

THE *J. Rogers*
GENERAL STATUTES

OF THE

STATE OF MINNESOTA:

REVISED BY COMMISSIONERS APPOINTED UNDER AN ACT APPROVED FEBRUARY 17, 1868, AND
ACTS SUBSEQUENT THERETO, AMENDED BY THE LEGISLATURE,
AND PASSED AT THE SESSION OF 1866.

TO WHICH

THE CONSTITUTION OF THE UNITED STATES, THE ORGANIC ACT, THE
ACT AUTHORIZING A STATE GOVERNMENT, AND THE
CONSTITUTION OF THE STATE OF MINNESOTA,

ARE PREFIXED;

AND A LIST OF ACTS PREVIOUSLY REPEALED,

A GLOSSARY, AND INDEX, ARE ADDED.

Edited and Published under the authority of Chapters 15 and 16 of
the Laws of 1866.

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CHAPTER CXVI.

CHALLENGING JURORS.

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SECTION 1. A challenge is an objection made to a trial jury and is of two kinds:

First. To the panel;

Second. To an individual juror.

SEC. 2. When several defendants are tried together, they cannot sever the challenges, but shall join therein.

SEC. 3. A challenge to the panel is an objection made to all the petit or trial jurors returned, and may be taken by either party.

SEC. 4. A challenge to the panel can be founded only on a material departure from the forms prescribed by law, in respect to the drawing and return of the jury.

SEC. 5. A challenge to the panel shall be taken before a jury is sworn, and shall be in writing, specifying plainly and distinctly the facts constituting the ground of challenge.

SEC. 6. If the sufficiency of the facts alleged as a ground of challenge is 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.

SEC. 7. If on the exception, the court deems the challenge sufficient, it may, if justice requires it, permit the party excepting to withdraw his exception and to deny the facts alleged in the challenge; if the exception is allowed, the court may, in like manner, permit an amendment of the challenge.

SEC. 8. 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.

SEC. 9. 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.

Definition and kinds of challenge.

Defendants must join in challenge.

Challenge to panel defined.

Shall be founded on what.

Shall be taken, when and how. 1 Min. 347.

Adverse party may except to challenge, when.

Exception may be withdrawn and facts alleged in challenge, denied—challenge may be amended.

Denial of challenge may be oral—proceedings thereon.

On trial of challenge, testimony may be taken.

Court to inform defendant when he must challenge individual juror.
Kinds of challenge.

SEC. 10. 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.

SEC. 11. A challenge to an individual juror is either:

First. Peremptory; or,
Second. For cause.

When taken.
1 Min. 347.
4 Min. 438.

SEC. 12. It shall be taken when the juror appears, and before he is sworn; but the court may, for good cause, permit it to be taken after the juror is sworn and before the jury is completed.

Peremptory challenge defined.

SEC. 13. A peremptory challenge can be taken by the defendant only, 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.

How many defendant is entitled to.

SEC. 14. If the offense charged is punishable with death or with imprisonment in the state prison for life, the defendant is entitled to twenty peremptory challenges; on a trial for any other offense he is entitled to five peremptory challenges.

Who may challenge for cause.

SEC. 15. A challenge for cause, may be taken either by the state or by the defendant.

Challenge for cause defined.

SEC. 16. It is an objection to a particular juror, and is either:

First. General, that the juror is disqualified from serving in any case; or,
Second. Particular, that he is disqualified from serving in the case on trial.

General causes of challenge.

SEC. 17. General causes of challenge are:

First. A conviction for a felony.

Second. A want of any of the qualifications prescribed by the laws to render a person a competent juror.

Third. Unsoundness of mind, or such defect in the faculties of the mind, or organs of the body, as render him incapable of performing the duties of a juror.

Particular causes of challenge.

SEC. 18. Particular causes of challenge are of two kinds:

First. For such a bias, as, when the existence of the facts is ascertained, in judgment of law, disqualifies the juror, and which is known in this chapter as implied bias;

Second. 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 which is known in this statute, as actual bias.

Causes of challenge for implied bias.

SEC. 19. A challenge for implied bias, may be taken for all or any of the following causes, and for no other:

First. Consanguinity or affinity within the ninth degree, to the person alleged to be injured by the offense charged, on whose complaint the prosecution was instituted, or to the defendant;

Second. Standing in relation of guardian and ward, attorney and client, master and servant, or 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;

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

Fourth. Having served on the grand jury which found the indictment, or on a coronor's jury which inquired into the death of the person, whose death is the subject of the indictment;

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Fifth. Having served on a trial jury, which has tried another person for the offense charged in the indictment;

Sixth. 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;

Seventh. Having served as a juror, in a civil action, brought against the defendant, for the act charged as an offense;

Eighth. If the offense charged is punishable with 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.

