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furnishing to the clerk the number of persons qualified to serve as grand and petit jurors so to select and arrange the names that *no one person shall come on the jury a second time before all qualified persons shall have served respectively in rotation,* according to the best information that can be obtained."

Observance of this plain requirement would abolish the "repeater" or "professional" juror.

A campaign of education will best bring about the desired results. The judges of the sixth judicial district have prepared and are circulating among the clerks and county officials an outline of the procedure to be followed in constituting the jury panel with quotations from the statutes and this in turn will be placed in the hands of all local boards each time names of additional jurors are to be furnished to the clerk. At the last term of the district court of Cass County the court instructed the clerk to remove from the jury list names of all persons who had served during the year. The trial judges in other districts have probably taken similar action or are formulating plans to get the information into the hands of the local boards.

The various service clubs and other civic organizations throughout the State can help by acquainting their members witht these statutes and pledging them to serve without complaint if and when they are called.

Our duy is plain. Shall we, the Bench and Bar, see that the statute is observed, or shall we by our silence and inaction merit the public criticism of Courts and court procedure. A. W. CUPLER.

REVIEW OF NORTH DAKOTA DECISIONS

State vs. Turner: Prosecution for assault and battery with deadly weapon with intent to kill. Complaining witness, an employee of U. S. government, went to defendants' ranch and took some of their cattle on charge of trespassing on Indian lands. When defendants came home a little later, they called on complainant for "purpose of having the cattle released," but taking along three rifles, a piece of gas pipe and a pick ax handle. When complainant appeared, he was ordered to "stick 'em up," whereupon he was struck with the club. Defense was "self-defense," and the verdict was "guilty of assault with deadly weapon with intent to do bodily harm but not with intent to kill." Main reliance on appeal is on failure to charge properly concerning "self defense" and misconduct of the Court in warning defendants' counsel for improper remarks. HELD: If the Court's remarks to the jury weakened the influence of defendants' counsel, it was the fault of counsel and not of the Court. Self defense in case of protection of property cannot be predicated upon a taking of property prior to the alleged act in defense, nor can a person provoke another to attack him and thus create the opportunity for an assault and a claim of self-defense." The Court must fairly present the issues, but when this is done it is sufficient, in the absence of a request for more definite instructions."

Lang vs. City of Cavalier: Plaintiff, a citizen and taxpayer of defendant city, brought action to restrain the city from carrying out a contract for the installation of an electric light plant and payment of the cost thereof. Plaintiff formerly owned the community's light plant. He sold to a corporation. Following this an election was held to determine whether city should purchase or erect and operate an electric plant and distributing system. The vote was favorable. Another election favorably determined for an increase in city's debt limit. An agreement

was entered into with F-M Company for a building, generating plant and distributing system. Payment was to be made in 58 monthly installments, title to remain in the company, with right to repossess, and rates for service were agreed upon for the interim. Payments were to be made out of net profits. Another election was held to provide $16,000 through bond issue for the building and distributing system. Action was favorable. The day after the bond issue carried the injunction papers were served. HELD: Plaintiff's right to bring the action must be upheld. He need show no other interest than the damage which might be suffered as a taxpayer. The mere fact that he was dilatory in bringing the action does not estop him Section 3599, sub. 75; Section 183 of Constitution; Chapter 197, S. L. 1927 are construed; and State vs. Board of University and School Lands, 12 N. D. 280; and Wilder vs. Murphy, 56 N. D. 436 are distinguished. "Obligations payable out of special assessments are not considered public debts within the meaning of the term debt as used in the Constitutional prohibitions. . . . While there is some dissent, nevertheless the great weight of authority is to the effect that a municipality does not create an indebtedness within the purview of prohibitions against incurring indebtedness by purchasing property to be paid for wholly out of the income therefrom with no general liability." The mere fact that the city owns the building and the distributing system, which must be paid for out of tax revenues of the city, and which will be used in earning revenue, does not alter the situation, as this property is not pledged; nor do the statutory budgeting provisions have application. The election called for the purpose of determining whether the city should "purchase or erect and operate and maintain" a light plant did not raise a dual question.

JUDGE VS. JURY

Our little publication has teemed recently with proposal after proposal to enlarge the part that the judge plays and cut down the part that the jury plays in the trial of lawsuits.

It seems to me that the people who seek reform along these lines are barking up the wrong tree. The evils of which they complain are, in the first place, greatly exaggerated, and in the second place, not attributable to the use of the jury system, but rather to a maladministration in the selection of jurymen.

In many instances jurymen are made such, that is, their names are placed on the list, because they are likely to call for poor relief, or because their personal property taxes have not been paid.

The need is not for a change in the law regarding the picking of jurymen, but for a scrupulous following of the laws we have. Judge Lynch, of LaMoure, has well expressed it in saying that if the law concerning the picking of jurymen is honestly followed, it is well designed to make a jury panel constitute a veritable cross-section of the public of the county.

Last year there was placed before the Legislature, and afterwards submitted to the Bar as a recommendation, a proposal to enable the judge to say to the litigants, "I have picked you a jury, go ahead and try the case." Many lawyers immediately seize upon and loudly endorse such a proposition, forgetting that they are, in so doing, throwing away a large part of the dignity and one of the important prerogatives of their own profession.

Neither of the judges in the Third District favored that suggestion. If a jury is properly selected, beginning with the township board, there