

Commonwealth to repay installments.

Section 4. The intention of the Commonwealth is hereby declared to repay without interest to the municipalities respectively all moneys so advanced in not more than fifteen equal biennial installments, commencing not later than three years after any such moneys were advanced. Such payments are intended to be made biennially by appropriations to the Department of Forests and Waters for the purpose of repaying moneys due to municipalities which shall have advanced the same for the construction and completion of projects and improvements for the conservation of water and the control of floods.

Power to use and expend funds.

Section 5. The Department of Forests and Waters shall have full power to use and expend the funds advanced by municipalities under the provisions of this act on the projects and improvements designated, in the same manner as any funds heretofore or hereafter appropriated by the Commonwealth for the construction and completion of said project or improvement were authorized to be expended by law.

Severability of provisions.

Section 6. The provisions of this act are severable, and if any of its provisions are held to be unconstitutional such decision shall not affect or impair the remaining provisions of this act. It is hereby declared as a legislative intent that this act would have been passed had such unconstitutional provision not been included therein.

Repeal.

Section 7. All acts and parts of acts inconsistent with this act are hereby repealed.

APPROVED—The 16th day of April, A. D. 1925.

GIFFORD PINCHOT.

No. 158.

AN ACT

Applying to third class counties only, and regulating the selection, drawing, and summoning of all jurors and talesmen, and defining their qualifications in such counties; creating a jury board and defining its powers and procedure; providing for the appointment of a clerk to the jury board and fixing his maximum salary; providing for the custody of the jury wheel, and the filing and custody of jury lists; providing for the public drawing of jurors and the methods thereof; giving the trial judge the right to excuse jurors; prescribing the time of challenging jurors or the array, and regulating the procedure if array is quashed; repealing all acts or parts of acts inconsistent therewith.

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ORGANIZATION OF JURY BOARD

Section 1. Be it enacted, &c., That this act shall apply only to counties of the third class, and that within ten days after the passage and approval of this act and annually thereafter there shall be organized in each of said counties of the third class a jury board consisting of the judges of the court of common pleas and the two elected jury commissioners. The president judge shall be the chairman of the board. One of the judges of the court of common pleas and the two commissioners, or one of said commissioners and two of said judges, shall constitute a quorum of said board. The court of common pleas in each county of the third class shall appoint a clerk to the jury board to serve at the pleasure of the court. His duties shall be such as are prescribed by this act and any other duties incidental thereto. His salary shall be fixed by the court of common pleas and shall not exceed nine hundred dollars per year and shall be paid by the county.

QUALIFICATIONS OF JURORS

Section 2. Only adult citizens of the United States, residents of the county and able to understand the English language, shall be eligible as jurors. Persons under indictment, whether for felonies or misdemeanors, and persons who have been convicted of felonies are ineligible for jury service. Attorneys-at-law and physicians in active practice shall not be listed for jury service. If the name of any person who is ineligible for jury service is placed on the jury list the name of such person may be stricken off by the court of common pleas, oyer and terminer or quarter sessions, on motion made and proof offered of such ineligibility. This power may be exercised at any time before any such juror is called and sworn as a member of any jury.

SELECTION OF JURORS FOR JURY LIST

Section 3. On or before the tenth day of October of each year each member of the jury board shall deliver to the clerk a list containing the names of said member's proportionate share of the number of qualified jurors required for jury service for the ensuing year as established by the court of common pleas in

