

1 HOUSE BILL NO. 46
 2 INTRODUCED BY KVAALLEN
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
 5 CLARIFY THE LAWS RELATING TO THE JUDICIARY AND THE COURTS OF
 6 THE STATE OF MONTANA."
 7
 8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 9 Section 1. Section 10-1220, R.C.M. 1947, is amended to
 10 read as follows:
 11 "10-1220. Adjudicatory hearing. (1) Prior to any
 12 adjudicatory hearing, the court shall determine whether the
 13 youth admits or denies the offenses alleged in the petition.
 14 If the youth denies all offenses alleged in the petition,
 15 the youth, his parent, guardian, or attorney may demand a
 16 jury trial on such contested offenses; in the absence of
 17 such demand, a jury trial is waived. If the youth denies
 18 some offenses and admits others, the contested offenses may
 19 be dismissed in the discretion of the youth court judge. The
 20 adjudicatory hearings shall be set forthwith immediately and
 21 accorded a preferential priority.
 22 (2) An adjudicatory hearing shall be held to determine
 23 whether the contested offenses are supported by proof beyond
 24 a reasonable doubt in cases involving a youth alleged to be
 25 delinquent or in need of supervision. If the hearing is

1 before a jury, the jury's function shall be to determine
 2 whether the youth committed the contested offenses; if the
 3 hearing is before the youth court judge without a jury, the
 4 judge shall make and record his findings on all issues. If
 5 the allegations of the petitions are not established at the
 6 hearing, the youth court shall dismiss the petition and
 7 discharge the youth from custody.
 8 (3) An adjudicatory hearing shall be recorded verbatim
 9 by whatever means the court ~~deems~~ considers appropriate.
 10 (4) The youth charged in a petition must be present at
 11 the hearing and if brought from detention to the hearing,
 12 shall not appear clothed in institutional clothing.
 13 (5) In a hearing on a petition under this section, the
 14 general public shall be excluded and only such persons
 15 admitted as have a direct interest in the case; except that
 16 when a hearing in the court is held on a written petition
 17 charging the commission of a felony, persons with a
 18 legitimate interest in the proceeding, including
 19 representatives of public information media, shall not be
 20 excluded from the hearing.
 21 (6) If the court finds on the basis of a valid
 22 admission by a youth of the allegations of the petition or
 23 if a youth is found to be a delinquent youth or a youth in
 24 need of supervision the court shall schedule a dispositional
 25 hearing under this act.

1 (7) When a jury trial is required in a case, it may be
 2 held before ~~the regular trial panel. If the regular panel is~~
 3 ~~not in attendance, the court may draw a jury from jury box~~
 4 ~~Now 3. a jury selected as provided in Title 93, chapter 50.~~"

5 Section 2. Section 11-1601, R.C.M. 1947, is amended to
 6 read as follows:

7 "11-1601. City court established ~~when open~~. A city
 8 court is established in each city or town. ~~The~~ which court
 9 must always be open. ~~On~~ nonjudicial days ~~and~~
 10 ~~upon such days~~ it may transact criminal business only."

11 Section 3. There is a new R.C.M. section numbered
 12 11-1601.1 that reads as follows:

13 11-1601.1 Election and terms of office of city judges.
 14 The election of city judges and their terms of office are
 15 provided for in Title 11, chapter 7.

16 Section 4. Section 11-1602, R.C.M. 1947, is amended to
 17 read as follows:

18 "11-1602. ~~Jurisdiction of city courts~~ Concurrent
 19 jurisdiction. (1) The city court has concurrent jurisdiction
 20 with the ~~justices'~~ justice's court of all misdemeanors
 21 punishable by a fine not exceeding ~~five hundred dollars~~
 22 ~~(\$500)~~ or by imprisonment not exceeding ~~six (6) months~~ or
 23 by both fine and imprisonment, ~~under the following~~
 24 ~~conditions:~~

25 ~~(1) Any action charging the commission of an offense~~

1 ~~within the city or town limits in violation of a city or~~
 2 ~~town ordinance shall be brought in the name of the city or~~
 3 ~~town as the plaintiff and against the accused as the~~
 4 ~~defendant.~~

5 ~~(2) Any other action brought for violation of a state~~
 6 ~~law within the city shall be brought in the name of the~~
 7 ~~state of Montana as the plaintiff and against the accused as~~
 8 ~~the defendant.~~

9 ~~(3)(2) Application Applications~~ for search warrants
 10 and complaints charging the commission of a felony may be
 11 filed in the city or town court, ~~and when~~ When they are so
 12 filed, the city judge ~~shall have~~ has the same jurisdiction
 13 and responsibility as a justice of the peace, including the
 14 holding of a preliminary hearing. The city attorney may
 15 file an application for a search warrant or a complaint
 16 charging the commission of a felony when the offense was
 17 committed within the city limits. The county attorney,
 18 however, must handle any action after a defendant is bound
 19 over to district court."

20 Section 5. Section 11-1603, R.C.M. 1947, is amended to
 21 read as follows:

22 "11-1603. ~~Jurisdiction for violation of ordinances~~
 23 ~~and civil and criminal jurisdiction~~ Exclusive jurisdiction.
 24 The police city court also has exclusive jurisdiction of:

25 ~~(1) Of all~~ proceedings for the violation of any an

1 ordinance of the city or town, both civil and criminal;
 2 ~~which must be prosecuted in the name of the city or town;~~

3 ~~2*(2) If any action when the amount of the taxes or~~
 4 ~~assessments sought does not exceed \$300, actions for the~~
 5 collection of taxes and or assessments levied for any of the
 6 following purposes, except that no lien on the property
 7 taxed or assessed for the nonpayment of the taxes or
 8 assessment may be foreclosed in any such action:

9 (a) city or town purposes; or
 10 (b) for the erection or improvement of public
 11 buildings;

12 (c) for the laying out, or opening, or improving any
 13 of a public street, or sidewalk, alley, or bridge; or

14 (d) for the purpose of acquisition or the improvement
 15 of any public grounds; or and

16 (e) ~~for any and all~~ public improvements made or
 17 ordered by the city or town within its limits; ~~when the~~
 18 ~~amount of the tax or assessments sought to be collected~~
 19 ~~against the person assessed does not exceed three hundred~~
 20 ~~dollars; but no lien upon the property taxed or assessed for~~
 21 ~~the nonpayment of the taxes or assessment can be foreclosed~~
 22 ~~in any such action;~~

23 3*(3) If an action actions for the collection of money
 24 due to the city or town or from the city or town to any
 25 person, when the amount sought to be collected, exclusive of

1 interest and costs, does not exceed ~~three hundred dollars~~
 2 ~~\$300;~~

3 ~~4*(4) For when the amount claimed, exclusive of costs,~~
 4 ~~does not exceed \$300, actions for:~~

5 (a) the breach of any an official bond given by any a
 6 city or town officer; and

7 (b) for the breach of any contract; and

8 (c) ~~any action for damages, in which when~~ the city or
 9 town is a party or is in any way interested; and

10 (d) ~~all the enforcement of~~ forfeited recognizances
 11 given to, or for the benefit of, or in on behalf of the city
 12 or town; and

13 (e) ~~upon all~~ collection on bonds given upon any an
 14 appeal taken from the judgment of the court in any action
 15 mentioned in subsections (4)(a) through (4)(d) above-named;
 16 where ~~the amount claimed, exclusive of costs, does not~~
 17 ~~exceed three hundred dollars;~~

18 5*(5) For actions for the recovery of personal
 19 property belonging to the city or town, when the value of
 20 the property, (exclusive of the damages for the taking or
 21 detention), does not exceed ~~three hundred dollars~~ \$300; and

22 6*(6) If an action actions for the collection of any a
 23 license fee required by any an ordinance of the city or
 24 town."

25 Section 6. There is a new R.C.M. section numbered

1 11-1603.1 that reads as follows:

2 11-1603.1. Who named as plaintiff. (1) An action
3 brought for violation of a city or town ordinance shall be
4 brought in the name of the city or town as the plaintiff and
5 against the accused as the defendant.

6 (2) An action brought for violation of a state law
7 within the city or town shall be brought in the name of the
8 state of Montana as the plaintiff and against the accused as
9 the defendant.

10 Section 7. Section 11-1604, R.C.M. 1947, is amended to
11 read as follows:

12 "11-1604. When substitute for judge called in cannot
13 act. The city judge or mayor may call in a justice of the
14 peace or some qualified resident of the city or town to act
15 in the judge's place, whenever the judge is:

16 (1) ~~in all cases in which the judge is a party in a~~
17 ~~case;~~ or

18 (2) ~~in which he is interested in a case;~~ or

19 (3) ~~when he is related to either party in a case by~~
20 ~~consanguinity or affinity within the sixth degree;~~ and ~~or~~

21 (4) ~~in case of his sickness sick, absence absent, or~~
22 ~~inability unable to act;~~ ~~the police judge or mayor may call~~
23 ~~in a justice of the peace, or some qualified resident of the~~
24 ~~city or town, to act in his place and stead."~~

25 Section 8. Section 11-1710, R.C.M. 1947, is amended to

1 read as follows:

2 "11-1710. Summons -- time for answer. Summons ~~the~~
3 ~~summons~~ in municipal court shall be signed by the clerk and
4 shall conform as near as ~~may be possible~~ to the provisions
5 of ~~section 93-3003 M. R. Civ. P., Rules 4 and 12(a),~~ except
6 that the time for answering shall be ~~ten 10~~ days, instead of
7 ~~twenty 20."~~

8 Section 9. Section 11-1711, R.C.M. 1947, is amended to
9 read as follows:

10 "11-1711. Practice -- reply. The provisions of
11 ~~sections 93-6901 to through 93-7405v-inclusive,~~ and ~~sections~~
12 ~~93-7701 to through 93-7714v-inclusive~~ are hereby ~~adopted~~
13 ~~and made~~ applicable to practice and procedure in municipal
14 court, except where ~~when the same they~~ are repugnant to the
15 provisions of this act. ~~The the~~ words "Municipal Court
16 ~~municipal court"~~ being substituted for justice court, and
17 "judge" for justice of the peace where ~~the same appears in~~
18 ~~said chapters.~~ Where ~~whenever~~ the answer contains a
19 counterclaim or any new matter, the plaintiff, ~~if he does~~
20 ~~not demur~~ shall within ~~five 5~~ days after the service and
21 filing of the answer, reply to ~~such the~~ counterclaim or new
22 matter in the manner and form provided for in ~~section~~
23 ~~93-3601 M. R. Civ. P., Rules 7(a), 8(e)(2), and 10(f)."~~

24 Section 10. Section 16-3001, R.C.M. 1947, is amended
25 to read as follows:

1 "16-3001. Duties and records to be kept. The clerk of
2 the district court, in addition to the duties prescribed
3 elsewhere, must shall:

4 1. ~~Take~~ take charge of and safely keep or dispose
5 of according to law all books, papers, and records which
6 may be are filed or deposited in his office;

7 2. ~~Act~~ act as clerk of the district court and
8 attend each term or session thereof and upon the judges at
9 chambers when required;

10 3. ~~Issue~~ issue all process and notices required to
11 be issued;

12 4. enter all orders, judgments, and decrees proper to
13 be entered;

14 5. keep in each court a register of action, as
15 provided in the code of civil procedure 23-8707, which must
16 also state the names of the attorneys and all fees charged
17 in each action ~~and a list of all the fees charged~~;

18 6. ~~Keep for the district court in separate volumes~~
19 ~~an index of all suits labeled "General index - Plaintiffs"~~
20 ~~each page of which must be divided into seven columns, under~~
21 ~~their respective heads, alphabetically arranged as follows:~~
22 ~~"Number of suits" - "Plaintiffs" - "Defendants" - "Date of~~
23 ~~judgment" - "Number of judgments" - "Page of entry of judgment~~
24 ~~in judgment book" - "Page of minute book of district court"~~
25 ~~also an index labeled "General index - defendants" - each~~

1 page of which must be divided into seven columns under their
2 respective heads, alphabetically arranged as follows:
3 "Number of suits" - "Defendants" - "Plaintiffs" - "Date of
4 judgment" - "Number of judgments" - "Page of entry of judgment
5 in judgment book" - "Page in minute book of district court"

6 7. Keep keep a minute book, which must contain the
7 daily proceedings of court, which may be signed by the
8 clerk, ~~and which minute book~~ must be indexed in the names of
9 both defendant and plaintiff;

10 8. Keep keep a book called "Record record of
11 probate proceedings", which must contain all the orders and
12 proceedings of the district court sitting in probate
13 matters ~~as prescribed elsewhere in this code~~ and which
14 index must be indexed in the name names of the deceased
15 person and the executor or administrator, or the names of
16 the guardian or and the ward;

17 9. Keep keep a book called the "Probate probate
18 record book", in which must be recorded all wills, bonds,
19 letters of administration, letters testamentary, and other
20 papers as prescribed ~~elsewhere in this code~~ by law and
21 which record must be indexed in ~~like the same~~ manner as the
22 "Record record of probate proceedings";

