Chapter 10

1963 REPLACEMENT PART

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JURIES GENERALLY

10.010 Jury defined. A jury is a body of persons temporarily selected from the qualified inhabitants of a particular district, and invested with power:

(1) To present or indict a person for a public offense; or

(2) To try a question of fact.

10.020 Kinds of juries. A jury is of three kinds:

(1) A grand jury.

(2) A trial jury.

(3) A jury of inquest.

10.030 Competency and qualifications of jurors. (1) A person is not competent to act as a juror unless he or she is:

(a) A citizen of the United States.

(b) An inhabitant of the county in which he or she is returned, and has been an inhabitant thereof for the year next preceding the time he or she is drawn or called.

(c) Over 21 years of age.

(d) In the possession of his or her natural faculties and of a sound mind.

(2) Nor is any person competent to act as a juror who has been convicted of any felony or a misdemeanor involving moral turpitude.

(3) No person shall be summoned as a juror in any circuit court more than once in one year.

10.040 Exemptions. A person is exempt from duty to act as a juror if he is:

(1) A judicial officer as defined in ORS 1.210.

(2) Any other civil officer of this state or of the United States, whose duties are at the time inconsistent with his attendance as a juror.

(3) An attorney.

(4) A practicing physician, dentist, optometrist, chiropractor, osteopath, Christian Science practitioner, naturopath or undertaker.

(5) An acting member of a company of firemen duly organized, and who is paid an annual or monthly salary for his services and who has been such member for a period of six months next preceding the time when the exemption is claimed.

(6) A member of the state Senate or House of Representatives, and the Legislative Assembly is in session.

(7) An active member of the Oregon National Guard.

[Amended by 1961 c.454 §208]

10.050 Excuse from jury duty. (1) A person may be excused from acting as a juror:

(a) When his own health or the death or sickness of a member of his family requires his absence.

(b) When he is over the age of 70 years.

(c) When actively engaged as a licensed pharmacist.

(2) A person shall not be required to serve as a petit juror at any one term of the court for more than four weeks, and shall, upon application, be entitled to be discharged from further attendance upon the court as a juror at such term, after having served for a period of four weeks as aforesaid.

10.060 Fees of jurors. The fees of jurors shall be as follows:

(1) For every day's attendance upon a court of record, $7.50.

(2) For each juror sworn in the justice court, or upon an inquest, $5.

A talesman acting as juror is entitled to the same per diem as a regular summoned juror; but if a talesman in a court of record is not accepted and sworn to try the case for which he has been summoned, he is entitled to only $5 for every day in attendance.

[Amended by 1955 c.296 §1]

10.065 Additional fees of jurors. Every juror whose fees are prescribed in ORS 10.060 who is required to travel from his usual place of abode in order to execute or perform service as a juror, in addition to the fees prescribed in ORS 10.060, shall be entitled to mileage at the rate of eight cents a mile, and no more, for travel in going to and returning from the place where the service is performed. Such juror shall be entitled to such mileage for each day's attendance upon court; provided, however, that a juror whose usual place of abode is more than 40 miles removed from the place where such service is performed and who attends court on consecutive days shall be entitled to mileage to and from the place where such service is performed for only the last of such consecutive days and for the preceding day or days shall be entitled to receive, in addition to the fees prescribed in ORS 10.060, $6 per day.

[1957 c.676 §1]

10.070 [Repealed by 1957 c.676 §2]

10.080 Seeking or offering to procure place on jury or list of jurors and selection of juror pursuant to request prohibited. (1) No person shall ask or request any sheriff, constable or any other person, whose duty it is under the law to select or summon any jury or juror, to select or put him upon the jury; nor shall any person procure or offer to procure for himself or for another person a place upon any jury or seek to have himself or another placed upon the list of jurors that is required by law to be made.

(2) No sheriff, constable or other person whose duty it is under the law to select or summon a jury shall select, summon or place upon any jury any person whom he has been asked or requested to select or summon.

10.090 to 10.100 [Reserved for expansion]

JURY LIST

10.110 Preparation of preliminary jury list, jury list and list of rejected prospective jurors in counties other than Multnomah County. (1) The county court of each county which has a population of less than 300,000 and in which the judicial jurisdiction, authority, powers, functions and duties of the county court have not been transferred to the circuit court shall at its first term of each year, or in case of an omission or neglect so to do then at any following term, make a list of the most competent of the permanent citizens of the county by selecting names by lot from the latest tax roll and registration books, or either, denominated a preliminary jury list. From the preliminary jury list the names of those persons known not to be qualified by law to serve as jurors shall be deleted. The remaining names shall constitute the jury list. The names of those persons deleted from the preliminary jury list shall be placed on a separate list, denominated rejected prospective jurors, and opposite each name the reason for removing the name shall be set forth.

