

(d) The gross expense and the gross earnings of the route covered.

Section 9. It being the intention of this Act that the contractor shall receive only such portion of the subsidy as shall be necessary to bring the net profits up to the amount of the subsidy, only such part of the subsidy shall be paid the contractor as, when added to the net profits, make a total not exceeding the total amount of the subsidy such contractor would be entitled to receive under the prior provisions of this Act.

Amount of
subsidy, how
arrived at.

Section 10. An emergency is hereby declared to exist and this Act shall take effect and be in force immediately upon its passage and approval.

Emergency.

Approved April 21, 1925.

CHAPTER 16.

AN ACT.

[S. B. 13]

Regulating the method of choosing juries in the courts of the Territory of Alaska, prescribing certain of the qualifications of jurors, and repealing Chapter 91 of the Session Laws of Alaska, 1923, and all acts or parts of acts in conflict herewith, and declaring an emergency.

Be it enacted by the Legislature of the Territory of Alaska:

Section 1. Prior to the drawing of any jury, either grand or petit, in the District Court for the Territory of Alaska, the Judge of the Court shall appoint a Jury Commissioner who shall be a citizen of good standing, residing in the Division in which such Court is held, and a well known member of the principal political party opposed to that to which the Clerk may belong. Any Jury Commissioner, when once appointed as herein provided, may serve for the drawing of all juries in the Judicial Division of the Court for which he is appointed until the appointment of his successor or until removed

Jury Commis-
sioner appointed
by Judge.

Term.

by the Court or the Judge. Unless the Court or Judge shall otherwise order, the Jury Commissioner shall act only in the drawing of the regular panel of grand and petit juries; all other drawings to complete the panel or to add to the panel or to secure additional jurors for the trial of any case may be made by the Clerk.

Regular panel to be drawn by Jury Commissioner.

Section 2. Except as in this Act otherwise provided, all jurors, for both grand and petit juries, for service in the District Court for the Territory of Alaska, shall be publicly drawn from a box containing at the time of each drawing, in the discretion and by order of the Court or Judge, either: (a) The names of at least one thousand (1,000) persons, residents of the Division in which such Court is held, who voted at the last preceding general Territorial election, the records and returns of which are available to the Clerk, and who, so far as known to the Clerk and Jury Commissioner, are still residents of such Division at the time of the drawing and still qualified by law for such jury service; or (b) the names of at least three-fourths ($\frac{3}{4}$) of all persons, residents of the Division in which such Court is held, who voted at the last preceding general Territorial election, the records and returns of which are available to the Clerk, and who, so far as known to the Clerk and Jury Commissioner, are still residents of such Division and still qualified by law for such jury service; and, in either case, in addition to the names of the persons who voted at such last election, the Clerk and Jury Commissioner may place in such jury box the names of other persons residents of such division who are qualified by law for such jury service.

Manner of choosing jury panel both grand and petit.

The Clerk and the Jury Commissioner shall each place one name of such prospective jurors in said box alternately, without reference to party affiliations, until the required number of qualified jurors shall have been

so placed in said jury box; and after such names have been so placed in said box, the box shall, before the drawing, be well shaken by both the Clerk and the Jury Commissioner so as to thoroughly mix the cards or pieces of paper upon which the names of the prospective jurors have been written for placing in such box; and the Clerk and the Jury Commissioner shall, upon the order of the Judge, thereupon draw alternately one name from the box until the required number of jurors have been secured.

Drawing, how made.

Section 3. The jury panel for the trial of cases, both civil and criminal, in the District Court, shall at all times consist of at least twenty-four jurors, and if at any time the number of jurors on the panel shall fall below twenty-four, the Court or Judge shall order the Clerk to complete the panel to the number of twenty-four by drawing sufficient names from the jury box, which shall contain at the time of the drawing, in the discretion and by order of the Court or Judge, the names of jurors in number and possessing the status, character and qualifications prescribed in one of the two alternative provisions of Section 2 of this Act.

Jury panel to consist of at least 24.

Section 4. Whenever in the trial of a case the regular panel is exhausted, and it shall become necessary to secure additional jurors, the same shall be secured, except as in this Act otherwise provided, by drawing the names of the jurors from said jury box containing at the time of such drawing in the discretion and by order of the Court or Judge, the names of the jurors in number and possessing the status, character and qualifications prescribed in one of the two alternative provisions of Section 2 of this Act.

Drawing when panel exhausted at trial of case.