23 10. Keep keep two books:

24 (a) the first book must be labeled "declaration of
25 intention to become citizens of the United States" and must

1 ~~have entered in it in one of which must be entered in~~
 2 alphabetical order the names of all persons who from the
 3 organization of the court have declared, ~~or who may~~
 4 ~~hereafter declare~~ their intention to become citizens of the
 5 United States, and with the date of such declaration, ~~which~~
 6 ~~book must be labeled "Declaration of intention to become~~
 7 ~~citizens of the United States" and;~~

8 ~~(b) the second book must be labeled "naturalization --~~
 9 ~~final papers" and must have entered in it in the other of~~
 10 ~~which must be entered in~~ alphabetical order the names of all
 11 persons who have been ~~or may be hereafter~~ admitted as
 12 citizens of the United States by the court of which he is
 13 ~~clerk, which book must be labeled "Naturalization Final~~
 14 ~~papers" and enter,~~ in a separate column, opposite each
 15 name, the country of which ~~such the~~ person was before
 16 ~~formerly~~ a citizen or subject, the date of his admission,
 17 and the page of the minute book or book of record containing
 18 the order admitting him as a citizen;

19 ~~9*(10) Keep keep~~ a book, called "Register register of
 20 criminal actions", ~~which must have a proper index and in~~
 21 which must be entered the title and number of the actions,
 22 with a memorandum of every paper filed, ~~and~~ order or
 23 proceeding had therein, with the date thereof, and a
 24 ~~memorandum~~ of the name of every witness, ~~the~~ number of days
 25 ~~in attendance he attended,~~ and his total witness fees; and

1 ~~a proper index to the same;~~

2 ~~19*(11) Keep keep~~ a book, called a "Register register
 3 of probate and guardianship proceedings", in which must be
 4 entered the name of the estate, ~~and~~ the register number,
 5 with a memorandum of every paper filed, ~~and~~ order or
 6 proceeding had therein, with the date thereof, and a
 7 ~~memorandum~~ of the fees charged;

8 ~~11* Keep an index book of persons sent to the insane~~
 9 ~~asylum, as provided in section 38-208f~~

10 ~~12*(12) Keep keep~~ a fee book, in which must be shown,
 11 in an itemized form, all fees that he has received for any
 12 services rendered in his capacity as such clerk;

13 ~~13*(13) Keep keep~~ a book, called a "Book book of
 14 jurors' certificates", in which must be ~~contained~~ contain
 15 the blank certificates and stubs to be filled, as provided
 16 in this code 25-405;

17 ~~14*(14) Keep keep~~ a "witness book", in which must be
 18 contained ~~contained~~ blank certificates and stubs to be
 19 filled, as provided in 25-406 this code;

20 ~~15*(15) Keep keep~~ a record of the attendance of all
 21 jurors, and of witnesses in criminal actions, and compute
 22 the mileage of each."

23 Section 11. Section 16-3603, R.C.M. 1947, is amended
 24 to read as follows:

25 "16-3603. Governed by the law prescribing sheriffs'

1 duties. All the provisions of sections 16-2701 to through
 2 16-2722 ~~inclusive of this code, except subsections (4), (5),~~
 3 ~~and (6) of the fourth and sixth subdivisions of section~~
 4 16-2702, apply to constables and govern their powers,
 5 duties, and liabilities."

6 Section 12. Section 16-3604, R.C.M. 1947, is amended
 7 to read as follows:

8 "16-3604. Duties of justices of the peace. Justices of
 9 the peace must perform such duties as are prescribed in
 10 sections 93-6601 to through 93-7714 of the code of civil
 11 procedure ~~{Title 93}~~, and such any other duties as are
 12 prescribed by law."

13 Section 13. Section 16-3605, R.C.M. 1947, is amended
 14 to read as follows:

15 "16-3605. Justices not to practice law. (1) Except as
 16 provided in subsection (2), a No justice of the peace shall
 17 may not:

18 (a) practice law;
 19 (b) draw contracts, conveyances, or other legal
 20 instruments or documents; nor

21 (c) ~~shall they~~ take any claim or bill for collection
 22 nor or act as a collection agent in any sense whatever; nor
 23 or

24 (d) ~~shall they~~ perform any legal duties other than
 25 those prescribed by law as their his official duties in the

1 conduct of cases and proceedings in their courts his court.
 2 ~~Any justice of the peace violating any of the provisions in~~
 3 ~~this section shall be deemed guilty of a malfeasance in~~
 4 ~~office and shall forthwith be removed from his office of~~
 5 ~~justice of the peace and shall thereafter be disqualified~~
 6 ~~from holding such office.~~

7 (2) ~~Provided however that a~~ A justice of the peace
 8 who is an attorney and who is admitted to practice law
 9 before the supreme court of the state of Montana may engage
 10 in the general practice of law and practice law in all
 11 courts in the state of Montana, except that such a justice
 12 ~~of the peace, his law partner or associate, or a member,~~
 13 ~~associate, or employee of a firm of which he is a member~~
 14 ~~shall may~~ not represent a party involved in a case which is
 15 filed or tried in his court or in any justice court located
 16 in the same township county as his court, or which is
 17 appealed from said courts such a court.

18 (3) A justice of the peace who violates any of the
 19 provisions of this section is guilty of malfeasance in
 20 office and shall be removed from his office of justice of
 21 the peace and thereafter be disqualified from holding such
 22 office."

23 Section 14. Section 16-3607, R.C.M. 1947, is amended
 24 to read as follows:

25 "16-3607. Justice or constable purchasing not to

1 purchase judgment. ~~(1) A~~ Every justice of the peace ~~or~~
 2 ~~constable of the same county, who purchases may not purchase~~
 3 or is ~~be~~ interested in the purchase of any judgment, or part
 4 thereof, on ~~the his~~ docket of, or on any docket in ~~the his~~
 5 possession, ~~of, such justice, is guilty of a misdemeanor. A~~
 6 ~~constable may not purchase or be interested in the purchase~~
 7 ~~of any judgment or part thereof on the docket of a justice~~
 8 ~~of the peace of the county of which he is a constable or on~~
 9 ~~a docket in the possession of such a justice.~~

10 (2) Violation of subsection (1) is a misdemeanor."

11 Section 15. Section 25-307, R.C.M. 1947, is amended to
 12 read as follows:

13 "25-307. Collection and disposition of fees --
 14 itemized statement. ~~Justices~~ Each justice of the peace shall
 15 collect the fees prescribed by law for ~~justice~~ justices'
 16 courts and shall pay ~~the same them~~ into the county treasury
 17 of the county wherein ~~they hold~~ he holds office, on or
 18 before the tenth ~~10th~~ day of each month, to be credited to
 19 the general fund of the county, ~~and he~~ shall also file an
 20 itemized statement showing all fees received during the
 21 preceding month in ~~the his~~ justice court, ~~said the~~
 22 statement shall also state that all fees required by law to
 23 be paid during the preceding month in connection with
 24 matters pending before the court ~~during the preceding month~~
 25 have been paid into the county treasury and listed in ~~said~~

1 ~~the~~ itemized statement, and that he has not received or been
 2 promised, nor has any one else received or been promised for
 3 him, any other moneys, emolument, or thing ~~whatsoever~~ by
 4 virtue of or in connection with his office, ~~and--said the~~
 5 statement shall be subscribed and sworn to by the justice.
 6 ~~This section, however, shall not apply to--"miscellaneous~~
 7 ~~fees"--excepted by section 25-384, supra."~~

8 Section 16. Section 25-401, R.C.M. 1947, is amended to
 9 read as follows:

10 "25-401. Jurors' fees in courts of record. Grand A
 11 grand or and trial jurors juror shall receive twelve dollars
 12 ~~(\$12)~~ per day for attendance before any court of record and
 13 a mileage allowance, as provided in section 59-801, each way
 14 for traveling each way between his from--and--to their
 15 residence and ~~the~~ county seat. Any A juror who is excused
 16 from attendance upon his own motion on the first day of his
 17 appearance in obedience to notice, or who has been summoned
 18 as a special juror and not sworn in the trial of the case,
 19 in the discretion of the court, may receive per diem and
 20 mileage."

21 Section 17. Section 25-403, R.C.M. 1947, is amended to
 22 read as follows:

23 "25-403. ~~Compensation of jurors~~ Jurors' fees in courts
 24 not of record and at coroner's inquests. Jurors in courts
 25 not of record, in both civil and criminal actions, shall

1 receive ~~a fee of seven dollars and fifty cents (\$7.50)~~ per
 2 days, ~~but in~~ in civil actions, the jury jurors' fees must be
 3 paid by the party demanding the jury, and ~~must be~~ taxed as
 4 costs against the losing party. Jurors in coroner's inquest
 5 inquests shall receive ~~for their services the sum of seven~~
 6 ~~dollars and fifty cents a fee of (\$7.50)~~ per day."

7 Section 18. Section 82-503, R.C.M. 1947, is amended to
 8 read as follows:

9 "82-503. Fees. (1) The clerk He must collect in
 10 advance the following fees:

11 (a) For for filing the transcript on appeal, in each
 12 any civil case appealed to the supreme court, ~~twenty dollars~~
 13 ~~(\$20)~~ payable by the appellant, and ~~ten dollars (\$10)~~
 14 payable by the respondent, at the time of his appearance, as
 15 payment in full for all services rendered in ~~each the~~ case,
 16 up to the remittitur to the court below;

17 (b) for filing a petition for any writ, ~~twenty dollars~~
 18 ~~(\$20)~~, as payment in full for all services rendered in each
 19 the cause;

20 (c) for a certificate of admission as an attorney and
 21 counselor, ~~five dollars (\$5)~~;

22 (d) for making transcripts, or copies of papers or
 23 record records, ~~fifteen 15 cents (\$15)~~ per folio;

24 (e) for comparing any document requiring a
 25 certificate, ~~five 5 cents (\$05)~~ per folio;

1 (f) for each certificate under seal, ~~one dollar (\$1)~~.
 2 (2) Three-fourths (~~3/4~~) of all fees collected by ~~him~~
 3 the clerk must be paid into the state treasury, ~~which and~~
 4 shall be credited to ~~the credit of~~ the general fund,
 5 ~~one-fourth (1/4)~~ One-fourth of all fees collected by him
 6 shall be paid to the ~~secretary of the~~ public employees'
 7 retirement system ~~board~~ division of the department of
 8 administration to be credited to the Montana judges'
 9 retirement fund system account."

10 Section 19. Section 82-505, R.C.M. 1947, is amended to
 11 read as follows:

12 "82-505. Settlements, ~~when and how made and accounts~~
 13 to state auditor. He The clerk is responsible and must
 14 account for, and, in his settlement with the state auditor,
 15 must be charged with the full amount of all fees collected
 16 or chargeable, and accruing in causes brought into the court
 17 for services rendered therein up to the time of each
 18 settlement, which the settlement must take place quarterly,
 19 and ~~must~~ immediately thereafter the clerk must pay the
 20 amount found due into the treasury or to the public
 21 employees' retirement division, as provided in 82-503(2). He
 22 must also, at the end of each quarter, render to the state
 23 auditor, in such form as that officer prescribes, an account
 24 in detail, and under oath, of all fees chargeable and
 25 accruing in causes brought into court and not included in

1 his previous accounts rendered. His salary ~~must~~ may not be
2 allowed or paid until all fees so accruing ~~and~~ for which he
3 is chargeable have been accounted for and paid over."

4 Section 20. Section 82-2007, R.C.M. 1947, is amended
5 to read as follows:

6 "82-2007. Distribution of reports. (1) On the
7 publication of each volume of ~~said the~~ reports, the
8 secretary of state shall purchase 300 copies from the of
9 ~~said publisher~~ for the use of the state, ~~three--hundred~~
10 ~~copies thereof~~ and ~~he~~ shall distribute ~~the same~~ them in the
11 manner following manner:

12 (a) ~~To~~ to the law libraries of each state and
13 territory of the United States, one copy;

14 (b) to the ~~library~~ library of Congress ~~congress~~, five
15 copies;

16 (c) to each of the judges of the United States
17 district courts of the states of Idaho, Nevada, California,
18 Washington, Montana, Wyoming, and Oregon, one copy;

19 (d) to each ~~state--officer~~ justice of the supreme
20 court, district judge, county attorney, and clerk of the a
21 district court in this state, one copy;

22 (e) to each state office, as many copies as the
23 secretary of state determines are needed;

24 (f) to the law library of the state of Montana, three
25 copies.

1 (2) He shall also distribute ~~said the~~ reports to
2 literary and scientific institutions, publishers, and
3 authors, and legislative reference libraries of other states
4 with whom which the state law librarian has established or
5 ~~may hereafter establish~~ a system of exchange.

6 (3) He shall also distribute to the University
7 University of Montana ~~not to exceed up to 50~~ fifty copies to
8 be used by the law librarian of the state university for the
9 purpose of exchanges with universities and institutions of
10 higher education in other states.