(2) The county clerk of each county which has a population of less than 300,000 and in which the judicial jurisdiction, authority, powers, functions and duties of the county court have been transferred to the circuit court shall, at the first term of each year of the circuit court for the county, or in case of an omission or neglect so to do then at any following term, make a list of the most competent of the permanent citizens of the county by selecting names by lot from the latest tax roll and registration books, or either, denominated a preliminary jury list. From the preliminary jury list the names of those persons known not to be qualified by law to serve as jurors shall be deleted. The remaining names shall constitute the jury list. The names of those persons deleted from the preliminary jury list shall be placed on a separate list, denominated rejected prospective jurors, and opposite each name the reason for removing the name shall be set forth. [Amended by 1955 c.717 §1; 1957 c.393 §1]

10.120 Preparation of jury list in Multnomah County; appointment of jury commissioner. In counties having a population of 300,000 or more, the jury list shall be selected, in the manner provided in ORS 10.110, by the county clerk and a commissioner to be appointed by the judges of the circuit court. The commissioner shall be a citizen of good standing residing in the county in which such court is held; and he shall receive for his services as jury commissioner a salary of $600 per year, to be paid out of the county treasury. The clerk and the commissioner shall, without reference to party affiliation, alternately select one name and place the same in the box until the names of the whole number of persons required to be drawn shall be placed in such box.

10.130 Jury list to contain only names of those qualified and not exempted. In preparing the jury list, the names of those persons only must be selected who are known or believed to be possessed of the qualifications prescribed in ORS 10.030, and not entitled to exemption as provided in ORS 10.040.

10.140 Number of jurors' names on list; jurors to be from different portions of the county. The jury list shall contain the names of at least 500 persons (if there is that number of names of qualified jurors on the assessment roll or the registration books) and not more than 2,500 persons; and except that in counties in which the judicial jurisdiction, authority, powers, functions and duties of the county court have been transferred to the circuit court, the jury list shall contain the names of at least 1,500 but not more than 5,000 persons. The names entered upon the jury list shall be selected from the different portions of the county in

proportion to the number of names of qualified jurors appearing on the assessment roll and registration books, as far as practicable.
[Amended by 1955 c.717 §2]

10.150 Contents of jury list; certification and filing. The jury list shall contain the Christian and surname, and the place of residence and occupation, of each person named therein, and shall be certified by the county clerk and placed on file in the office of the county clerk within 10 days from the time it is prepared.
[Amended by 1955 c.717 §3]

10.160 Jury box; deposit of ballots in box. The county clerk shall keep in his office a sufficient box, carefully secured, which is denominated the jury box. After the jury list is filed, the county clerk shall destroy all ballots remaining in the box and shall prepare and deposit in such box separate ballots, containing the name, place of residence, and occupation of each person embraced in the list, and folded as nearly alike as practicable so that the name can not be seen.
[Amended by 1955 c.717 §4]

10.170 to 10.200 [Reserved for expansion]

JURY PANEL

10.210 Drawing of jurors for circuit, county and certain district courts; exceptions. (1) Subject to the provisions of this section, for every term of the circuit and county court in the county, and quarterly for a district court organized under ORS 46.020 in a county having a population of less than 150,000, according to the latest federal decennial census, or ORS 46.025, the jurors shall be drawn from the names deposited in the jury box.

(2) For any county court, no jury shall be drawn for any term thereof unless upon the order of the county judge, previously filed with the county clerk, but a jury may be summoned to attend the county court by order of the judge thereof for the trial of an issue in such court as in the court of a justice of the peace.

(3) For any circuit court, except as otherwise is provided by law governing the summoning of jurors therefor, no jury shall be drawn at any term thereof if the judge of the circuit court, by order previously filed with the county clerk, has dispensed with the attendance of a jury at such term.
[Amended by 1957 c.594 §1; 1961 c.705 §4]

10.220 Number of jurors drawn for circuit, county and certain district courts; reserve panel. (1) For the circuit court, 40 names shall be drawn, from which number the grand jurors and trial jurors for the term are selected as provided by law; except, that a larger number of jurors may be drawn when ordered by the judge of the circuit court, or in judicial districts having more than one judge of the circuit court by a majority of them, or where there are only two judges in a judicial district, by the judge senior in continuous service, or if none, then the judge senior in age, or by any judge designated to make such order, either by the rules of the court or majority of the judges or by law. When a larger number of jurors than the regular panel of 40 is ordered to be drawn, the names of such jurors shall be added to the regular panel or placed on a separate list designated as a reserve panel as the order may provide. Thereafter jurors shall be specially drawn from the reserve panel whenever the regular panel has been or appears likely to become depleted. Drawings from the reserve panel shall be by lot by the county clerk pursuant to order of a judge of the court. Upon completion of the jury duty for which specially drawn, the names of such jurors shall be restored to the reserve panel until again drawn in like manner.

