINGS. If the challenge is denied, the denial may in like manner be oral, and shall be entered upon the minutes of the court, and the court shall proceed to try the question of fact. Upon the trial of the challenge, the officers, whether judicial or ministerial, whose irregularity is complained of, as well as any other persons, may be examined to prove or disprove the facts alleged as the ground of the challenge. Before a juror is called, the defendant shall be informed by the court, or under its direction, that, if he intends to challenge an individual juror, he shall do so when the juror appears, and before he is sworn.

[*R. L. s. 5385*] *(10732)*

631.26 CHALLENGE TO INDIVIDUAL JUROR. A challenge to an individual juror is either peremptory, or for cause. It shall be taken when the juror appears, and before he is sworn; but the court, for good cause, may permit it to be taken after he is sworn, and before the jury is completed. Before challenging a juror, either party may examine him in reference to his qualification to sit as a juror in the cause.

[*R. L. s. 5386*] *(10733)*

631.27 PEREMPTORY CHALLENGE. A peremptory challenge can be taken either by the state or the defendant, and may be oral. It is an objection to a juror for which no reason need be given, but upon which the court shall exclude him. If the offense charged be punishable by death, or by imprisonment in the state prison for life, the state shall be entitled to ten, and the defendant to 20, peremptory challenges. On a trial for any other offense the state shall be entitled to three, and the defendant to five, peremptory challenges.

[*R. L. s. 5387*] *(10734)*

631.28 CHALLENGE FOR CAUSE. A challenge for cause is an objection to a particular juror, and is either:

(1) General, that the juror is disqualified from serving in any case; or

(2) Particular, that he is disqualified from serving in the case on trial.

Such challenge may be taken either by the state or by the defendant.

[*R. L. s. 5388*] *(10735)*

631.29 GENERAL CAUSES OF CHALLENGE. General causes of challenge are:

(1) A conviction for a felony;

(2) A want of any of the qualifications prescribed by law to render a person a competent juror; and

(3) Unsoundness of mind, or such defect in the faculties of the mind, or organs of the body, as renders him incapable of performing the duties of a juror.

[*R. L. s. 5389*] *(10736)*

631.30 PARTICULAR CAUSES OF CHALLENGE. Particular causes of challenge are of two kinds:

(1) For such bias as, when the existence of the facts is ascertained, in judgment of law disqualifies the juror, and known as implied bias; and

(2) For the existence of a state of mind on the part of the juror, in reference to the case or to either party, which satisfies the triers, in the exercise of a sound discretion, that he cannot try the issue impartially and without prejudice to the substantial rights of the party challenging, and known as actual bias.

[*R. L. s. 5390*] *(10737)*

631.31 CAUSES OF CHALLENGE FOR IMPLIED BIAS. A challenge for implied bias may be taken for all or any of the following causes, and for no other:

(1) The consanquinity or affinity, within the ninth degree, to the person alleged to be injured by the offense charged, or to the person on whose complaint the prosecution was instituted, or to the defendant, or to any one of the attorneys either for the prosecution or for the defense;

(2) Standing in relation of guardian and ward, attorney and client, master and servant, landlord and tenant, or being a member of the family of the defendant, or of the person alleged to be injured by the offense, or on whose complaint the prosecution was instituted, or in his employment on wages;

(3) Being a party adverse to the defendant in a civil action, or having complained against, or been accused by him, in a criminal prosecution;

(4) Having served on the grand jury which found the indictment, or on a coroner's jury which inquired into the death of the person whose death is the subject of the indictment;

(5) Having served on a trial jury which has tried another person for the offense charged in the indictment;

(6) Having been one of a jury formerly sworn to try the same indictment, and whose verdict was set aside, or which was discharged without a verdict after the cause was submitted to it;

(7) Having served as a juror in a civil action brought against the defendant for the act charged as an offense;

(8) If the offense charged is punishable by death, the entertaining of such conscientious opinions as would preclude his finding the defendant guilty, in which case he shall neither be permitted nor compelled to serve as a juror.