11 (4) All reports distributed to state, district, and
12 other officers in the state ~~shall be~~ are for the use of
13 their office and shall be, by the person receiving ~~the same~~
14 them, turned over to his successor in office, and ~~the~~ the
15 secretary of state shall take proper receipts for such the
16 reports."

17 Section 21. Section 93-219, R.C.M. 1947, is amended to
18 read as follows:

19 "93-219. ~~Judge--becoming--candidate--for--elective~~
20 ~~office--resigning-----of-----supreme-----court~~
21 ~~office--exceptions--vacancy Justice or judge not to run for~~
22 ~~office -- resignation required. (1)(a) Whenever any If a~~
23 person ~~holding or~~ occupying the office of chief justice or
24 associate justice ~~on of~~ the supreme court or judge of a
25 district court of the state of Montana ~~shall become~~ becomes

1 a candidate for election to any elective office under the
 2 laws of ~~or in~~ the state of Montana, such ~~person~~ he shall
 3 ~~forthwith immediately,~~ and in any event at or before the
 4 time ~~required for such person to when he must~~ file as a
 5 candidate for such office at in any primary or special or
 6 general election, resign ~~said from his~~ office of chief
 7 justice, or associate justice of ~~said supreme court, or~~
 8 district judge.

9 (b) The resignation becomes effective immediately upon
 10 its delivery to the proper officer or superior.

11 (c) The resignation requirement applies except where
 12 such when the person is a bona fide candidate for
 13 re-election reelection to the identical office then held ~~or~~
 14 occupied by him or for another nonpartisan judicial office
 15 the term of which ~~shall does not~~ commence not earlier than
 16 the end of the term of the office then held ~~or~~ occupied by
 17 such ~~justice him,~~ and ~~said resignation shall become~~
 18 effective forthwith on delivery of the same to the proper
 19 officer or superior, and

20 (2) in in the event of a failure so to resign, said
 21 the office of chief justice, or associate justice, of said
 22 supreme court or of district judge of any of said district
 23 courts the same shall ipso facto become wholly
 24 automatically becomes vacant and unoccupied and the said
 25 former holder ~~or occupant shall have~~ has no further right,

1 power, or authority therein for any purpose, and no right to
 2 any emoluments thereof, notwithstanding the fact that a
 3 successor is not appointed or elected, and said the vacancy
 4 ~~shall become~~ becomes operative to deprive any the person of
 5 the emoluments of said the office ~~then held~~ in order to
 6 carry out the policy of this act."

7 Section 22. Section 93-302, R.C.M. 1947, is amended to
 8 read as follows:

9 "93-302. Number of judges. In each judicial district
 10 there must be the following number of judges of the district
 11 court, who must be elected by the qualified voters of the
 12 district, and whose term of office ~~must be is~~ six (6) years,
 13 to-wit:

14 (1) in in the first 1st, second 2nd, eleventh 11th
 15 and sixteenth 16th districts, two judges each;

16 (2) in the thirteenth, eighth and fourth 4th, 8th, and
 17 13th districts, three judges each; and

18 (3) in all other districts, one judge each."

19 Section 23. Section 93-305, R.C.M. 1947, is amended to
 20 read as follows:

21 "93-305. Expenses when ~~sitting~~ out of district, ~~or~~
 22 ~~attending judges' conference.~~ Every A judge who ~~shall sit~~
 23 sits in the place of another judge in the trial or hearing
 24 of an action or proceeding in a district other than his own,
 25 or in the supreme court, or who ~~shall attend~~ attends a

1 conference of judges in Helena called by the chief justice
2 of the supreme court shall be paid his actual and necessary
3 travel expenses while engaged in that service as follows:

4 (1) His his travel expenses in going from the county
5 seat which he makes his place of residence to the place of
6 trial or conference and return; and

7 (2) his board and lodging while engaged in the trial,
8 hearing, or conference. ~~All travel expense reimbursements~~
9 ~~shall be determined as provided for in sections 59-538,~~
10 ~~59-539, and 59-881.~~"

11 Section 24. Section 93-313, R.C.M. 1947, is amended to
12 read as follows:

13 "93-313. Expenses of ~~judges holding court in other~~
14 ~~counties when not in county of residence.~~ Each A district
15 judge of a judicial district ~~in this state~~ composed of more
16 than one county, ~~when who~~, for the purpose of holding court
17 and disposing of judicial business, he goes to a county of
18 his judicial district other than the county in which he
19 resides and therein holds court or transacts judicial
20 business shall be paid all of his actual and necessary
21 expenses of transportation and living incurred on account
22 thereof, ~~and all expenditures made therefor as provided for~~
23 ~~in sections 59-538, 59-539, and 59-881,~~ from the time he
24 leaves his place of residence until he returns thereto."

25 Section 25. Section 93-325, R.C.M. 1947, is amended to

1 read as follows:

2 "93-325. Appointment of ~~judge~~ -- salary --
3 qualifications. (1) The judges of the judicial district in
4 which a small claims court has been created shall appoint a
5 judge of the small claims court who shall:

6 (a) take the oath required of judges;
7 (b) serve at the pleasure of the district court
8 judges;
9 (c) be paid a salary set by the district court judge
10 judges; and

11 (d) be an attorney licensed to practice law in the
12 state of Montana.

13 (2) The judge judges of the district court may appoint
14 more than one ~~it~~ small claims court judge for any small
15 claims court, and the the salary shall be prorated among the
16 judges appointed."

17 Section 26. Section 93-408, R.C.M. 1947, is amended to
18 read as follows:

19 "93-408. Jurisdiction Civil jurisdiction of justices'
20 courts. The justice justices' courts have jurisdiction:

21 ~~1~~ (1) in in actions arising on contract for the
22 recovery of money only, if the sum claimed does not exceed
23 fifteen hundred dollars ~~(\$1,500)~~ exclusive of court costs;

24 ~~2~~ (2) in in actions for damages not exceeding fifteen
25 hundred dollars ~~(\$1,500)~~ exclusive of courts court costs.

1 for taking, detaining, or injuring personal property, or for
 2 injury to real property where ~~when~~ no issue is raised by the
 3 verified answer of ~~the~~ defendant involving the title to or
 4 possession of the real property same;

5 ~~(3)~~ in actions for damages not exceeding ~~fifteen~~
 6 ~~hundred-dollars-(\$1,500)~~, exclusive of court costs, for
 7 injury to the person, ~~provided, except~~ that, in actions for
 8 false imprisonment, libel, slander, criminal conversation,
 9 seduction, malicious prosecution, ~~bastardy determination of~~
 10 ~~paternity, and abduction, and alienation-of-affections~~, the
 11 justice of the peace ~~shall does~~ not have jurisdiction;

12 ~~3v(4)~~ in ~~in~~ actions to recover the possession of
 13 personal property, if the value of such ~~the~~ property does
 14 not exceed ~~fifteen-hundred-dollars-(\$1,500)~~;

15 ~~4v(5)~~ in ~~in~~ actions for a fine, penalty, or
 16 forfeiture, not exceeding ~~fifteen-hundred-dollars-(\$1,500)~~,
 17 given ~~imposed~~ by a statute, or the ~~an~~ ordinance of an
 18 incorporated city or town, where ~~when~~ no issue is raised by
 19 the answer involving the legality of any tax, impost,
 20 assessment, toll, or municipal fine;

21 ~~5v(6)~~ in ~~in~~ actions upon bonds or undertakings
 22 conditioned for the payment of money, if ~~when~~ the sum
 23 claimed does not exceed ~~fifteen-hundred-dollars-(\$1,500)~~,
 24 though the penalty may exceed that sum;

25 ~~6v(7)~~ ~~to to~~ take and enter judgment for the recovery

1 of money on the confession of a defendant, when the amount
 2 confessed does not exceed ~~fifteen-hundred-dollars-(\$1,500)~~,
 3 exclusive of court costs."

4 Section 27. Section 93-505, R.C.M. 1947, is amended to
 5 read as follows:

6 "93-505. Sittings of court -- when private. ~~(1)~~ In an
 7 action for divorce, criminal conversation, ~~or~~ seduction ~~or~~
 8 ~~breach-of-promise-of-marriage~~, the court may direct the
 9 trial of any issue of fact joined therein to be private, and
 10 exclude all persons except the officers of the court, the
 11 parties, their witnesses, and counsel;

12 ~~(2)~~ ~~provided, that~~ During the examination of a witness
 13 in any cause, the court may, in the exercise of a sound its
 14 discretion, ~~during the examination of a witness~~ exclude any
 15 some or all of the other witnesses in the cause."

16 Section 28. Section 93-507, R.C.M. 1947, is amended to
 17 read as follows:

18 "93-507. Nonjudicial days. ~~(1)~~ No court ~~must may~~ be
 19 open, nor ~~must may~~ any judicial business be transacted on
 20 legal holidays as provided for in ~~section 19-107 and or~~ on a
 21 day appointed by the president of the United States, or by
 22 the governor of this state, for a public fast, thanksgiving,
 23 or holiday, except for the following purposes:

24 ~~to(a)~~ ~~to to~~ give, upon their its request, instructions
 25 to a jury when deliberating on their its verdict;

1 2.(b) To to receive a verdict, or discharge a jury;
2 3.(c) for for the exercise of the powers of a
3 magistrate in a criminal action, or in a proceeding of a
4 criminal nature;

5 (2) ~~but-injunctions~~ Injunctions, writs of prohibition,
6 and habeas corpus may be issued and served on any day."

7 Section 29. Section 93-702, R.C.M. 1947, is amended to
8 read as follows:

9 "93-702. Qualifications and residence. (1) No person
10 is eligible for the office of justice of the supreme court
11 or judge of the a district court unless he is a citizen of
12 the United States, who has resided in the state two--(2)
13 years immediately before taking office, and has been
14 admitted to practice law in Montana for at least five--(5)
15 years prior to the date of appointment or election.

16 (2) A judge of the a district court need not be a
17 resident of the district for which he is elected or
18 appointed at the time of his election or appointment, but
19 after his election or appointment, he shall must reside in a
20 county seat in the district for which he is elected or
21 appointed during his term of office. Justices of the supreme
22 court shall must reside within the state, during their terms
23 of office."

24 Section 30. Section 93-705, R.C.M. 1947, is amended to
25 read as follows:

1 "93-705. ~~Judicial-nomination-commission-creation--~~
2 ~~Creation,~~ composition, and function of commission. There--is
3 ~~created--a~~ A judicial nomination commission for the state of
4 Montana is created, whose its function ~~it-shall--be~~ is to
5 provide the governor with a list of candidates for ~~nominee~~
6 nomination to fill any vacancy on the supreme court or any
7 district court of the state of Montana. The commission shall
8 be composed of seven (7) members as follows:

9 (1) four (4) lay members, who are neither judges or
10 nor attorneys, active or retired, and who shall reside in
11 different geographical areas of the state, and each of these
12 four--(4)--members--shall--be whom is representative of a
13 different industry, business, or profession, whether or--not
14 actively so engaged or retired; ~~such-members who~~ shall be
15 appointed by the governor;

16 (2) two (2) attorneys, actively engaged in the
17 practice of law, one (1) from each congressional district,
18 who shall be appointed by the supreme court;

19 (3) one (1) district judge elected by the district
20 judges under an elective procedure initiated and conducted
21 by the supreme court and certified to such election by the
22 chief justice of the supreme court, ~~and the which-for-the~~
23 ~~purpose-of-the--language--of--this--act~~ election shall be
24 considered as an appointment, for the purposes of this act."

25 Section 31. Section 93-725, R.C.M. 1947, is amended to

1 read as follows:

2 "93-725. ~~Judicial officer not to participate in~~
3 ~~investigation of self or relative~~ Nonparticipation of
4 interested judicial officer. A judicial officer who is a
5 member of the commission or of the supreme court ~~shall~~ may
6 not participate in any proceeding involving his own censure,
7 suspension, removal, or retirement or that of his spouse, a
8 relative within the sixth degree of consanguinity, or ~~that~~
9 ~~of the spouse of such a relative."~~

10 Section 32. Section 93-726, R.C.M. 1947, is amended to
11 read as follows:

12 "93-726. ~~Disqualification~~ Interim disqualification of
13 ~~judge pending criminal prosecution or proceeding before~~
14 ~~commission~~ judicial officer. A judge judicial officer is
15 disqualified from acting as ~~a judge~~ such, without loss of
16 salary, while there is pending:

17 (1) an indictment or an information charging him with
18 a crime punishable as a felony under Montana or federal
19 law; or

20 (2) a formal proceeding before the commission for his
21 removal or retirement."

22 Section 33. Section 93-903, R.C.M. 1947, is amended to
23 read as follows:

24 "93-903. No judicial officer to have partner
25 practicing law. No justice, judge, or other elective

1 judicial official, ~~most of a court of record may~~ have a
2 partner acting as attorney or counsel in any court of this
3 state."