Section 5. Upon the drawing of the original panel for any grand or petit jury in the District Court for the Territory of Alaska, or upon any drawing to complete the panel of any grand or petit jury in said Dis-

Court or Judge may direct drawing of jurors from certain region, when.

trict Court, or in the trial of a case, when the regular panel is exhausted, upon the drawing of additional jurors to serve upon the jury then being impaneled, in the event that the Court or Judge, for the purpose of securing fair and impartial trials, or for the speedy and economical administration of justice, deems it proper and expedient to direct that the required jurors shall be drawn from a certain region or regions, the Clerk and Jury Commissioner, or the Clerk alone, as the case may require, upon the order of the Court or Judge so directing, shall place in the jury box the names of at least three-fourths ($\frac{3}{4}$) of the persons, residents of the region or regions from which it is directed that such jury or jurors be drawn, who voted at the last preceding general Territorial election, the records and returns of which are available to the Clerk, and who, so far as known to the Clerk or Jury Commissioner, are still residents of the region or regions from which it is directed that the jury or jurors be drawn, and who are still qualified by law for jury service; and in addition to the names of such persons so residing in the region or regions from which it is directed that the jury or jurors be drawn, and who voted at such last election, the Clerk and the Jury Commissioner, or the Clerk alone, as the case may require, may also place in the jury box for such drawing the names of other persons, qualified by law for jury service, who are known to reside, or who then are, in the region or regions from which it is directed that such jury or jurors be drawn and who are thus available for jury service, and from names thus placed in the jury box the requisite number of jurors may be drawn in the manner in this Act provided.

Drawing how made.

Court or Judge may reject any names drawn, when.

Section 6. At any drawing of jurors, the Court or Judge may, by an order made at the time of such drawing, reject the names of persons drawn whose attendance, in the opinion of the Court or Judge, cannot be obtained within a reasonable time, or whose

attendance may involve a large and unnecessary expense, or who reside in a region from which the Court or Judge may, in the interest of fair and impartial trials, or for the speedy and economical administration of justice, deem it inexpedient to draw jurors at that time, and the Court or Judge may thereupon cause the Clerk and the Jury Commissioner, or the Clerk alone, as the case may require, to draw other names from the box in the place and stead of those rejected until a sufficient number of available jurors be secured.

Section 7. That jurors for the trial of causes both civil and criminal in the District Court shall be chosen in the following manner, to-wit:

When a case which is to be tried by a jury is called for trial, the Clerk shall draw from the trial jury box containing the names of those on the regular panel who have been summoned and not excused as jurors, the names of twelve (12) persons. These twelve (12) prospective jurors shall be examined as to their qualifications first by the plaintiff and then by the defendant. If a challenge for cause should be sustained, the place of the person so challenged shall be filled forthwith, and the person called to fill said place, shall be then examined for cause [cause].

Manner of choosing jury in civil and criminal cases.

When there are twelve (12) qualified persons in the jury box, the parties shall exercise peremptory challenges in the following order:

Peremptory challenges.

In capital cases: Plaintiff one, defendant two; plaintiff one, defendant two; and so on until plaintiff has exercised peremptory challenges to the number of ten and the defendant has exercised peremptory challenges to the number of twenty (20).

In capital cases.

In trials for other felonies: Plaintiff one, defendant two; plaintiff one, defendant two; and so on until plaintiff has exercised peremptory challenges to the

In other felonies.

number of five and defendant has exercised peremptory challenges to the number of ten.

In misde-
meanors.

In trials for misdemeanors: Plaintiff one, defendant two; plaintiff one, defendant two; and so on until plaintiff has exercised peremptory challenges to the number of three and defendant has exercised [exercised] peremptory challenges to the number of six.

In civil causes.

In trials of civil causes: Plaintiff one, defendant one, and so on alternately, until each side has exercised peremptory challenges to the number of three.

Effect of wai-
ver of peremp-
tory challenge.

Either party may waive a peremptory challenge as to the jurors in the box, but the challenge shall not be thereby lost and the same may be exercised as to any new jurors who may be called. After waiver of a peremptory challenge as to jurors in the box none of such jurors shall be thereafter challenged peremptorily by the party so waiving except for good cause shown. In no event shall either party be allowed a greater number of peremptory challenges than is herein provided.

Manner of
choosing jury
in justice's
court.

Section 8. In the trial of all cases held by United States Commissioners as ex-officio Justices of the Peace, the jurors shall be publicly drawn from a box containing at the time of each drawing, in the discretion and by order of the Commissioner, either: (a) the names of three hundred (300) persons, residents of the precinct, who voted in such precinct at the last preceding general Territorial election, as shown by the records and returns of such election then available to the Commissioner, and who, so far as known to the Commissioner, are still residents of such precinct at the time of the drawing of the jury and still qualified by law for jury service; or (b) the names of at least three-fourths ($\frac{3}{4}$) of all persons, residents of such precinct, who voted in such precinct at the last preceding general Territorial election, the records and re-

turns of which are then available to the Commissioner, and who, so far as known to the Commissioner, are still residents of such precinct and qualified by law for jury service; and, in either case, in addition to the names of persons who voted at such election, the Commissioner may place in the jury box the names of other persons, residents of such precinct, who are qualified by law for such jury service. For the drawing of any jury, the names of such persons shall be so placed in the jury box by the Commissioner in the presence of the parties or their attorneys and the cards or pieces of paper upon which the names of the jurors are written shall be thoroughly mixed so as to insure a fair and impartial drawing. The Commissioner may, however, by order made at the time, reject the names of persons drawn whose attendance, in his judgment, cannot be obtained within a reasonable time, or whose attendance may involve a large and unnecessary expense; and the Commissioner may thereupon cause other names to be drawn in the place and stead of those rejected until a sufficient number of available jurors be secured. The Commissioner may, at the first drawing, or any subsequent drawing made to complete the panel, draw from the box for service upon the jury about to be impaneled, or then being impaneled, the names of a sufficient number of prospective jurors to insure, in his judgment, the speedy impaneling of the jury, taking into consideration probable challenges both peremptory and for cause; but the jurors so drawn in excess of the number of twelve for the original panel or in excess of any number required to complete the panel, shall, if and as they appear, be examined for service upon such jury in the order in which they have been drawn, but the impaneling of the jury shall not be delayed by the failure of any juror summoned to appear at the appointed time. Any juror so summoned and appearing shall be entitled