[*R. L. s. 5391*] *(10738)*

631.32 CHALLENGE FOR ACTUAL BIAS. A challenge for actual bias may be taken for the cause mentioned in section 631.30, clause (2), and for no other cause; provided, that during the examination of a juror, the trial court may, in its discretion, exclude from the court room all other jurors upon the panel.

[*R. L. s. 5392; 1913 c. 53 s. 1*] *(10739)*

631.33 EXEMPTION FROM JURY DUTY A PRIVILEGE. Exemption from service on a jury shall not be a cause of challenge, but the privilege of the person exempted.

[*R. L. s. 5393*] *(10740)*

631.34 CHALLENGE; STATEMENT OF CAUSE; EXCEPTION. In a challenge for implied bias, one or more of the causes stated in section 631.31 shall be alleged; in a challenge for actual bias, the cause stated in section 631.30, clause (2), shall be alleged; in either case the challenge may be oral, but shall be entered upon the minutes of the court. The adverse party may except to the challenge in the same manner as to a challenge to a panel, and the same proceedings shall be had thereon as prescribed in sections 631.23 and 631.24, except that, if the challenge be sustained, the juror shall be excluded. The adverse party may also orally deny the facts alleged as the ground of challenge.

[*R. L. s. 5394*] *(10741)*

631.35 TRIAL OF CHALLENGE; TRIERS; APPOINTMENTS; COMPENSATION. If the facts are denied, the challenge shall be tried as follows:

(1) For implied bias, by the court;

(2) For actual bias, by triers, unless, in cases not capital, the parties shall consent to trial by the court.

The triers shall consist of three impartial persons, not on the jury panel, appointed by the court. Every challenge for actual bias shall be tried by such triers, a majority of whom shall decide. They shall be sworn generally to inquire whether or not the challenges for actual bias against the several persons who may be challenged are true, and that they will decide the same according to the evidence. Each trier shall be allowed for his services such amount, not less than $5.00, nor more than $10.00, per day, as the presiding judge shall determine, which shall be paid in the same manner as jurors are paid for their services.

[*R. L. s. 5395*] *(10742)*

631.36 CHALLENGED JUROR EXAMINED; EVIDENCE. Upon the trial of a challenge to an individual juror, he may be examined as a witness to prove or disprove the challenge, and is bound to answer every question pertinent to the inquiry and, when challenged on the ground that he is not a citizen of the United States, his own testimony shall be competent evidence of the fact of naturalization, without other evidence; but his testimony may be disputed by the challenger. Other

witnesses may also be examined on either side, and the rules of evidence applicable to the trial of other issues shall govern the admission or exclusion of testimony on the trial of the challenge.

[*R. L. s. 5396*] *(10743)*

631.37 COURT TO DETERMINE IMPLIED BIAS. On the trial of a challenge for implied bias, the court shall determine the law and the fact, and either allow or disallow the challenge, and direct an entry accordingly upon the minutes.

[*R. L. s. 5397*] *(10744)*

631.38 ACTUAL BIAS; INSTRUCTION TO TRIERS; DECISION; EFFECT. On the trial of a challenge for actual bias, when the evidence is concluded, the court shall instruct the triers that it is their duty to find the challenge true if the evidence establishes the existence of a state of mind on the part of the juror in reference to the case, or to either party, which satisfies them, in the exercise of a sound discretion, that he cannot try the issue impartially and without prejudice to the substantial rights of the party challenging; and that, if otherwise, they shall find the challenge not true. The court can give them no other instruction. The triers shall thereupon find the challenge either true or not true, and their decision shall be final. If they find it true, the juror shall be discharged.

[*R. L. s. 5398*] *(10745)*

631.39 CHALLENGES; IN WHAT ORDER TAKEN. Every challenge to an individual juror shall be taken first by the defendant, and then by the state; and each party shall exhaust all his challenges of such juror before the other shall begin. The challenges of either party need not all be taken at once, but may be taken separately in the following order, including in each challenge all the causes of challenge belonging to the same class:

(1) To the panel;
(2) To an individual juror for a general disqualification;
(3) To an individual juror for implied bias;
(4) To an individual juror for actual bias.