4 Section 34. Section 93-1203, R.C.M. 1947, is amended
5 to read as follows:

6 "93-1203. Grand jury defined. A grand jury is a body
7 of persons, ~~seven~~ 11 in number, returned ~~in pursuance of~~ as
8 provided by law from the citizens of a county, before a
9 court of competent jurisdiction, and sworn to inquire ~~of~~
10 ~~into~~ public offenses committed or triable within the
11 county."

12 Section 35. Section 93-1304, R.C.M. 1947, is amended
13 to read as follows:

14 "93-1304. Who exempt from jury duty. (1) A person is
15 exempt from liability to act as a juror if he is:

16 1*(a) * a judicial, civil, or military officer of the
17 United States or of this state;

18 2*(b) * a person holding a public office in ~~the~~ this
19 state, or in a county, township, city, or town of this state;

20 3*(c) * an ~~an~~ attorney at-law in practice;

21 4*(d) * ~~minister of the gospel or a priest of any~~
22 ~~denomination or editor~~ a member of the clergy of any
23 religion following his profession;

24 (e) an editor following his profession;

25 5*(f) * a teacher in a university, college, academy,

1 or school;

2 (g) an employee of the Montana state school for the

3 deaf and blind;

4 6=(h) * a practicing physician, dentist, or druggist

5 actually engaged in the business of dispensing medicines;

6 or

7 (i) a regularly licensed embalmer or undertaker;

8 7=(j) * an officer, keeper, or attendant of a

9 hospital, ~~asylum~~ mental health facility, or other charitable

10 institution;

11 8=(k) Engaged in the performance of duty as an officer

12 or attendant of the state prison, penitentiary, or of a

13 county jail on active duty;

14 9=(l) * an express agent, mail carrier, or

15 superintendent, employee, or operator of a telegraph line

16 doing general telegraph business in the this state;

17 10=(m) * an active member of the national guard of

18 Montana; or

19 (n) an active member of a fire department of any city

20 or town of this state; ~~the number of firemen hereby~~

21 ~~exempted must not exceed twenty-eight (28) including~~

22 ~~officers for each company organized; and such members from~~

23 ~~each company must be selected from the roll of such company~~

24 ~~according to the seniority of membership; and a list~~

25 ~~containing the names of such persons must be made out by the~~

1 ~~secretary of each company and filed with the clerk of the~~

2 ~~board of county commissioners on the first Mondays of~~

3 ~~December, March, June and September, and any failure to file~~

4 ~~the list hereby required is considered a waiver of such~~

5 ~~exemptions~~

6 11=(o) * a superintendent on a railroad;

7 12=(p) * a nurse engaged in a case; or

8 (q) a person caring directly for one or more children.

9 (2) The number of firemen exempted under subsection

10 (1)(n) may not exceed 28, including officers, for each

11 company organized. The exempt members shall be selected

12 from the roll of each company according to the seniority of

13 membership. The secretary of each company shall make a list

14 of the exempt members and file it with the clerk of the

15 board of county commissioners on the first Mondays of March,

16 June, September, and December. Failure to file the list is

17 considered a waiver of the exemption.

18 (3) When a person claims exemption under subsection

19 (1)(g), the certificate of the superintendent of the school,

20 under the official seal of the school, is sufficient

21 evidence of qualified employment.

22 (4) The court must discharge a person from serving as

23 a trial juror in either of the following cases:

24 (a) Where when it satisfactorily appears that he or

25 she the person is not competent; and or

1 ~~(b)~~ Where when it satisfactorily appears that he or
2 she the person is exempt and claims the benefit of
3 exemption."

4 Section 36. Section 93-1503, R.C.M. 1947, is amended
5 to read as follows:

6 "93-1503. Drawing -- how conducted. ~~1=11~~ The clerk
7 must shall place ~~said the~~ box on a rod so that ~~the same it~~
8 may readily revolve, ~~and said the~~ box must be revolved a
9 sufficient number of times ~~so as~~ to ensure that the numbered
10 slips in ~~said box~~ ~~shall it~~ become thoroughly mixed, ~~and~~
11 thereafter hereafter the judge must shall draw from ~~said~~
12 ~~the~~ box, one ~~it~~ at a time, as many of the numbered slips as
13 are ordered by the court.

14 ~~2=12~~ A minute record of the drawing shall be entered
15 in the minutes of the court, ~~which it~~ must show the names
16 of the jurors corresponding to the numbers ~~so~~ drawn from
17 ~~said the~~ jury box.

18 ~~3=13~~ If the court is satisfied that the name of any
19 person whose name is so drawn is deceased or ~~insane~~
20 mentally incompetent or who ~~may have~~ has permanently removed
21 moved from the county, ~~and the fact shall be made to appear~~
22 ~~to the satisfaction of the court~~, the name of such ~~the~~
23 person shall be omitted from the list, and another juror
24 name shall be drawn in his its place, ~~and the fact the~~
25 reason for the omission shall be entered upon the minutes of

1 the court. The same proceeding procedure shall be had
2 followed as often as may be necessary, until the number of
3 names of jurors required ~~shall~~ have been drawn.

4 ~~(4)~~ After the drawing ~~shall have~~ has been completed,
5 the clerk shall make a copy of the list of names ~~of the~~
6 ~~persons so drawn~~ and certify the same. In his certificate
7 he shall state the date of the order and of the drawing, and
8 the number of the ~~jurors names~~ drawn, and the time when and
9 the place where such ~~the~~ jurors ~~shall be~~ are required to
10 appear.

11 ~~(5)~~ Such the certificate and list shall be delivered
12 to the sheriff for service.

13 ~~4=6~~ No person ~~shall may~~ be asked to serve on for
14 more than one term during any year unless all the numbers in
15 the jury box ~~now~~ ~~it~~ have been drawn and there are no other
16 qualified jurors available."

17 Section 37. Section 93-1603, R.C.M. 1947, is amended
18 to read as follows:

19 "93-1603. Officer's return. The officer summoning such
20 the jurors shall, at the time fixed in the order for their
21 appearance, return ~~it~~ the order to the court with a list of
22 the persons summoned endorsed thereon."

23 Section 38. Section 93-1802, R.C.M. 1947, is amended
24 to read as follows:

25 "93-1802. How constituted. ~~(1)~~ When 11 of the persons

1 summoned as grand jurors ~~who are~~ competent and not excused,
2 ~~eleven-11~~ are present, they constitute the grand jury.

3 ~~(2) If when~~ more than ~~eleven-11~~ of such persons are
4 present, the clerk ~~must~~ shall write their names on separate
5 ballots, and place the ballots in black capsules, ~~which the~~
6 ~~the~~ capsules shall be deposited in a box large enough to
7 hold all of the capsules without crowding, ~~and which the~~
8 ~~the~~ box shall be so arranged that the clerk drawing the
9 capsules from the box ~~shall be is~~ unable to observe ~~or~~ see
10 the capsule he is about to draw, ~~and the clerk shall~~ draw
11 ~~out eleven-11 of them, capsules,~~ and ~~the the~~ persons whose
12 names are on the ballots so drawn shall constitute the grand
13 jury.

14 ~~(3) If when~~ less than ~~eleven-11~~ of such persons are
15 present, the court ~~may~~ shall order a sufficient number to be
16 forthwith immediately drawn from either ~~the jury~~ box and
17 summoned to attend the court. ~~And whenever of the persons~~
18 ~~to complete a grand jury more attend than are required, the~~
19 ~~requisite number must be obtained by writing the names of~~
20 ~~those so summoned and not excused on ballots, which the~~
21 ~~ballots shall be placed in black capsules, and thereafter~~
22 ~~deposited in a box, and then drawn as above provided."~~

23 Section 39. Section 93-1803, R.C.M. 1947, is amended
24 to read as follows:

25 "93-1803. Manner of impaneling grand jury prescribed.

1 ~~Thereafter such proceedings must be had in impaneling the~~
2 ~~grand jury~~ After the jurors have been selected, the grand
3 jury shall be impaneled as are prescribed in sections
4 94-6301 to 94-6319 95-1401 through 95-1403."

5 Section 40. Section 93-1805, R.C.M. 1947, is amended
6 to read as follows:

7 "93-1805. Clerk to call list of jurors summoned,
8 prepare capsules. At the opening of court on the day trial
9 jurors have been summoned to appear, the clerk shall call
10 the names of those summoned, and the court may then hear the
11 excuses of jurors summoned.

12 ~~(2) The clerk shall then write the names of the jurors~~
13 ~~present and not excused upon on separate slips or ballots of~~
14 ~~paper, and fold such slips the ballots~~ so that the names are
15 concealed, and place ~~said slips the~~ in black capsules, ~~and~~
16 ~~therey--in in~~ the presence of the court, the clerk shall
17 deposit the capsules containing ~~said slips or the~~ ballots in
18 a box large enough to hold all of ~~said the~~ capsules without
19 crowding, ~~and which said the~~ box shall be so arranged that
20 the clerk judge drawing ~~said the~~ capsules from ~~said the~~ box
21 ~~shall be is~~ unable to observe ~~or~~ see the capsules he is
22 about to draw, ~~and which said the~~ box must be kept sealed
23 or locked until ordered by the court to be opened."

24 Section 41. Section 93-1806, R.C.M. 1947, is amended
25 to read as follows:

1 "93-1806. Manner of impaneling ~~---how-prescribed. (1)~~
 2 Whenever thereafter a civil action is called by the court
 3 for trial and a jury is required, ~~such-proceedings-shall-be~~
 4 ~~had-in-impaneling~~ the trial jury shall be impaneled as are
 5 prescribed in sections 93-5001 to through 93-5015.

6 (2) ~~if~~ When the action be is a criminal one, the jury
 7 shall be impaneled as prescribed in Title 94 25."

8 Section 42. Section 93-1809, R.C.M. 1947, is amended
 9 to read as follows:

10 "93-1809. Manner of impaneling. ~~Thereafter~~ The jury
 11 shall be impaneled as provided in:

12 (a) Title 95, if the action is a criminal one, ~~the~~
 13 ~~jury-must-be-impaneled-as-provided-in-Title-94;~~

14 (b) Sections 93-5001 through 93-5015, if the action is
 15 a civil one, ~~as provided in sections 93-5001 to 93-5015."~~

16 Section 43. Section 93-1903, R.C.M. 1947, is amended
 17 to read as follows:

18 "93-1903. Matters written out and filed. All
 19 objections made, during the trial or hearing and the
 20 rulings, decisions, and opinions of the court, ~~and the~~
 21 ~~exceptions--taken--during--the--trial--or--hearing,~~ must be
 22 written out at length or printed in type by the reporter
 23 and filed with the clerk forthwith immediately after the
 24 close of the trial or hearing, ~~and thereafter~~ such
 25 ~~exceptions--may--be--settled--in--a--bill--of--exceptions--as~~

1 ~~provided-in-section-93-5505."~~

2 Section 44. Section 93-1904, R.C.M. 1947, is amended
 3 to read as follows:

4 "93-1904. ~~To--furnish-copies-to-parties-etc~~ Copies of
 5 proceedings. (1) Each reporter specified ~~in this chapter~~
 6 must ~~likewise~~ furnish, upon request, ~~furnish~~ with all
 7 reasonable diligence, to the defendant in a criminal ~~cause~~
 8 ~~case~~ or a party or his attorney in a civil ~~cause~~ case in
 9 which he has attended the trial or hearing, a copy, written
 10 out at length or in narrative form, from his stenographic
 11 notes, of the testimony and proceedings upon the trial or
 12 hearing, or a part thereof, ~~upon the trial or hearing,~~ upon
 13 payment by the person requiring the same, ~~of the sum of~~
 14 ~~seven-and-one-half-cents-(\$075)~~ 7 1/2 cents per folio.

15 (2) If the county attorney, or attorney general, or
 16 judge requires such a copy in a criminal ~~cause~~ case, the
 17 reporter is entitled to his fees therefor, but he must
 18 furnish it, and upon upon furnishing it, he shall receive a
 19 certificate of the sum to which he is so entitled, which is
 20 a county charge, and must be paid by the county treasurer
 21 upon the certificate like other county charges.

22 (3) If the judge requires such a copy in a civil case
 23 to assist him in rendering a decision, the reporter must
 24 furnish the same without charge therefor. In civil cases,
 25 all transcripts required by the county shall be furnished

1 without cost.

2 (4) If it appears to the judge that a defendant in a
3 criminal case is unable to pay for such a copy, the same it
4 shall be furnished to him and paid for by the county."

