

SENATE No. 114.

Commonwealth of Massachusetts.

SENATE, March 1, 1881.

The Committee on the Judiciary, to whom was referred the Order relative to drawing and empanelling of jurors, report the accompanying Bill.

For the Committee,

MILTON REED.

Commonwealth of Massachusetts.

In the Year One Thousand Eight Hundred and Eighty-one.

AN ACT

To amend Chapter One Hundred and Thirty-two of the
General Statutes relating to Juries.

*Be it enacted by the Senate and House of Representatives
in General Court assembled, and by the authority of the
same, as follows :*

1 SECTION 1. Chapter one hundred and thirty-two
2 of the General Statutes is hereby amended as fol-
3 lows, to wit : By striking out sections twenty-three,
4 twenty-four, twenty-five, and twenty-six, and substi-
5 tuting therefor the following : —

1 SECT. 2. On the day when the jurors are sum-
2 moned to attend at any court, the clerk of such court
3 shall write or cause to be written, on a distinct piece
4 of card, the name of each man summoned, with his
5 place of abode and occupation, all said pieces of
6 card being as nearly as may be of an equal size,

7 which several pieces of card, with the names and
8 occupations of such jurors, shall, by the said clerk,
9 or under his immediate direction and care, be put
10 together in a box to be provided for that purpose ;
11 and when any issue shall be brought on to be tried,
12 such clerk shall, in open court, draw out twelve of
13 the said cards, one after the other, after having
14 shaken them together ; and if any of the men whose
15 names shall be so drawn shall not appear, or shall
16 be challenged or set aside, then such further number
17 until twelve men be drawn, who shall appear, and
18 who, after all just causes of challenge allowed, shall
19 remain as fair and indifferent ; and the said twelve
20 men, and their names being marked on the panel,
21 and they being sworn, shall be the jury to try the
22 issue, and shall appoint their own foreman when
23 they retire to consider their verdict ; and the names
24 of the men so drawn and sworn shall be kept apart
25 by themselves until such jury shall have given in
26 their verdict, and the same shall have been recorded,
27 or until such jury shall, by consent of the parties, or
28 by leave of the court, be discharged ; and then the
29 same names shall be returned to the box, there to be
30 kept with the other names remaining at that time
31 undrawn ; and *toties quoties* as long as any issues
32 remains to be tried ; *provided, always,* if any issue
33 shall be brought on to be tried in any of the said
34 courts, before the jury in any other case shall have
35 brought in their verdict or been discharged, it shall
36 be lawful for the court to order twelve of the residue
37 of said cards, not containing the names of any of the
38 jurors who shall not have so brought in their verdict,

39 or been discharged, to be drawn, in such manner as
40 aforesaid for the trial of the issue which shall be so
41 brought on to be tried.

1 SECT. 3. That the foregoing provisions shall
2 apply to the drawing and swearing of jurors in all
3 criminal as well as civil cases.

1 SECT. 4. This act shall take effect upon its pas-
2 sage.