(2) For the county court, 12 names shall be drawn, from which number trial jurors are selected in the same manner as for the original panel of 40 in the circuit court.

(3) For a district court organized under ORS 46.020 in a county having a population of less than 150,000, according to the latest federal decennial census, or ORS 46.025, 30 names shall be drawn, in the same manner as jurors are drawn for the circuit court, from which number trial jurors are selected in the same manner as jurors are selected from the original panel of the circuit court.
[Amended by 1955 c.717 §5; 1957 c.594 §2; 1959 c.462 §1; 1961 c.705 §5]

10.230 Drawing, when and where to take place. The drawing shall take place at the office of the county clerk, not less than 10 nor more than 20 days before the holding of the term of court at which the jurors are to serve; but if the term be one appointed by the court or judge thereof, the drawing may be at any shorter time before the term, as the court or judge may prescribe in the order appointing the term.

10.240 Manner of conducting drawing. (1) Whenever jurors are to be drawn, the county clerk, except as otherwise provided in subsection (2) of this section, shall take to his assistance the sheriff or a justice of the peace for the county and proceed with the drawing as follows:

(a) The clerk shall shake the box containing the ballots so as to mingle them as much as possible.

(b) He shall then publicly draw out of the box as many ballots as there are jurors required.

(c) A minute of the drawing shall be kept, in which the name contained on each ballot drawn shall be entered before another ballot can be drawn.

(d) If, when the whole number of ballots is drawn, it appears that a person whose name is drawn is dead, or resides out of the county, that fact shall be entered in the minutes of the drawing, and the ballot containing the name destroyed.

(e) Another ballot must then be drawn in the place of that destroyed, and the name contained thereon shall in the same manner be entered in the minutes of the drawing.

(f) The same proceeding shall be had as often as necessary until the requisite number of names is secured.

(g) The minutes of the drawing shall then be signed by the clerk and the attending officer, and immediately filed in the office of the former.

(2) In districts composed of no more than one county and having more than one judge of the circuit court the assistance of the sheriff and justice of the peace may be dispensed with. In such districts the drawing shall in all cases take place in open court in the presence of one or more of the judges of the court and under his or their direction; and the minutes of the drawing shall then be signed by the clerk and the judge or judges under whose direction the drawing is made.

10.250 Panel of names drawn to be delivered to the sheriff. A panel of the names of the persons drawn as jurors, with their places of residence and occupation, and stating for what court and the particular term thereof they were drawn, shall then be made and certified by the clerk, and delivered without delay to the sheriff of the county.

10.260 Summoning of jurors; special venire. At least 10 days before the first day of the term the sheriff shall summon the persons named in the panel delivered to him to attend the court, by giving written notice to each of them by mail. However, the court or judge thereof may order the sheriff to summon any special venire of jurors by giving written notice to each of them personally, or by leaving the notice at his place of residence with some person of suitable age and discretion, and such notice need be given only for a reasonable time before the day on which the special venire is required to attend.

10.270 Summoning of jurors in the 11th judicial district. The jurors for the regular terms of the circuit court for the 11th judicial district shall be summoned to appear in court in the county of Gilliam on Tuesday after the convening of such court on Monday, and in the other counties of the district the jurors shall be summoned to appear in court on the first day of the regular term, unless the attendance of any jury or jurors is dispensed with in the manner provided by law.

10.280 Return of panel. The sheriff shall return the panel to the court at its opening, specifying the persons summoned, the manner in which each was notified, and the date of notification.

10.290 Jurors in Multnomah County to be examined; county clerk to furnish supplies and assistance to jury commissioner. In all counties having a population of 300,000 or more, the jury commissioner shall examine each person on the jury panel individually, at the time he reports for duty, as to his competency and qualifications to act as a juror as specified by law. In the event the jury commissioner is of the opinion that any of the persons is disqualified or incompetent to serve as jurors, he immediately shall call the matter to the attention of the presiding judge, who thereupon shall further examine them. If the judge finds the persons are not competent or qualified, as provided by law, to serve as jurors, he immediately shall discharge them from jury duty and their names shall be taken from the jury panel. The county clerk shall furnish such facilities, clerical help and stenographic help as may be necessary to enable the jury commissioner to carry on his duties as provided in this section and ORS 10.120.

10.300 Methods of drawing additional jurors to augment panel or jury list. (1) Whenever the number of jurors required

does not attend a term of the court, or when jurors have served the full time required of jurors and have been discharged, the court has power to order an additional number of jurors drawn from the jury list to fill up the regular panel, in the same manner as the original panel is required to be drawn. These jurors shall be summoned and required to attend as jurors, in the same manner and with like effect as if drawn on the original panel.