5 Section 45. Section 93-1906, R.C.M. 1947, is amended
6 to read as follows:

7 "93-1906. Salary and expenses of ~~reporter~~ --
8 apportionment. (1) Every ~~Each~~ reporter appointed under the
9 provisions of this chapter is entitled to receive an annual
10 salary of not less than ~~twelve thousand five hundred dollars~~
11 ~~(\$12,500) and not of~~ more than ~~sixteen thousand dollars~~
12 ~~(\$16,000) and no other compensation except as provided in~~
13 ~~93-1904, said~~ The salary to shall be set by the judge in the
14 district in which the reporter works, and no other
15 compensation except as provided in section 93-1904,
16 provided, however, that all transcripts and bills of
17 exceptions required by the county shall be furnished without
18 cost. It is payable in monthly installments out of the
19 general funds of the counties comprising the district for
20 which he the reporter is appointed, according and in
21 proportion to the number of civil and criminal actions
22 entered and commenced in the district courts court of such
23 counties in and for each county respectively in the
24 preceding year, and it shall be the duty of the the judge
25 of such the district shall, on the first day of January 1 of

1 each year, or as soon thereafter as possible may be, to
2 apportion the amount of such the salary to be paid by each
3 county in his district on the basis prescribed in this
4 subsection aforesaid.

5 (2) In judicial districts comprising more than one
6 county, the The reporter is allowed, in addition to the
7 salary and fees provided for in subsection (1) above
8 provided, in judicial districts comprising more than one (1)
9 county, his actual and necessary expenses of transportation
10 and living when he goes on official business to a county of
11 his judicial district other than the county in which he
12 resides, from the time he leaves his place of residence
13 until he returns thereto, said The expenses to shall be
14 apportioned and payable in the same way as the salary."

15 Section 46. Section 93-5008, R.C.M. 1947, is amended
16 to read as follows:

17 "93-5008. Ballots when drawn from box Nov-3 Procedure
18 when insufficient number attend. (1) If a sufficient number
19 of jurors duly drawn and notified do not attend to form a
20 jury or a jury is impaneled to another cause and not
21 discharged, the district judge shall, pursuant to an order
22 to be entered in the minutes, in the presence of the clerk
23 of the court draw a sufficient number of ballots from the
24 box Nov-3, specified in section 93-1506, to complete the
25 jury. The sheriff must shall notify the persons thus drawn

1 to attend ~~forthwith~~ immediately or at a time fixed by
 2 court. If for any reason a sufficient number of jurors to
 3 try the issue is not obtained from the persons notified
 4 under an order made as prescribed in this section, the court
 5 may make another order or successive orders until a
 6 sufficient number is obtained.

7 ~~12~~ Each person so notified must attend at ~~a~~ the time
 8 required by the notice and, unless excused by the court or
 9 set aside, must serve as a juror upon the trial. For a
 10 neglect or refusal ~~so~~ to do so, he may be fined in the same
 11 manner as ~~a~~ any other trial juror regularly drawn and
 12 notified, ~~as prescribed in this code~~ and he is subject to
 13 the same exceptions and challenges as any other trial
 14 juror."

15 Section 47. Section 93-7501, R.C.M. 1947, is amended
 16 to read as follows:

17 "93-7501. Contempts a justice may punish for. A
 18 justice may punish ~~as~~ for contempt persons guilty of the
 19 following acts, and no other:

20 ~~1~~ 1 ~~Disorderly~~ disorderly, contemptuous, or insolent
 21 behavior toward the justice while holding the court, tending
 22 to interrupt the due course of a trial or other judicial
 23 proceeding;

24 ~~2~~ 2 ~~a~~ a breach of the peace, boisterous conduct, or
 25 violent disturbance in the presence of the justice or in

1 the immediate vicinity of the court held by him, tending to
 2 interrupt the due course of a trial or other judicial
 3 proceeding;

4 ~~3~~ 3 ~~Disobedience~~ disobedience or resistance to the
 5 execution of a lawful order or process made or issued by
 6 him, ~~the justice~~;

7 ~~4~~ 4 ~~Disobedience~~ disobedience to a subpoena duly
 8 served or refusing refusal to be sworn or to answer as a
 9 witness;

10 ~~5~~ 5 ~~Rescuing~~ rescuing any person or property in the
 11 custody of an officer by virtue of an order or process of
 12 the court, ~~held by him~~."

13 Section 48. Section 93-7602, R.C.M. 1947, is amended
 14 to read as follows:

15 "93-7602. ~~Entries therein primary evidence of the~~
 16 facts. How entries made -- prima facie evidence. The ~~several~~
 17 ~~particulars of the last section specified~~ items listed in
 18 93-7601 must be entered in the docket under the title of the
 19 action to which they relate, and, (unless otherwise provided
 20 ~~in sections 93-6601 to 93-7804 provided~~) through 93-7714, at
 21 the time when they occur. Such entries in a justice's
 22 docket or a transcript thereof, certified by the justice
 23 or his successor in office, are ~~prima facie~~ prima facie
 24 evidence of the facts so stated."

25 Section 49. Section 93-7605, R.C.M. 1947, is amended

1 to read as follows:

2 "93-7605. Proceedings when office becomes vacant ~~and~~
 3 ~~before-a-successor-is-appointed.~~ If the office of a justice
 4 become becomes vacant by because of his death, or his
 5 removal from the county, or otherwise, any other cause
 6 before his successor is ~~elected-and-qualified~~ appointed, the
 7 docket and papers that were in his possession of ~~such~~
 8 ~~justice-must shall~~ be deposited in the office of some other
 9 justice in the county, ~~to--be-by-him-delivered who shall~~
 10 deliver them to the successor of ~~such the former~~ justice. If
 11 there is no other justice in the county, then the docket and
 12 papers ~~of-such-justice-must shall~~ be deposited in the office
 13 of the county clerk, ~~to--be--by--him--delivered who shall~~
 14 deliver them to the successor in office of the ~~former~~
 15 justice."

16 Section 50. Section 93-7607, R.C.M. 1947, is amended
 17 to read as follows:

18 "93-7607. Justice ~~electd--to-fill-vacancy who is the~~
 19 successor. The justice ~~electd~~ appointed to fill a vacancy
 20 is the successor of the justice whose office became vacant
 21 before the expiration of a full term. When a full term
 22 expires, the ~~some--or--another~~ person elected to take ~~the~~
 23 numbered office, as provided in 93-401, in the--same--county
 24 from that time is the successor."

25 Section 51. Section 93-7704, R.C.M. 1947, is amended

1 to read as follows:

2 "93-7704. ~~Calling--another--justice,--when,--by--whom~~
 3 Acting, justices. (1) ~~Disqualification~~ (a) ~~when whenever~~ a
 4 justice of the peace is disqualified from acting on in any
 5 action because of the application of subsection (1), (2), or
 6 (3) of section 93-901, he shall either transfer the action
 7 to another justice court in the same county or call a
 8 justice from a neighboring county to preside in his behalf,
 9 ~~who--while-so-acting-is-vested-with-the-power-of-the-justice~~
 10 ~~for-whom-he-so-holds-court~~

11 ~~(2)(b) illness--or--absence in--case--of--sickness~~
 12 Whenever a justice is sick, disability disabled, or absence
 13 ~~of-a-justice absent and for-such-a-period-of-time--that~~ the
 14 county commissioners of ~~the--county~~ find that there is a
 15 delay in the proper administration of justice or upon ~~the~~
 16 ~~written--request--of~~ the county attorney makes a written
 17 request, another justice, if there is one readily available,
 18 or a police city judge or some other qualified person shall
 19 be called in to hold court for the absent justice until the
 20 his return, of the absent justice, and when so-called and so
 21 ~~acting--that-person-is-vested-with-the-power-of--the--justice~~
 22 ~~for-whom he-so-holds-court~~

23 ~~(3)(c) Vacation~~ During the time, when a justice of
 24 the peace is on vacation or attending a training session,
 25 another justice of the peace of the same county shall be

1 authorized to handle matters that otherwise would be handled
2 by the absent justice. When there is no other justice of
3 the peace in the county, the county commissioners shall
4 handle the situation in the same manner as if the justice
5 were sick or absent.

6 ~~(4)(2) Necessary--expenses~~ Whenever a justice of the
7 peace or other ~~another~~ person is called in to preside over
8 the court of a justice ~~who is disqualified, sick, or absent~~
9 ~~under subsection (1), that the~~ visiting justice of the peace
10 or other person shall be paid all necessary and actual
11 expenses including mileage, ~~and--if--that~~ ~~If the~~ acting
12 justice is not a justice of the peace receiving a salary,
13 ~~then--that--acting--justice~~ he shall also receive such
14 compensation as is proper for the time involved. ~~Such~~
15 ~~expenses--shall--be~~ The cost of implementing this subsection
16 is a proper charge against the county where the court is
17 held.

18 ~~(5)(3) Court-docket-entries~~ When another justice, or
19 any other qualified person is called to preside in a justice
20 court, proper entries of all proceedings must be made in the
21 docket of the justice for whom the visiting justice or
22 person holds court. When the appointment is made by order
23 of the county commissioners, the order shall be placed in
24 the court docket.

25 ~~(6)(4) Jurisdiction-of-called-in-persons~~ When called

1 in to preside over a justice court ~~as above provided,~~ the
2 visiting justice of the peace or other qualified person
3 while acting as justice of the peace is vested with all the
4 power of the justice for whom he so holds court."

5 Section 52. Section 93-7707, R.C.M. 1947, is amended
6 to read as follows:

7 "93-7707. What provisions of code applicable to
8 justices' courts. ~~Justices' Because justices' courts--being~~
9 are courts of peculiar and limited jurisdiction, only those
10 provisions of this code which are, in their nature,
11 applicable to the organization, powers, and course of
12 proceedings in justices' courts, or which have been made
13 applicable by special provisions in sections 93-6601 to
14 ~~93-7004,~~ through 93-7714 are applicable to justices' courts
15 and the proceedings therein."

16 Section 53. Section 93-7709, R.C.M. 1947, is amended
17 to read as follows:

18 "93-7709. ~~Special Deputy~~ constables ~~---appointment~~. If
19 in any county there ~~should--be~~ is no duty appointed or
20 qualified constable, the board of county commissioners ~~in~~
21 ~~the-county~~ may, at the request of a party, after being
22 satisfied that it is expedient to do so, specially ~~depute~~
23 deputize any proper person of suitable age not interested in
24 the action to serve a summons, with or without an order to
25 arrest the defendant, ~~---or~~ and with or without a writ of

1 attachment, or to serve an execution. The ~~justice shall be~~
 2 ~~county commissioners are~~ liable upon his ~~their~~ official bond
 3 ~~bonds~~ for all official acts of the person so ~~deputed~~
 4 ~~deputized. Such deputation the appointment of the deputy~~
 5 shall be ~~made~~ in writing ~~made~~ on the process, and a note
 6 thereof ~~shall be~~ made on the justice's docket."

7 Section 54. Section 93-2801-3, R.C.M. 1947, is amended
 8 to read as follows:

9 "93-2801-3. Distribution of proposed rules ==
 10 ~~suggestions of~~ to bench and bar ~~---petitions-of-professional~~
 11 ~~associations~~. Before any rule is adopted, the supreme court
 12 shall distribute copies of the proposed rule to the bench
 13 and bar of the state for their consideration and suggestions
 14 and ~~shall~~ give due consideration to such suggestions as they
 15 may submit to the court. The ~~Montana Bar Association State~~
 16 ~~bar of Montana~~ or the ~~Association~~ ~~association~~ of Montana
 17 ~~Judges~~ ~~judges~~ may file with the supreme court a petition
 18 specifying ~~their~~ ~~its~~ suggestions concerning any existin; or
 19 proposed rule and requesting a hearing thereon within ~~six~~
 20 ~~6~~ months after the filing of the petition."

21 Section 55. Section 95-2009, R.C.M. 1947, is amended
 22 to read as follows:

23 "95-2009. Appeal. ~~(c)(1)~~ All cases on appeal from
 24 justices' or police city courts must be tried anew in the
 25 district court and may be tried before a jury of six ~~6~~

1 ~~which may be drawn from either the regular panel or jury box~~
 2 ~~Nov-3.~~

3 ~~(b)(2)~~ The defendant may appeal to the district court
 4 by giving written notice of his intention to appeal within
 5 ~~ten days-(10)~~ days after judgment.

6 ~~(c)(3)~~ Within ~~thirty-(30)~~ days the entire record of
 7 the justice ~~justice's~~ or police city court proceedings shall
 8 be transferred to the district court or the appeal shall be
 9 dismissed. It ~~shall be~~ ~~is~~ the duty of the defendant to
 10 perfect the appeal."

11 Section 56. Section 93-1404, R.C.M. 1947, is amended
 12 to read as follows:

13 "93-1404. Duty of clerk -- jury boxes ~~box~~. The clerk
 14 shall prepare and keep a jury box and contents as ~~follows~~
 15 ~~prescribed in this section~~. The number of each juror shall
 16 be written, typed, or stamped on a ~~slip of~~ paper or other
 17 suitable material, identical in all respects ~~to the slips~~
 18 ~~used for the other numbers~~, and ~~the slips shall be~~ placed in
 19 a box of ample size to permit ~~said numbers them~~ to be
 20 thoroughly mixed, ~~and which said the~~ box shall be kept--for
 21 that--purpose--and--shall--be--known--as--and plainly marked,
 22 "jury box ~~Nov-1~~". The numbers ~~slips~~ may be used as often as
 23 necessary--provided--however, ~~except that~~ none shall ~~may~~ be
 24 used which is in any manner whatsoever defaced or
 25 disfigured, or so marked that it may be recognized or

1 distinguished from the others in said ~~the~~ jury box ~~now~~-
 2 except by the number thereon. ~~There shall be so enclosed in~~
 3 ~~said box one number, and only one number.~~ The box shall
 4 contain only one slip for each number corresponding to the
 5 number before the name of each juror on the jury list."