SEC. 20. A challenge for actual bias, may be taken for the cause mentioned in the second subdivision of section eighteen, and for no other cause.

Cause of challenge for actual bias.

SEC. 21. An exemption from service on a jury, is not a cause of challenge, but the privilege of the person exempted.

Exemption from service on jury not cause of challenge.

SEC. 22. In a challenge for implied bias, one or more of the causes stated in section nineteen, shall be alleged; in a challenge for actual bias, the cause stated in the second subdivision of section eighteen, shall be alleged; in either case the challenge may be oral, but shall be entered upon the minutes of the court.

Causes of challenge, how stated.

SEC. 23. 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 five, six and seven, except that if the exception is allowed, the juror shall be excluded. The adverse party may also orally deny the facts alleged as the ground of challenge.

Challenge may be excepted to, or facts alleged, denied.

SEC. 24. If the facts are denied, the challenge shall be tried as follows:

Trial of challenge. 6 Min. 819.

First For implied bias, by the court;

Second. For actual bias, by triers, unless, in cases not capital, the parties consent to a trial by the court.

SEC. 25. The triers shall be three impartial persons, not on the jury panel, appointed by the court. All challenges for actual bias shall be tried by the triers thus appointed, a majority of whom may decide.

Triers shall be appointed.

SEC. 26. The triers shall be sworn generally to inquire whether or not the several persons who may be challenged, and in respect to whom the challenges are given to them in charge, are true, and to decide the same according to evidence.

Shall be sworn.

SEC. 27. Upon the trial of a challenge to an individual juror, the juror challenged may be examined as a witness, to prove or disprove the challenge, and is bound to answer every question pertinent to the inquiry therein.

Juror challenged may be examined.

SEC. 28. 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.

Rules of evidence on trial of challenge.

SEC. 29. 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.

Court shall determine challenge for implied bias.

SEC. 30. 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.

Court shall instruct triers, how

Decision of triers.
4 Min. 438.

SEC. 31. The triers shall thereupon find the challenge either true or not true, and their decision is final. If they find it true, the juror shall be excluded.

Challenge shall be taken first by defendant.

SEC. 32. All challenges to an individual juror, shall be taken first by the defendant, and then by the state; and each party shall exhaust all his challenges before the other begins.

Shall be taken in what order.

SEC. 33. The challenges of either party need not all be taken at once; but they may be taken separately, in the following order, including in each challenge, all the causes of challenge belonging to the same class:

- First.* To the panel;
- Second.* To an individual juror, for a general disqualification;
- Third.* To an individual juror for implied bias;
- Fourth.* To an individual juror for actual bias.

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CHAPTER CXVII.

APPEALS AND WRITS OF ERROR IN CRIMINAL CASES.

SECTION

1. Criminal cases, how removed to supreme court.
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3. Writ of error, by whom allowed.
4. Writ of error a stay, when.
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6. Bill of exceptions, obtained how.
7. Proceedings in appellate court.

SECTION

8. Recognizance, when and how given.
9. Party not giving recognizance, shall be committed—duty of clerk.
10. Appeal or writ of error dismissed, when—dismissal not to prevent taking another appeal, &c.

Criminal cases, how removed to supreme court.
2 Min. 123.
2 Min. 224.
8 Min. 214.
10 Min. 63.

SECTION 1. Criminal cases may be removed by the defendant to the supreme court by appeal or writ of error at any time within six months after conviction.

Appeal a stay, when.

SEC. 2. When an appeal is taken it shall not stay the execution of the judgment, unless an order to that effect is made by the judge who tried the cause, or a judge of the supreme court. Notice of the appeal and the order staying proceedings, if any, shall be filed with the clerk of the court where the judgment is entered and served on the attorney general.

Writ of error, by whom allowed.

SEC. 3. No writ of error upon a judgment for any capital offense, shall issue, unless allowed by one of the judges of the supreme court, after notice given to the attorney general.

Writ of error a stay, when.

SEC. 4. Writs of error upon judgment in all other criminal cases shall issue of course, but they shall not stay or delay the execution of the judgment or sentence, unless allowed by one of the judges of the supreme court, with an express order thereon, for a stay of proceedings on the judgment or sentence.

Clerk to transmit copy of judgment roll, &c.

SEC. 5. Upon an appeal being perfected, or a writ of error filed with him, the clerk shall transmit to the supreme court a copy of the judgment roll and of the bill of exceptions, if any.