its last order filed on the subject, and in addition thereto fifty names of other persons qualified for jury service. The clerk shall eliminate from said lists any duplicate names, and the persons from whose lists said duplicates have been eliminated shall furnish substitutes therefor. All of these lists shall be published in two newspapers of general circulation in the county if the court so orders. The clerk shall combine these lists into one complete list arranged alphabetically and shall deliver a copy of this complete list to each member of the jury board on or before October fifteenth. Between the fifteenth and thirtieth days of November in each year at a date and hour to be fixed by the president judge, of which the other members of the board shall have due notice, the jury board shall meet in the office of the president judge and shall select from the complete list the jurors for the official jury list hereinafter referred to. By a vote of a majority of the members of the jury board any names not exceeding three hundred in number may be stricken from the complete list, or by a vote of all the members of the jury board less one any number of names may be stricken from said list. If so many names are stricken from the complete list that there will be a deficiency of jurors for the ensuing year the jury board shall by a vote of at least all members of the board less one select qualified substitutes. Substitutes shall be proposed by the members of the jury board in rotation. The names of persons approved for jury service as herein provided, with their addresses and occupations, shall be typewritten by the clerk upon a list to be known as the official jury list, alphabetically according to the jurors' surnames, and shall be numbered consecutively beginning with number one. This list shall be in duplicate and shall be signed by the jury commissioners, by at least two judges of the court of common pleas, and by the clerk to the jury board. One copy of this list shall be filed in the office of the prothonotary and shall be open to inspection by order of the court, and the other copy shall be delivered to the president judge of the court of common pleas and be open to inspection by any judge of said court. At any time before the names on said list are placed in the jury wheel any name on said list may be stricken off by a vote equaling that of all the members of the jury board less one, and by the same vote other names may be substituted therefor if the board desires to do so.

PLACING NAMES IN JURY WHEEL

Section 4. The names, occupations, addresses, and numbers on said official jury list shall be typewritten by the clerk upon separate and uniform slips of paper,

and shall be folded so as to conceal the names on these slips, and be placed by the clerk in the jury wheel in the presence of the jury commissioners and at least one judge of the court of common pleas. This shall be done at a time fixed by order of the president judge soon after the last drawing from the wheel during the current calendar year. The court may by order filed prescribe the form of the jury wheel and its lock and the care and custody of said wheel and the keys thereto. The wheel shall be emptied and its contents destroyed after the last drawing of jurors in the calendar year. Within ten days after the approval of this act the jury commissioners and the sheriff of each county of the third class shall deliver to the president judge of the court of common pleas the jury wheel and the keys thereto.

DRAWING OF AND NOTICES TO JURORS

Section 5. The issuing of writs commanding the impaneling and summoning of jurors to serve as jurors in the trial of any issue triable by a jury in the several courts of the counties affected by this act, and to serve as grand jurors, shall be as now provided by law, except the appropriate writs shall be directed not as heretofore to the sheriff and commissioners but to the jury board commanding it to impanel and summon such jurors as required under the law, or by order or praecipe of any of the several courts of the respective third class counties affected by this act. After the jury boards, as herein provided for, are organized all drawings of jurors and proceedings incident to said drawings shall be as follows: At least thirty days before each term of court there shall be drawn from the jury wheel name-slips equaling the number of jurors which the jury board has been directed to impanel and summon for each week of said term of court, and at least thirty days before the commencement of the grand jury there shall be drawn from said wheel twenty-four name-slips of jurors to be summoned for said grand jury. The names, occupations, addresses, and numbers of the persons so drawn for jury service shall be typewritten upon a list, and the list shall be posted in the office of the prothonotary and clerk of the court at least twenty-five days before the first day of the week of court or the session of grand jury for which said jurors are chosen. These lists shall be signed by at least two of the judges of the court of common pleas, and by at least two jury commissioners, and also by the clerk of the jury board. The jurors so chosen shall, at least twenty days before the first day of the week of court or session of the grand jury for which they have been drawn for service, be notified to appear for service at the proper time by

card duly mailed to the proper address and signed by the sheriff of the jury board with a postage-prepaid return-card attached to said notice, setting forth that notice to appear at the hour and date therein stated is accepted. This return card shall be addressed to the sheriff of the jury board. The citizens to whom cards have been mailed and from whom return-cards have not been received five days after the cards were mailed to them shall be served personally by the sheriff of the county or his deputies with notice to appear for jury service at the proper time. These summonses for jury service whether by card duly mailed or by personal service shall be deemed summonses of the court, and disobedience to them shall be considered the same as disobedience to any other summons of the court.