6 Section 57. Section 93-1502, R.C.M. 1947, is amended
 7 to read as follows:

8 "93-1502. District judge to draw jury. Immediately
 9 ~~upon after~~ the order mentioned in ~~the preceding section~~
 10 ~~having 93-1501 has~~ been made, the district judge shall in
 11 the presence of the clerk of the court proceed to draw the
 12 jurors by number from ~~the~~ jury box ~~now~~-t."

13 Section 58. Section 93-1512, R.C.M. 1947, is amended
 14 to read as follows:

15 "93-1512. ~~Drawing additional jurors when original~~
 16 ~~number insufficient order designating number~~
 17 ~~needed selection from portion of county only notification~~
 18 ~~of jurors~~ Obtaining additional jurors when necessary.
 19 Whenever it appears to a district judge that additional
 20 jurors will be needed for any term or trial, the judge shall
 21 draw as many numbers from ~~the~~ jury box ~~now~~-t as are
 22 necessary to secure the required number of additional
 23 jurors. Before drawing the numbers, the judge shall by
 24 appropriate order designate the number of jurors needed,
 25 and, when the judge believes that securing the additional

1 jurors from all of the county would cause unnecessary delay
 2 or expense, then he may order the jurors selected from only
 3 a designated portion of the county, which portion shall
 4 never be less than the corporate limits of the county seat.
 5 If, in the selection of the additional jurors, a number is
 6 drawn and the jury list shows the person represented by the
 7 number to be a resident of an area outside the area
 8 designated by the court order, then that number shall be
 9 returned to the jury box and a new number drawn. When the
 10 required number of names have been selected, the judge may
 11 order the prospective jurors notified by telephone by the
 12 clerk of the court or he may order them summoned by the
 13 sheriff either by certified mail or by personal service."

14 Section 59. Section 93-1801, R.C.M. 1947, is amended
 15 to read as follows:

16 "93-1801. Grand jury -- when and how to ~~be~~ ~~impaneled~~
 17 drawn and summoned. Whenever in the opinion of the district
 18 judge a grand jury is necessary, he must make an order
 19 directing a grand jury to be drawn and summoned to attend
 20 before the court. The order must specify the number of such
 21 jurors to be drawn, which must not be less than fifteen {15}
 22 ~~nor or~~ more than twenty {20}. The names of such ~~the~~ jurors
 23 must be drawn from ~~the~~ jury box ~~now~~-t, mentioned in section
 24 93-1404, and ~~the~~ the list of names shall be certified and
 25 the jurors summoned ~~as provided for drawing and summoning~~

1 in the same manner as for trial jurors, ~~and the~~ The names
2 of any persons drawn who ~~may~~ are not be impaneled ~~upon~~ on
3 the grand jury must be again placed in ~~said~~ the jury box ~~Now~~
4 is."

5 Section 60. Repealer. Sections 11-1709, 16-3606,
6 93-221 through 93-233, 93-703, and 93-7608, R.C.M. 1947,
7 are repealed.

-End-

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LC 0038

1977 Legislature
Code Commissioner Bill - Summary

House Bill No. 46

TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO THE JUDICIARY AND THE COURTS OF THE STATE OF MONTANA.

(This summary does not include discussion of routine form and grammatical changes.)

Section 1. 10-1220. Adjudicatory hearing. In subsection (7), deleted obsolete references to "jury box No. 3" and the "regular trial panel" - 93-1506, which provided for jury box No. 3, has been repealed.

Section 2. 11-1601. City court established - when open. Rewrote to clarify "such days".

Section 3. 11-1601.1. Election and terms of office of city judges. New section enacted for easy reference. The provisions it refers to have been allocated to the Local Government, rather than the Judiciary, title.

Section 4. 11-1602. Concurrent jurisdiction. Deleted subsections (1) and (2) - being reenacted to aid recodification as 11-1603.1. In subsection (3), deleted "or town" as an apparent error - the court is called a city court whether it is in a city or a town.

Section 5. 11-1603. Exclusive jurisdiction. In subsection (1), deleted "which ... town" (redundant with 11-1602(1).) Rewrote subsections (2) and (4) to clarify. In subsection (6), changed "license" to "license fee" - apparent error.

Section 6. 11-1603.1. Who named as plaintiff. New section taken from 11-1602 (1) and (2) to aid recodification. Section 11-1602 deals with jurisdiction, but these two subsections are procedural, rather than jurisdictional.

In subsection (1), simplified language to parallel subsection (2). In subsection (2), deleted "other" to clarify.

Section 7. 11-1604. When substitute for judge called in. Rewrote for clarity.

Section 8. 11-1710. Summons - time for answer. Changed internal reference to 93-3003 to reference to M.R. Civ. P., Rules 4 and 12(a), which superseded 93-3003.

Section 9. 11-1711. Practice - reply. Deleted "hereby adopted and made" and "where ... chapters" - superfluous. Deleted "if he does not demur" - demurers have been abolished. Changed internal reference to 93-3601 to reference to M.R. Civ. P., Rules 7(a), 8(e) (2), and 10(b). Although only Rule 7(a) is listed in Table C of the M.R. Civ.P., as superseding 93-3601, a reference to Rule 7(a) by itself would be meaningless since it essentially repeats what 11-1711 says. The three rules together cover the area that 93-3601 dealt with.

Section 10. 16-3001. Duties and records to be kept. In subsection (3), clarified "the code of civil procedure" and deleted "and a list of all the fees charged" - contained in subsection (12). Deleted subsection (4) to resolve inconsistency with 16-3003 - the latter seems to be closer to actual practice. In subsection (6) (now (7)), deleted "as prescribed elsewhere in this code" - superfluous; clarified last phrase. In subsection (7) (now (8)), changed "elsewhere in this code" to "by law" - simplification. Rewrote subsection (8) (now (9)) for clarity, deleted "or who may hereafter declare" and "or may be hereafter" as superfluous. Clarified subsections (9) and (10) (now (10) and (11)). Deleted subsection (11) as obsolete - 38-208 has been repealed and records of civil commitments are kept under special rules prescribed in 38-1309(5). In subsections (13) and (14), clarified "this code".

Section 11. 16-3603. Governed by law prescribing sheriffs' duties. Added reference to 16-2702(5), which provides that sheriffs shall attend all courts except justices' and city courts, to correct apparent error - constables attend justices' and city courts but not other courts - see 16-3601.

Section 12. 16-3604. Duties of justices. Changed "to" to "through" to clarify. Deleted "of the code of civil procedure (Title 93)" - superfluous.

Section 13. 16-3605. Justices not to practice law. Changed "township" to "a county" - updating, justices are now assigned to counties.

Section 14. 16-3607. Justice or constable not to purchase judgment. Rewritten to clarify that constables, as well as justices of the peace, can be guilty under this section.

Section 15. 25-307. Collection and disposition of fees - itemized statement. Deleted last sentence - 25-304 has been repealed.

Section 16. 25-401. Jurors' fees in courts of record. Rewrote end of first sentence to clarify "from and to".

Section 17. 25-403. Jurors' fees in courts not of record and coroner's inquests. Clarified and corrected apparent error - jurors' fees, not the jury, are taxed as costs.

Section 18. 82-503. Fees. In subsections (1)(a) and (1)(b), added "as payment" to clarify. In subsection (1)(c), deleted "and counselor" - redundant with "attorney". In subsection (2) corrected terminology referring to retirement - there is no secretary of the "PERS board" and "the judges' retirement fund" is not defined.

Section 19. 82-505. Settlements and accounts to state auditor. Added "or to ...82-503(2)" to resolve conflict with 82-503(2) - there is no question that one-quarter of the fees go into the retirement system.

Section 20. 82-2007. Distribution of reports. In subsection (1)(d), changed "officer" to "office" to clarify - "state officer" includes many state employees who do not receive the reports; changed set number of copies to a provision that the secretary of state may determine how many are needed - the size and needs of the state agencies vary greatly and change from year to year. (Amendment accords with actual practice.) In subsection (2), deleted "or may hereafter establish" - superfluous.

Section 21. 93-219. Justice or judge not to run for office - resignation required. This section is unclear as to whether it applies to district judges. They were not mentioned in the title of the original bill and are not mentioned in the first part of the text. Amendment is required for clarification and to correct the constitutional defect in the title of the original bill if application to district judges is intended.

The bill contains the text as it should read if the legislature decides it wants to include district judges. If the legislature prefers to restrict application to supreme court justices, all references to district court judges can simply be deleted.

Deleted redundancies such as "holding or". In subsection (2), deleted superfluties, such as "of said supreme court", "wholly", and "then held".

Section 22. 93-302. Number of judges. In subsection (2), added "each" to clarify.

Section 23. 93-305. Expenses when out of district. Added "actual and necessary" and deleted last sentence - See Montana constitution, Art. VII, Section 7(1), "salaries shall not be diminished during terms of office."

Section 24. 93-313. Expenses when not in county of residence. Deleted "as provided ... 59-801" - see explanation under Section 23 of this bill. Deleted "and all expenditures made therefor" - redundant with "incurred ... thereof." Deleted "in this state" - superfluous.

Section 25. 93-325. Appointment - salary - qualifications. In subsections (1) (c) and (2), changed "judge" to "judges" for clarity and consistency.

Section 26. 93-408. Civil jurisdiction of justices' courts. Changed "justice courts" to "justices' courts" to clarify. In subsection (2), changed "courts" to "court" - apparent error; clarified "the same". In subsection (3), deleted reference to alienation of affections - action abolished by 17-1201 and changed "bastardy" to "determination of paternity" - update terminology. In subsection (5) changed "given" to "imposed" to clarify.

Section 27. 93-505. Sittings of court - when private. In subsection (1), deleted reference to breach of promise - action abolished by 17-1202. Rewrote last sentence for clarification, deleting "sound" as superfluous.

Section 28. 93-507. Nonjudicial days. Changed "must" to "may" in two places - apparent error.

Section 29. 93-702. Qualifications and residence. In subsection (2), added "in a county seat" - incorporating 93-703. Added "during their terms of office" to clarify.

Section 30. 93-705. Creation, composition, and function of subsection (1), deleted "or not" - apparent error. Reworded last sentence to clarify.

Section 31. 93-725. Nonparticipation of interested judicial officer. Added "his spouse" to correct apparent error.

Section 32. 93-726. Interim disqualification of judicial officer. Changed "judge" to "judicial officer" for consistency. (Definition of "judicial officer" being added to 19-103 in LC 0039 to apply to entire R.C.M.)

Section 33. 93-903. No judicial officer to have partner practicing law. Added "of a court of record" to resolve conflict with second paragraph of 16-3605 (now 16-3605 (2)), which provides that a justice of the peace or his law partner may not practice in the county in which the justice's court is located.

Section 34. 93-1203. Grand jury defined. Changed "7" to "11" to correct oversight - under the 1972 constitution, Article II, section 20, a grand jury must consist of 11 persons.

Section 35. 93-1304. Who exempt from jury duty. In subsection (1)(b), deleted "township" as obsolete and reworded for clarity. Rewrote subsection (1)(d) to clarify and avoid an unconstitutional discriminatory interpretation. Added subsection (1)(9), taken from 80-112. In subsection (1)(j), changed "asylum" to "mental health facility" - updating terminology. In subsection (1)(k), deleted "penitentiary" as obsolete and reworded for clarity.

Moved part of subsection (1)(n) to subsection (2) to improve form. Added subsection (3) - incorporated from 80-112.

Section 36. 93-1503. Drawing - how conducted. In subsection (3) corrected apparent error - the person whose name is drawn is deceased, the name cannot be deceased. Reworded the first sentence of subsection (3) for clarity, and clarified "the fact" in the second sentence. Changed "insane" to "mentally incompetent" - modern terminology. Note that "insane" may be narrower than "mentally incompetent", but the intent appears to have been to include all forms of mental incompetency. In subsection (4), deleted "of the persons so" and changed "jurors" to "names" for clarity and changed "Jury box No. 1." to "the jury box" to update terminology - see also Sections 54 through 57. In subsection (6), changed "on" to "for" - apparent error.

Section 37. 93-1603. Officer's return. Clarified "it".

Section 38. 93-1802. How constituted. Reworded subsection (1) to clarify. In subsection (2) and (3), deleted "of such persons" - superfluous. In subsection (2), deleted "observe or" - redundant with "see", and reworded fourth sentence to clarify.

