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How Can We Get Better Juries Than We Do

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necessary to carry this work through. The Cass County Bar Association is planning an active campaign to sell the amendments to the public. The State Bar Association Publicity and Legislative Committees, together with the officers and the Executive Committee of the Association, will co-operate and assist in every way possible.—A. M. KVELLO, President.

HOW CAN WE GET BETTER JURIES THAN WE DO?

Continuing the article in the April issue, Mr. C. E. Leslie, of Hillsboro, says:

We wish now to consider the second and third steps in the process of securing a jury to determine the facts in any particular action.

The Waiting List—Keeping it Filled

Our statutes require a waiting list of 200 names from which the panel for the term shall be drawn. Immediately after the close of a jury term of court, the clerk is required to notify the county commissioners how many names are needed to fill up the list. The commissioners apportion the number among the cities, villages and townships of the county according to the number of resident taxpayers.

The auditor or clerk is then notified to furnish the required number of names. The auditor or clerk is required to post a notice in each of three public places, stating when and where the board will select the names. The notice must be posted not more than ten, nor less than five days before the date for selection. The statute is silent as to what powers are given to, or what duties are imposed upon, any citizens who might attend such meetings. From the wording of Sections 820 and 821 it would seem that about all the citizens could do would be to look on.

Section 820 requires the governing board of each precinct to meet at the time and place mentioned in such notice, to select from the names of its "resident taxpayers" three times as many names as are apportioned to that precinct. It requires the auditor or clerk to write each name on a separate ticket, and record the names "in a book kept for that purpose." After satisfying itself that the names are correct, the board selects, by lot, the proper number of names, which must then be recorded in a book kept for that purpose.

Section 821 provides that those names, so drawn, shall be sent to the clerk of court in the county, who shall record them in a "book kept for that purpose".

As originally written, this article here dealt, at some length, with personal observations of the manner in which the provisions of the statute were followed, or rather disobeyed. Since the appearance of Brother Cupler's fine remarks in the February issue of Bar Briefs, I omit that and wish only that attorneys would read Mr. Cupler's remarks.

There is some excuse for the actions of the various boards, since the statute may be said to suggest that they need not be particular. (Note the last part of Sec. 821.)

I see why the legislature put in that provision, but I am sorry they did so, since the officials may be the more often led to fail to do their duty. There was as much need for the legislature to say that the provisions of Section 831, which is the one that requires the officials to see that "no person shall come on the jury the second time before all

qualified persons shall have served respectively in rotation", if violated, should not invalidate the list.

This provision in Section 831 is very important, yet it is almost always disregarded. The officials evidently consider the provisions of Section 820 are not mandatory or even directory, but simply suggestive; and, as a usual thing, they seem to be ignorant of the existence of Section 831.

I beg to differ with Brother Cupler when he says: "The present statutes are entirely adequate." I feel sure that when he made that statement he had in mind only the failure of the boards of the several precincts to follow the provisions of Section 820, which does not appear to have been carefully drawn; and if this were followed by some statutory provision which would induce the several boards to follow both in letter and spirit, it would have been much more efficient. Before making any suggestions as to improving on the method of selecting the names to be sent in to the clerk of court to become a part of the waiting list, I wish to refer to the method of drawing the term panel. The suggestions I have in mind apply to that as well as to the procedure of getting our juries.

Drawing the Term Panel from the Waiting List

Section 815 reads: "No jury shall be summoned except by order of the Judge of the District Court, who shall issue an order". In such order the Judge must specify the number of petit jurors to be summoned and the time they shall appear. Sections 822, 823 and 824 provide: "Within three days after the receipt of an order, directing a jury to be summoned, the clerk of court, or his deputy, and the county auditor, county treasurer and sheriff or coroner, or a majority of them, shall meet together"; that notice of meeting must be served on each practicing attorney, and such meeting must take place "within one day after the service of such notice". The service of such notice (at least one day prior to the meeting) is complete when it is mailed. How can a notice be mailed "at least one day prior to the meeting" and at the same time the meeting be held "within one day of service of notice"? It would necessitate getting the two days into one. In any event the notice is insufficient. A longer time should be given betwen mailing and holding of the meeting, if the notices are to be of any value.

But what figure does it cut whether the attorneys get that notice or not? What could they do if they attended that drawing? So far as the statutes provide, they can do nothing. The statutes (Sections 822, 823 and 824) provide that the clerk of court and the county treasurer, auditor and sheriff (or coroner) shall constitute the board to select the term panel. It does not strike me that there is much use for any attorney to go to see that done, and I have never known one to do so. The same state of affairs exists in regard to the notice required to be posted by the city, village and township officials. Why are these notices required in either of these cases? Why not make them of some real use? Why not give the attorneys, or other citizens, power to help the precinct and county boards? I believe it can be done and be very helpful in getting better juries. Just what powers should be given in each case I prefer to let more able men suggest, but for fear no one else will do so I suggest a few things I have thought might be of use.

Why not, among other things, let the attorneys, when the names for the waiting list are selected, suggest any facts they may know why the name of any person drawn should be passed and another drawn?

Every attorney knows that it often occurs that jurors on the term panel attend the whole term, and never serve on a jury. In many cases the jurors thus prevented from serving are persons well known to be unfit for jury service. Most of the attorneys, if not all of them, had they been present when the names were selected for a place on the waiting list, or when the county board drew the jury panel, would have objected seriously to such name, and prevented it from going on the waiting list or term panel. Why not expressly give the attorneys the right to so suggest or object to the selection of such persons? Why not give to each attorney the right to a certain number of peremptory objections? I believe there would be no danger that any attorney would try to get unfit persons selected.

It seems to me that the attorneys might, to some considerable extent, help give some force and effect to that provision in Section 814, which requires the competent juror to be of "sound mind and discretion." Of course, that suggestion should be kindly made.

I would like to see some changes which would not only lead to a more careful selection of names by the different boards for the waiting list, by a careful following, in word and spirit, of the present statutory requirement, but also make the words "of sound mind and discretion" used in Section 814 mean something. Let us make those notices required to be posted by the auditor or clerk of the various boards of some use and benefit, or save the bother of giving the notices. I feel that the statutes should be amended so that notices of the clerk shall be mailed long enough before the drawing of the term panel so that, by the ordinary mail service, each attorney would be apt to receive his notice in time.

Since the first part of this article was printed, an educator who read it, suggested that the names for the waiting list, and possibly for the term panel, should be selected by the attorneys. He contended that such attorneys would be anxious to have on the waiting list the names of persons qualified otherwise, and who were also of sound mind and discretion.

Under that plan the county auditor should, of course, send the request for the required number of names to the clerk of court, the state's attorney, or the district judge, who would call the attorneys together for the purpose of drawing the names needed to fill up the waiting list.

If such a plan was adopted, the trial judge should also be present and preside at the meeting when the panel for the term was drawn, the judge and the attorneys selecting the names for the panel, not by chance, but by selecting the required number of good names.

Under that plan they could, and I believe would, try and select names of persons of "sound mind and discretion," and they would make an honest attempt to obey the requirements of Section 831, and that such a thing would not happen again as I was told happened not long ago, when one name was found six times on the waiting list.

DISAGREEMENT

The American Bar Association and the Association of American Law Schools disagree on the matter of compulsory study of professional ethics by law students. The former went on record (October, 1929) in favor of such compulsory instruction, while the latter, in the opinion of Dean Kinnane, of the University of Wyoming Law School, seems to