METHOD OF DRAWING JURORS

Section 6. All drawings of all jurors after the organization of the jury board shall take place in one of the court rooms selected by the chairman of the board at a time fixed by him, of which time and place the other members of the jury board shall have at least three days' notice. The clerk shall announce or advertise the time and place of said drawing of jurors in two newspapers of general circulation, all of which shall be located in the county seat of the county, not more than ten days nor less than three days before the time of said drawing. The drawing shall be in the presence of at least one jury commissioner and at least one judge of the court of common pleas and shall be open to the public. The name-slips shall be drawn singly from the wheel by any person whom the judge or judges present at the drawing may there appoint for that purpose. The name, number, address, and occupation, as the same appear on the name-slips, shall be read by any person there appointed for that purpose by the judge or judges present, and shall be compared by the clerk of the jury board with the corresponding name, number, address, and occupation on the official jury list. If the name, number, address, and occupation correspond the clerk shall immediately copy the same in a book called the "jury book." After the name-slips have been copied in the jury book and the jury book entry compared and found to be correct, the name-slips shall be immediately sealed in an envelope by the clerk and on said envelope and in said jury book the specific week or weeks of jury service for which said jurors whose names are on said slips are drawn shall be entered. These name-slips shall be held for safe-keeping as the court shall direct until the end of the year, when they shall be destroyed unless the court shall order otherwise.

EXCUSING JURORS FROM SERVICE

Section 7. Any judge in charge of the trial list during the week for which a juror has been summoned shall have power upon application to excuse from jury service for cause any person drawn for jury service for said week. This may be done at any time after the jurors are drawn. Unless otherwise ordered by said judge the name of said excused juror shall be written on a name-slip identical in form with the name-slips in the jury wheel, folded, and placed back in the jury wheel.

SUMMONING OF TALESMEN

Section 8. When because of exhaustion of the regular panel of jurors or other causes talesmen are immediately required for service as jurors in a case called for trial, the trial judge shall appoint one or two or three persons or public officials as the court may determine, having no personal or pecuniary or official interest in the case on trial to summon such manner of talesmen as the court shall direct for jury service in the case on trial. If counsel for either side object to the person or persons appointed to summon talesmen such person or persons shall not be appointed until at least one other judge of the court concurs in such appointment. No official connected with the district attorney's office shall be appointed to summon talesmen to serve in a criminal case. Talesmen must possess the qualifications of jurors. Their names may be taken from the jury list, but persons not on the list may also be called as talesmen. The court may direct the persons so appointed to summon talesman to work as a unit and to jointly summon the talesmen ordered for service or said persons so appointed may be sent out separately to summon a given number of talesmen. The notice to the talesmen shall be in writing directing the talesmen to appear at the court house at a certain hour and day for jury service, and this notice shall be signed by either the clerk of the jury board or any member of the jury board or any one of the officials or citizens appointed by the court to summon talesmen. A failure to obey any such summons shall be treated the same as disobedience to any other lawful summons of the court. Any talesman accepted as a juror may be excused from further jury service for a year.

CHALLENGING JURORS OR THE ARRAY

Section 9. Any objection or challenge to jurors based on their disqualification for jury service under this act, or to the array based on any irregularity in the proceedings or procedure in and by which said ju-

rors were selected, drawn, or summoned for jury service, must be made before said jurors or array of jurors are sworn and cannot be made thereafter. After jurors are sworn without objection all objections to their qualifications as prescribed by this act or to the manner of their selection, drawing, or summoning shall be deemed to have been waived. No indictment can be attacked or verdict challenged by reason of any juror's disqualification under this act, or any irregularity in the manner of selecting, drawing, or summoning jurors unless due objection is made before said alleged, disqualified, or illegally selected jurors are sworn.

PROCEEDINGS IF ARRAY IS QUASHED

Section 10. When the array of jurors returned at any court shall be quashed by reason of any fault or irregularity in the selection of said array of jurors the court shall forthwith order another public drawing of jurors in the manner provided in this act to take the place of the jurors on the quashed array, and said jurors shall be legal jurors for the week for which the jurors in said quashed array were drawn. The court shall prescribe what notice shall be given of the names, occupations, and addresses of the persons thus drawn so as to conform as nearly as may be practicable under the circumstances to the notice of and to jurors drawn as prescribed by sections five and six of this act. If there has been any fundamental irregularity in filling the jury wheel, the court of common pleas may upon satisfactory proof of said irregularity order the wheel emptied and then refilled with names of persons qualified for jury service. Said names shall be selected by the jury board and as nearly as possible according to the procedure prescribed in this act, except that the same shall be done within a time to be prescribed by the court.

REPEALING CLAUSE

Section 11. All acts and parts of acts, local and general, inconsistent herewith are hereby repealed.

APPROVED—The 16th day of April, A. D. 1925.

GIFFORD PINCHOT.