In subsection (3), changed "either box" to "the jury box" to correct an apparent error - see 93-1801, which only mentions "jury box No. 1" (now "the jury box") to correct an apparent error - see 93-1801. Deleted last sentence - redundant with subsection (2).

Section 39. 93-1803. Manner of impaneling grand jury - Updated internal reference to repealed sections. Clarified "thereafter". Rewrote for clarity.

Section 40. 93-1805. Clerk to call list of jurors summoned, prepare appeals. Deleted "then" in two places - superfluous. In subsection (2), changed "slips or ballots of paper" to "ballots" to correct apparent error - "ballot" is defined as a piece of paper-and for consistency with 93-1802. Changed "slips" to "ballots" because of the preceding change. Changed "clerk" to "judge" to correct apparent error - see 93-5001 and 93-5002, which provide that the judge draws the capsules.

Section 41. 93-1806. Manner of impaneling. Rewrote first sentence for clarity and changed "to" to "through" to clarify. In subsection (2), changed "Title 94" to "Title 95" - updating internal reference.

Section 42. 93-1809. Manner of impaneling. Rewrote for clarity. Deleted "Thereafter" - superfluous. Changed "Title 94" to "Title 95" - updating internal reference. Changed "to" to "through" to clarify.

Section 43. 93-1903. Matters written out and filed. Deleted references to exceptions as obsolete - all of Title 93, chapter 55, which provided for bills of exceptions and settlement thereof, has been repealed or superseded. (see also M.R. App. Civ. P. 9, 10, and 25).

Section 44. 93-1904. Copies of proceedings. In subsection (1), deleted "specified in this chapter" and "likewise" - superfluous. In subsection (3), added the second sentence taken from 93-1906 to aid recodification, adding "in civil cases" to clarify and avoid a conflict with subsection (2) and deleting obsolete reference to bills of exceptions.

Section 45. 93-1906. Salary and expenses. In subsection (1), deleted "appointed ... chapter"-superfluous. Deleted proviso being incorporated into 93-1904 to aid recodification. Deleted redundancies "according and" and "entered and". Changed "courts" to "court" - apparent error. Clarified "of such counties respectively", "may be", "aforesaid". In subsection (2), clarified "above provided".

Section 46. 93-5008. Procedure when insufficient number attend. Deleted "or ... not discharged" - covered by 93-5007, which is more accurate since jury box No. 3 does not exist. Changed "box No. 3 ... 93-1506" to "the box" - 93-1506 has been repealed and jury box No. 3 no longer exists. In subsection (2), changed "a" to "the" - grammatical accuracy. Changed "a" to "any other" to clarify and make consistent with changes in subsection (1). Deleted "as prescribed in this code" - superfluous.

Section 47. 93-7501. Contempts a justice may punish for. Deleted "as" to clarify. In subsection (5), deleted "held by him" - confusing and superfluous.

Section 48. 93-7602. How entries made - prima facie evidence. Clarified first part of first sentence and added "in the docket" for clarification. Changed "to" to "through" to clarify. Changed "93-7804" to 93-7714" to correct apparent error - chapter 78 of Title 93 deals with police courts.

Section 49. 93-7605. Proceedings when office becomes vacant. Changed "otherwise" to "any other cause" to clarify. Changed "elected and qualified" to "appointed" to correct apparent error and clarify - under 93-406 vacancies are filled by appointment; "and qualified" has no meaning since 93-406 specifies that an eligible person be appointed. Generally rewrote to clarify.

Section 50. 93-7607. Who is the successor. Changed "elected" to "appointed" - see 93-406 and explanation under 93-7605 (Section 47 of bill). Rewrote second sentence to clarify and update - current law provides that each justices' office be numbered.

Section 51. 93-7704. Acting justices. In subsections (1) (a) and (b), deleted last phrase - contained in subsection (4). Rewrote subsection (1)(b) for clarity and grammatical accuracy. In subsection (2), clarified "who is ... absent", and in the last sentence clarified "such expenses". In subsection (4), deleted "as above provided" and "so" - superfluous.

Section 52. 93-7707. What provisions of code applicable to justices' courts. Changed "to" to "through" to clarify. Changed "93-7804" to "93-7714" to correct apparent error - chapter 78 of Title 93 deals with city courts, not justices' courts.

Section 53. 93-7709. Deputy constables. Deleted "or qualified" and "in the county" - superfluous. Substantive - changed "justice" to "county commissioners" to correct apparent error of omission. The appointing power was transferred by amendment in 1975, it seems that the liability should go with the power.

Section 54. 93-2801-3. Distribution of proposed rules - suggestions of bench and bar. Changed "Montana Bar Ass'n" to "State Bar of Montana" - correct name.

Section 55. 95-2009. Appeal. Deleted "which ...No. 3" - jury box No. 3 no longer exists since 93-1506 has been repealed.

Section 56 through 59. 93-1404, 93-1502, 93-1512, 93-1801. "Jury box No. 1" changed to "jury box" to update terminology - there are no longer any other jury boxes - see also Section 35. Sections 93-1404 and 93-1801 have also been rewritten for clarity.

Section 60. Repealer: Section 11-1709 actions - how commenced - pleadings. Contains an internal reference to chapters in Title 93 which have mostly been superseded. Changing the internal reference would be complicated and at any rate, 11-1709 is covered by 11-1719, which provides that the procedure in municipal courts shall be the same as that in district courts unless otherwise specified.

Section 16-3606. Commissioners to furnish justices of peace forms for criminal cases - quarters and equipment - impliedly repealed by 93-412. Facilities furnished to justices by county.

Sections 93-221 through 93-233 were impliedly repealed by chapter 2801 of Title 93. (Each deals with the adoption of rules of civil procedure by the Supreme Court.)

Section 93-703 is being incorporated into 93-702 (2) to aid recodification. (See Section 29 of this bill.)

Section 93-7608. Justices equally entitled (to be the successor). Has no current application since persons who seek election as justice of the peace must now designate which numbered office they seek - see 93-401.

Approved by Committee
on Judiciary

HOUSE BILL NO. 46

INTRODUCED BY KVAALEN

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO THE JUDICIARY AND THE COURTS OF THE STATE OF MONTANA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 10-1220, R.C.M. 1947, is amended to read as follows:

"10-1220. Adjudicatory hearing. (1) Prior to any adjudicatory hearing, the court shall determine whether the youth admits or denies the offenses alleged in the petition. If the youth denies all offenses alleged in the petition, the youth, his parent, guardian, or attorney may demand a jury trial on such contested offenses; in the absence of such demand, a jury trial is waived. If the youth denies some offenses and admits others, the contested offenses may be dismissed in the discretion of the youth court judge. The adjudicatory hearings shall be set forthwith immediately and accorded a preferential priority.

(2) An adjudicatory hearing shall be held to determine whether the contested offenses are supported by proof beyond a reasonable doubt in cases involving a youth alleged to be delinquent or in need of supervision. If the hearing is

before a jury, the jury's function shall be to determine whether the youth committed the contested offenses; if the hearing is before the youth court judge without a jury, the judge shall make and record his findings on all issues. If the allegations of the petitions are not established at the hearing, the youth court shall dismiss the petition and discharge the youth from custody.

(3) An adjudicatory hearing shall be recorded verbatim by whatever means the court ~~deems~~ considers appropriate.

(4) The youth charged in a petition must be present at the hearing and if brought from detention to the hearing, shall not appear clothed in institutional clothing.

(5) In a hearing on a petition under this section, the general public shall be excluded and only such persons admitted as have a direct interest in the case; except that when a hearing in the court is held on a written petition charging the commission of a felony, persons with a legitimate interest in the proceeding, including representatives of public information media, shall not be excluded from the hearing.

(6) If the court finds on the basis of a valid admission by a youth of the allegations of the petition or if a youth is found to be a delinquent youth or a youth in need of supervision the court shall schedule a dispositional hearing under this act.

1 (7) When a jury trial is required in a case, it may be
 2 held before ~~the regular trial panel. If the regular panel is~~
 3 ~~not in attendance, the court may draw a jury from jury box~~
 4 ~~no. 3, a jury selected as provided in Title 93, Chapter 50."~~

5 Section 2. Section 11-1601, R.C.M. 1947, is amended to
 6 read as follows:

7 "11-1601. City court established ~~was open~~. A city
 8 court is established in each city or town, ~~the~~ which court
 9 ~~must always be open, except upon nonjudicial days, and~~
 10 ~~upon such days it may transact criminal business only."~~

11 Section 3. There is a new R.C.M. section numbered
 12 11-1601.1 that reads as follows:

13 11-1601.1 Election and terms of office of city judges.
 14 The election of city judges and their terms of office are
 15 provided for in Title 11, chapter 7.

16 Section 4. Section 11-1602, R.C.M. 1947, is amended to
 17 read as follows:

18 "11-1602. ~~Jurisdiction of city courts~~ Concurrent
 19 jurisdiction. (1) The city court has concurrent jurisdiction
 20 with the ~~justice's~~ justice's court of all misdemeanors
 21 punishable by a fine not exceeding ~~five hundred dollars~~
 22 ~~(\$500), or by imprisonment not exceeding six (6) months, or~~
 23 ~~by both fine and imprisonment, under the following~~
 24 ~~conditions:~~

25 ~~(3) Any action charging the commission of an offense~~

1 ~~within the city or town limits in violation of a city or~~
 2 ~~town ordinance shall be brought in the name of the city or~~
 3 ~~town as the plaintiff and against the accused as the~~
 4 ~~defendant.~~

5 ~~(2) Any other action brought for violation of a state~~
 6 ~~law within the city shall be brought in the name of the~~
 7 ~~state of Montana as the plaintiff and against the accused as~~
 8 ~~the defendant.~~

9 ~~(3)~~ (2) Application Applications for search warrants
 10 and complaints charging the commission of a felony may be
 11 filed in the city or town court, and when then they are so
 12 filed, the city judge ~~shall have~~ has the same jurisdiction
 13 and responsibility as a justice of the peace, including the
 14 holding of a preliminary hearing. The city attorney may
 15 file an application for a search warrant or a complaint
 16 charging the commission of a felony when the offense was
 17 committed within the city limits. The county attorney,
 18 however, must handle any action after a defendant is bound
 19 over to district court."

20 Section 5. Section 11-1603, R.C.M. 1947, is amended to
 21 read as follows:

22 "11-1603. ~~Jurisdiction for violation of ordinances,~~
 23 ~~and civil and criminal jurisdiction~~ Exclusive jurisdiction.
 24 The police city court also has exclusive jurisdiction of:

25 1. (1) Of all proceedings for the violation of any an

1 ordinance of the city or town, both civil and criminal,
 2 ~~which must be prosecuted in the name of the city or town;~~

3 ~~2. (2) Of any action when the amount of the taxes or~~
 4 ~~assessments sought does not exceed \$300, actions for the~~
 5 ~~collection of taxes and or assessments levied for any of the~~
 6 ~~following purposes, except that no lien on the property~~
 7 ~~taxed or assessed for the nonpayment of the taxes or~~
 8 ~~assessment may be foreclosed in any such action:~~

- 9 (a) city or town purposes; ~~or~~
- 10 (b) ~~for~~ the erection or improvement of public
- 11 buildings;
- 12 (c) ~~for~~ the laying out, ~~or~~ opening, or improving ~~any~~
- 13 ~~of a~~ public street, ~~or~~ sidewalk, alley, or bridge; ~~or~~
- 14 (d) ~~for~~ the purpose of acquisition or the improvement
- 15 of any public grounds; ~~or and~~

16 (e) ~~for any and all~~ public improvements made or

17 ordered by the city or town within its limits, ~~when the~~
 18 ~~amount of the tax or assessments sought to be collected~~
 19 ~~against the person assessed does not exceed three hundred~~
 20 ~~dollars; but no lien upon the property taxed or assessed for~~
 21 ~~the nonpayment of the taxes or assessment can be foreclosed~~
 22 ~~in any such action;~~

23 ~~3. (3) Of an action actions~~ for the collection of money
 24 due to the city or town or from the city or town to any
 25 person, when the amount sought ~~to be collected~~, exclusive of

1 interest and costs, does not exceed ~~three hundred dollars~~
 2 ~~\$300;~~

3 ~~4. (4) For when the amount claimed, exclusive of costs,~~
 4 ~~does not exceed \$300, actions for:~~

- 5 (a) the breach of ~~any an~~ official bond given by ~~any a~~
- 6 city or town officer; ~~and~~
- 7 (b) ~~for~~ the breach of any contract; ~~and~~
- 8 (c) ~~any action for~~ damages, ~~in which when~~ the city or
- 9 town is a party, or is in any way interested; ~~and~~
- 10 (d) ~~all the enforcement of~~ forfeited recognizances
- 11 given to, ~~or for~~ the benefit of, or ~~in on~~ behalf of the city
- 12 or town; ~~and~~

13 (e) ~~upon all collection on~~ bonds given upon ~~any an~~
 14 appeal taken from the judgment of the court in any action
 15 ~~mentioned in subsections (4) (a) through (4) (d) above named;~~
 16 ~~where the amount claimed, exclusive of costs, does not~~
 17 ~~exceed three hundred dollars;~~

18 ~~5. (5) For actions for~~ the recovery of personal
 19 property belonging to the city or town, when the value of
 20 the property, ~~(exclusive of the damages for the taking or~~
 21 ~~detention),~~ does not exceed ~~three hundred dollars~~ ~~\$300;~~ ~~and,~~

22 ~~6. (6) Of an action actions~~ for the collection of ~~any a~~
 23 license ~~fee~~ required by ~~any an~~ ordinance of the city or
 24 town."