[*R. L. s. 5399*] *(10746)*

JUDGMENTS AND EXECUTION THEREOF

631.40 JUDGMENT ON CONVICTION; JUDGMENT ROLL. When judgment upon a conviction shall be rendered, the clerk shall enter the same upon the minutes, stating briefly the offense for which the conviction was had, and immediately annex together and file the following papers, which constitute the judgment roll:

(1) A copy of the minutes of challenge interposed by the defendant to the panel of the grand jury, or to an individual grand juror, and the proceedings and decisions thereon;
(2) The indictment and a copy of the minutes of the plea or demurrer;
(3) A copy of the minutes of any challenge interposed to the panel of the trial jury or to an individual juror, and the proceedings and decision thereon;
(4) A copy of the minutes of the trial;
(5) A copy of the minutes of the judgment;
(6) The bill of exceptions, if there be one.

[*R. L. s. 5410*] *(10757)*

631.41 CLERK TO DELIVER TRANSCRIPT TO SHERIFF. When any person convicted of an offense shall be sentenced to pay a fine or costs, or to be imprisoned in the county jail or the state prison, the clerk of the court shall, as soon as may be, make out and deliver to the sheriff or his deputy a transcript from the minutes of the court of such conviction and sentence, duly certified by such clerk, which shall be a sufficient authority for the sheriff to execute such sentence; and he shall execute the same accordingly.

[*R. L. s. 5411*] *(10758)*

631.42 FORM OF SENTENCE TO STATE PRISON. In every case in which punishment in the state prison shall be awarded against any convict, the form of the sentence shall be that he be punished by confinement at hard labor; and, when practicable, his term of imprisonment shall be so fixed as to expire between April first and November first.

[*R. L. s. 5413*] *(10759)*

631.43 SENTENCE WHEN PUNISHMENT NOT PRESCRIBED. When no punishment shall be provided by statute, the court shall award such sentence as, in view of the degree and aggravation of the offense, shall not be cruel, unusual, or repugnant to the constitutional rights of the party.

[*R. L. s. 5414*] *(10760)*

631.44 RECOGNIZANCE TO KEEP PEACE. Every court before whom any person shall be convicted upon an indictment for any offense not punishable by death or imprisonment in the state prison or county jail, in addition to the punishment prescribed by law, may require such person to recognize, with sufficient sureties, in a reasonable sum, to keep the peace and be of good behavior for any term not more than two years, and to stand committed until he shall so recognize.

[*R. L. s. 5415*] *(10761)*

631.45 RECOGNIZANCE TO KEEP PEACE; BREACH. In case of the breach of the conditions of any such recognizance, the same proceedings shall be had that are by law prescribed in relation to recognizances to keep the peace.

[*R. L. s. 5416*] *(10762)*

631.46 JAIL SENTENCE; WHEN NO JAIL IN COUNTY. When it shall appear to the court at the time of passing sentence upon any convict to be punished by confinement in the county jail that there is no suitable jail in the county in which the offense was committed, it may order sentence to be executed in any other county where there shall be a suitable jail; and the expense of supporting him shall be paid by the county in which the offense was committed.

[*R. L. s. 5417*] *(10763)*

631.47 BALL AND CHAIN PROHIBITED. No person shall be required, as a punishment for crime or the violation of any ordinance or municipal regulation, to labor, with ball and chain attached, upon the streets, parks, or other public works, nor, as a punishment for crime, be held, tied, or bound in public; but such person may be tied or bound for the purpose of taking him to or from jail or prison, or any place used for holding him in custody.

[*R. L. s. 5423*] *(10764)*

631.48 PENALTY MAY INCLUDE COSTS OF PROSECUTION. In all criminal actions, upon conviction of defendant, in addition to the punishment prescribed and as a part of the sentence, the court may adjudge that defendant shall pay the whole or any part of the disbursements of the prosecution, and payment thereof may be enforced in the same manner as the sentence, or by execution against property. When collected, such disbursements shall be paid into the treasury of the county where conviction was had, but this shall not interfere with the payment of officers', witnesses', or jurors' fees.

[*R. L. s. 4352*] *(9485)*