Commissioner
may reject any
names drawn,
when.

to pay as a juror no matter whether called on the jury or not.

Challenges in Justice's Court how exercised.

Section 9. Juries for the trials of causes in Courts of United States Commissioners acting as ex-officio Justices of the Peace shall be examined and challenged for cause and peremptory challenges exercised, so far as may be possible, in the same manner as in trials in the District Court; provided, however, that in Commissioners' Courts in both criminal and civil actions each party shall be entitled to three peremptory challenges and no more.

Number of peremptory challenges allowed.

Jury box may be examined, by whom.

Section 10. The jury box containing the names of the prospective jurors for any drawing of any jury or jurors in any of the Courts of the Territory of Alaska, and the cards or pieces of paper upon which the names of such prospective jurors have been written, may be examined by the parties plaintiff or defendant or by any attorney authorized to practice law in the Courts of the Territory of Alaska within such limitations and under such conditions as the Court or Judge or Commissioner, as the case may be, may reasonably prescribe; and in the case of Commissioners' Courts a party to an action about to be tried or in course of trial shall have the same right. In all cases before a jury or jurors shall be drawn from the box, the box shall be well shaken by the officer making the drawing so as to thoroughly mix the cards or pieces of paper therein upon which the names of the prospective jurors are written and thus insure a fair and impartial drawing.

Qualification for jury service.

Section 11. No person shall be qualified to serve on the grand jury or on the regular panel of any petit jury in the District Court if such person shall have served on another grand jury or another regular panel of the petit jury within one year prior to the time of such person's examination for service. Nor shall

any person, if challenged, be permitted to serve on any jury in any of the Courts of the Territory of Alaska who is not able to read, write, speak and understand the English language and inability to so read, write, speak and understand the English language shall be ground for challenge for cause. The ability to so read, write, speak and understand the English language herein required shall be at least the equivalent of the ability of an ordinary child who has completed the sixth grade of the public schools of the Territory of Alaska.

Section 12. No case, either civil or criminal, shall be tried in any of the Courts of the Territory of Alaska, except in accordance with the provisions of this Act, and any violation of the provisions of this Act is hereby declared to be reversible error. Provided, however, that in any civil or criminal case, by consent and agreement of the parties given in person and by and through their attorneys, and made in writing and signed and filed in the case, a jury shall be drawn or selected in any manner upon which the parties may so agree, and such jury, so drawn and selected under appropriate order of the Court made in conformity with such agreement, shall be deemed a legal jury, and such drawing or selection shall not be deemed a violation of this Act.

Violation of provisions reversible error.

Parties may agree on method of selecting jury.

Section 13. As soon as possible after each general Territorial election, the Clerk shall secure a true list of the names of all persons, residents of the Division, and qualified by law for jury service, who voted at such election, and such list, when so made, shall be a public record and open for the inspection of the public; and the Clerk shall further make and immediately transmit to each Commissioner who is an ex-officio Justice of the Peace in such Division, a true and correct list of all persons, residents of such Commissioners' precinct, and qualified by law for jury service, who voted at

Clerk to keep record of persons eligible for jury service.

Clerk to transmit to Commissioner list of voters in his precinct eligible for jury service.

such election, and such list, when received by said Commissioner, shall be kept by him in his office and shall be open to inspection by the public. Each divisional list, so made by the Clerk, of voters so qualified by law for jury service, shall be used for drawing all juries in the District Court in accordance with the provisions of this Act until the Clerk is able to secure a list of the voters at the next succeeding Territorial election; and, in like manner, each list of voters in any precinct so furnished to the Commissioner of such precinct, shall be used for drawing juries in such precinct until the Commissioner shall receive from the Clerk a new list based upon a subsequent general Territorial election. Lists of voters at the last preceding general Territorial election heretofore made under existing law may be used hereunder until the records and returns of a succeeding election are received and proper lists of voters compiled therefrom.

Size of jury box.

Section 14. The jury box herein provided for use in all of the Courts of the Territory of Alaska shall be in form of a cube and shall measure at least ten (10) inches each way inside measurement.

Repeal.

Section 15. Chapter 91 of the Sessions Laws of Alaska, 1923, is hereby repealed, and all other acts or parts of acts in conflict herewith are hereby repealed to the extent of such conflict.

Emergency.

Section 16. An emergency is hereby declared to exist and this act shall take effect and be in full force from and after its passage and approval.

Approved April 22, 1925.