(2) Whenever the regular panel becomes exhausted, or whenever, in the opinion of the court, the regular panel is likely to become exhausted, and except as provided in subsection (4) of this section or except where jurors are to be drawn from the reserve panel authorized by ORS 10.220, the court shall order an additional number of jurors drawn from the jury list by the sheriff in the presence of the court, and the jurors so drawn shall be summoned, unless relieved by the court, and required to attend at such times as the court may order.

(3) Whenever the jury list becomes exhausted, or whenever, in the opinion of the court, such list is likely to become exhausted, the court may by an order stating the reasons, and duly entered, direct the sheriff to summon forthwith from the body of the county persons whose names are upon the tax roll or registration books and who have the qualifications of jurors, to serve in the court.

(4) In judicial districts having less than 400,000 inhabitants, according to the latest federal decennial census, the trial judge, upon mutual agreement of the attorneys for the parties to the cause and without ordering an additional number of jurors drawn from the jury list to fill up the regular panel as provided in subsection (1) or (2) of this section, shall make the order mentioned in subsection (3) of this section and direct the sheriff to summon forthwith from the body of the county persons whose names are upon the tax roll or registration books and who have the qualifications of jurors, to serve in the court.

[Amended by 1963 c.519 §4]

10.310 Juror not to be drawn twice unless jury list exhausted. Until the ballots in the jury box have all been drawn, including those returned as provided in subsection (2) of ORS 10.320, the ballots deposited in the box of drawn jurors, described in subsection (3) of ORS 10.320, are not to be drawn from; but whenever the ballots in the jury box have all been drawn, and a new jury list has not been furnished, the ballots of drawn jurors shall all be returned to the jury box and, unless prohibited by subsection (3) of ORS 10.030, the jurors drawn therefrom as before, until a new list is furnished.

10.320 Disposition of ballots drawn. The county clerk shall preserve the ballots drawn as provided in ORS 10.240 until after the adjournment of the court, and shall then:

(1) Destroy the ballots containing the names of those who were discharged for want of a qualification mentioned in ORS 10.030 or by reason of an exemption mentioned in ORS 10.040.

(2) Deposit in the jury box the ballots containing the names of those who did not appear, or were discharged for any other reason than those mentioned in subsection (1).

(3) Deposit in a box, to be denominated the box of drawn jurors, the ballots containing the names of those who attended and served.

10.330 County clerk's certificate pertaining to attendance of jurors and their fees. The county clerk shall, within one week after the court's adjournment, make and file in his office a certified list of all the jurors returned to the court, specifying:

(1) Those who were discharged for want of qualification, or by reason of exemption.

(2) Those who did not appear, or were discharged for any other reason.

(3) Those who attended and served, and the per diem and mileage of each.

10.340 Payment of jurors' fees in Multnomah County. The fees for mileage and per diem due from a county to each juror called to serve in the circuit court of any county having more than 400,000 inhabitants, according to the latest federal decennial census, shall be paid on the day when such juror ceases his service as juror. As soon as the juror ceases to serve, he shall make and file with the county auditor a verified statement showing the amount due him for mileage and the number of days he has served as a juror. The county clerk shall immediately compare such statement with the record

of such person's service; and if such statement is found to be correct as shown by the record, the clerk shall so certify by a certificate attached to the verified claim. The auditor shall thereupon audit and allow such claim and file his certificate of audit with the county clerk who shall thereupon draw a warrant upon the county treasurer for the amount due to such juror. The treasurer shall pay such amount on the presentation of the warrant, the same as any other warrant is paid by him.
[Amended by 1963 c.519 §5]

10.350 Forms for fee claims in Multnomah County. The county clerk shall prepare and have printed a form suitably arranged for the verified claim required by ORS 10.340, also a form for a certificate showing the claim to be correct as to the number of days of such service and also a certificate of audit to be signed by the auditor.

10.360 to 10.800 [Reserved for expansion]

JURY OF INQUEST

10.810 Definition. A jury of inquest is a body of six persons, legally qualified to serve as jurors, summoned from the inhabitants of a particular district before either the coroner or district attorney, as the case may be, or before the sheriff or other ministerial officer, to inquire of particular facts.
[Formerly 146.010]

10.820 Number of jurors required to concur. The verdict of a jury of inquest is sufficient if two-thirds of the jurors concur therein.
[Formerly 146.020]

10.830 to 10.980 [Reserved for expansion]

PENALTIES

10.990 Penalties. (1) Violation of ORS 10.080 is punishable upon conviction by a fine not exceeding $300.

(2) The court to which the panel of jurors is returned by the sheriff may impose a fine not exceeding $20 for each day a juror, without reasonable cause, neglects to attend. If, however, the notice to attend was not personally served, the fine shall not be imposed until, upon an order to show cause, an opportunity is afforded him to be heard. The oath of the juror shall be received in his favor in any proceeding under this subsection.

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
on December 1, 1963.

Sam R. Haley
Legislative Counsel