25 Section 6. There is a new R.C.M. section numbered

1 11-1603.1 that reads as follows:

2 11-1603.1. Who named as plaintiff. (1) An action
3 brought for violation of a city or town ordinance shall be
4 brought in the name of the city or town as the plaintiff and
5 against the accused as the defendant.

6 (2) An action brought for violation of a state law
7 within the city or town shall be brought in the name of the
8 state of Montana as the plaintiff and against the accused as
9 the defendant.

10 Section 7. Section 11-1604, R.C.M. 1947, is amended to
11 read as follows:

12 "11-1604. When substitute for judge called in cannot
13 act. The city judge or mayor may call in a justice of the
14 peace or some qualified resident of the city or town to act
15 in the judge's place, whenever the judge is:

16 (1) ~~is all cases in which the judge is a party in a~~
17 ~~case;~~ or

18 (2) ~~is which he is interested in a case;~~ or

19 (3) ~~when he is~~ related to either party in a case by
20 consanguinity or affinity within the sixth degree; and or

21 (4) ~~is case of his sickness sick, absence absent, or~~
22 ~~inability unable to act, the police judge or mayor may call~~
23 ~~in a justice of the peace, or some qualified resident of the~~
24 ~~city or town, to act in his place and stead."~~

25 Section 8. Section 11-1710, R.C.M. 1947, is amended to

1 read as follows:

2 "11-1710. Summons — time for answer. ~~Sections The~~
3 ~~summons~~ in municipal court shall be signed by the clerk and
4 shall conform as near as ~~may be possible~~ to the provisions
5 of ~~sections 93-3003~~ M. R. Civ. P., Rules 4 and 12(a), except
6 that the time for answering shall be ~~ten 10~~ days, instead of
7 ~~twenty 20~~."

8 Section 9. Section 11-1711, R.C.M. 1947, is amended to
9 read as follows:

10 "11-1711. Practice — reply. The provisions of
11 ~~sections 93-6901 to through 93-7405, inclusive, and sections~~
12 ~~93-7701 to through 93-7714, inclusive, are hereby adopted~~
13 ~~and made~~ applicable to practice and procedure in municipal
14 court, except where ~~when the case they~~ are repugnant to the
15 provisions of this act. ~~The the~~ words "municipal court
16 municipal court" being substituted for justice court, and
17 "judge" for justice of the peace ~~where the case appears in~~
18 ~~said chapters. Where Whenever~~ the answer contains a
19 counterclaim or any new matter, the plaintiff, ~~if he does~~
20 ~~not do so~~, shall within ~~five 5~~ days after the service and
21 filing of the answer, reply to ~~such the~~ counterclaim or new
22 matter in the manner and form provided for in ~~section~~
23 ~~93-3604~~ M. R. Civ. P., Rules 7(a), 8(a)(2), and 10(b)."

24 Section 10. Section 16-3001, R.C.M. 1947, is amended
25 to read as follows:

1 "16-3001. Duties and records to be kept. The clerk of
 2 the district court, in addition to the duties prescribed
 3 elsewhere, ~~must~~ shall:

4 ~~1-(1) Take take~~ charge of and safely keep, or dispose
 5 of according to law, all books, papers, and records which
 6 ~~may be are~~ filed or deposited in his office;

7 ~~2-(2) Act act~~ as clerk of the district court, and
 8 attend each term or session thereof, and upon the judges at
 9 chambers when required;

10 ~~3-(3) Issue issue~~ all process and notices required to
 11 be issued;

12 ~~4-~~ enter all orders, judgments, and decrees proper to
 13 be entered;

14 ~~5-~~ keep in each court a register of action, as
 15 provided in ~~the code of civil procedure 93-8707~~, which must
 16 also state the names of the attorneys and all fees charged
 17 in each action, ~~and a list of all the fees charged~~;

18 ~~4. Keep for the district court, in separate volumes,~~
 19 ~~an index of all suits, labeled "General index Plaintiffs,"~~
 20 ~~each page of which must be divided into seven columns, under~~
 21 ~~their respective heads, alphabetically arranged as follows:~~
 22 ~~"Number of suit," "Plaintiffs," "Defendants," "Date of~~
 23 ~~judgment," "Number of judgment," "Page of entry of judgment~~
 24 ~~in judgment book," "Page of minute book of district court";~~
 25 ~~also, an index labeled "General index defendants," each~~

1 ~~page of which must be divided into seven columns under their~~
 2 ~~respective heads, alphabetically arranged as follows:~~
 3 ~~"Number of suit," "Defendants," "Plaintiffs," "Date of~~
 4 ~~judgment," "Number of judgment," "Page of entry of judgment~~
 5 ~~in judgment book," "Page in minute book of district court";~~

6 ~~5-(6) Keep keep~~ a minute book, which must contain the
 7 daily proceedings of court, which may be signed by the
 8 clerk, ~~and which minute book~~ must be indexed in the names of
 9 both defendant and plaintiff;

10 ~~6-(7) Keep keep~~ a book called "~~Record~~ record of
 11 probate proceedings," which must contain all the orders and
 12 proceedings of the district court sitting in probate
 13 ~~matters, as prescribed elsewhere in this code, and which~~
 14 ~~index~~ must be indexed in the ~~same~~ names of the deceased
 15 person, ~~and the executor or administrator, or the names of~~
 16 the guardian ~~or~~ and the ward;

17 ~~7-(8) Keep keep~~ a book called the "Probate probate
 18 record book," in which must be recorded all wills, bonds,
 19 letters of administration, letters testamentary, and other
 20 papers as prescribed ~~elsewhere in this code, by law and~~
 21 which ~~record~~ must be indexed in like the same manner as the
 22 "Record record of probate proceedings";

23 ~~8-(9) Keep keep~~ two books;
 24 (a) the first book must be labeled "declaration of
 25 intention to become citizens of the United States" and must

1 ~~have entered in it in one of which must be entered in~~
 2 alphabetical order the names of all persons who from the
 3 organization of the court have declared, ~~or who may~~
 4 ~~hereafter declare~~ their intention to become citizens of the
 5 United States, ~~and with the date of such declaration, which~~
 6 ~~book must be labeled "Declaration of intention to become~~
 7 ~~citizens of the United States," and;~~

8 (b) ~~the second book must be labeled "naturalization --~~
 9 ~~final papers" and must have entered in it in the other of~~
 10 ~~which must be entered in~~ alphabetical order the names of all
 11 persons who have been ~~or may be hereafter~~ admitted as
 12 citizens of the United States by the court of which he is
 13 clerk, ~~which book must be labeled "Naturalization Final~~
 14 ~~papers," and enter,~~ in a separate column, opposite each
 15 name, the country of which ~~each the~~ person was ~~before~~
 16 formerly a citizen or subject, the date of his admission,
 17 and the page of the minute book or book of record containing
 18 the order admitting him as a citizen;

19 9-110 ~~Keep keep~~ a book, called "Register register of
 20 criminal actions," ~~which must have a proper index and~~ in
 21 which must be entered the title and number of the action,
 22 with a memorandum of every paper filed, and order or
 23 proceeding had therein, with the date thereof, and a
 24 memorandum of the name of every witness, the number of days
 25 ~~in attendance he attended,~~ and his legal witness fees; and

1 a proper index to the same;

2 40-111 ~~Keep keep~~ a book, called a "Register register
 3 of probate and guardianship proceedings," in which must be
 4 entered the name of the estate, and the register number,
 5 with a memorandum of every paper filed, and order or
 6 proceeding had therein, with the date thereof, and a
 7 memorandum of the fees charged;

8 ~~11. Keep an index book of persons sent to the insane~~
 9 ~~asylum, as provided in section 38-208.~~

10 42-121 ~~Keep keep~~ a fee book, in which must be shown,
 11 in an itemized form, all fees that he has received for any
 12 services rendered in his capacity as such clerk;

13 43-113 ~~Keep keep~~ a book, called a "Book book of
 14 jurors' certificates," in which must be ~~contained~~ contain
 15 the blank certificates and stubs to be filled, as provided
 16 in ~~this code~~ 25-405;

17 44-114 ~~Keep keep~~ a "witness book," in which must be
 18 ~~contained~~ contained blank certificates and stubs to be
 19 filled, as provided in 25-406 ~~this code~~;

20 45-115 ~~Keep keep~~ a record of the attendance of all
 21 jurors, and of witnesses in criminal actions, and compute
 22 the mileage of each."

23 Section 11. Section 16-3603, B.C.H. 1947, is amended
 24 to read as follows:

25 "16-3603. Governed by ~~the~~ law prescribing sheriffs'

1 duties. All the provisions of sections 16-2701 ~~to through~~
 2 16-2722 ~~inclusive of this code~~, except subsections (4), (5),
 3 and (6) of the fourth and sixth subdivisions of section
 4 16-2702, apply to constables and govern their powers,
 5 duties, and liabilities."

6 Section 12. Section 16-3604, R.C.M. 1947, is amended
 7 to read as follows:

8 "16-3604. Duties of justices ~~of the peace~~. Justices of
 9 the peace must perform such duties as are prescribed in
 10 sections 93-6601 to through 93-7714 of the code of civil
 11 procedure (title 93), and such any other duties as are
 12 prescribed by law."

13 Section 13. Section 16-3605, R.C.M. 1947, is amended
 14 to read as follows:

15 "16-3605. Justices not to practice law. (1) Except as
 16 provided in subsection (2), a justice of the peace shall
 17 not:

- 18 (a) practice law;
- 19 (b) draw contracts, conveyances, or other legal
 20 instruments or documents;
- 21 (c) ~~shall they~~ take any claim or bill for collection,
 22 ~~not or~~ act as a collection agent in any sense ~~whatever;~~
- 23 ~~or~~
- 24 (d) ~~shall they~~ perform any legal duties other than
 25 these prescribed by law as ~~their~~ his official duties in the

1 conduct of cases and proceedings in ~~their courts~~ his court.
 2 ~~Any justice of the peace violating any of the provisions in~~
 3 ~~this section shall be deemed guilty of a malfeasance in~~
 4 ~~office, and shall forthwith be removed from his office of~~
 5 ~~justice of the peace, and shall thereafter be disqualified~~
 6 ~~from holding such office.~~

7 (2) Provided, however, that a justice of the peace
 8 who is an attorney and who is admitted to practice law
 9 before the supreme court of the state of Montana may engage
 10 in the general practice of law and practice law in all
 11 courts in the state of Montana, except that such a justice
 12 of the peace, his law partner, or associate, or a member,
 13 associate, or employee of a firm of which he is a member
 14 shall not represent a party involved in a case which is
 15 filed or tried in his court or in any justice court located
 16 in the same township county as his court, or which is
 17 appealed from said courts such a court.

18 (3) A justice of the peace who violates any of the
 19 provisions of this section is guilty of malfeasance in
 20 office and shall be removed from his office of justice of
 21 the peace and thereafter be disqualified from holding such
 22 office."

23 Section 14. Section 16-3607, R.C.M. 1947, is amended
 24 to read as follows:

25 "16-3607. Justice or constable ~~purchasing~~ not to

1 ~~purchase judgment. (1) A Every justice of the peace, or~~
 2 ~~constable of the same county, who purchases may not purchase~~
 3 ~~or is he interested in the purchase of any judgment, or part~~
 4 ~~thereof, on the his docket of, or on any docket in the his~~
 5 ~~possession, of, such justice, is guilty of a misdemeanor. A~~
 6 ~~constable may not purchase or be interested in the purchase~~
 7 ~~of any judgment or part thereof on the docket of a justice~~
 8 ~~of the peace of the county of which he is a constable or on~~
 9 ~~a docket in the possession of such a justice.~~

10 (2) Violation of subsection (1) is a misdemeanor.

11 Section 15. Section 25-307, R.C.M. 1947, is amended to
 12 read as follows:

13 "25-307. Collection and dispositica of fees --
 14 itemized statement. ~~Justices~~ Each justice of the peace shall
 15 collect the fees prescribed by law for ~~justice~~ justices.
 16 courts and shall pay ~~the same them~~ into the county treasury
 17 of the county wherein ~~they hold~~ he holds office, on or
 18 before the ~~tenth~~ 10th day of each month, to be credited to
 19 the general fund of the county, and ~~He~~ shall also file an
 20 itemized statement showing all fees received during the
 21 preceding month in ~~the his justice court,~~ said The
 22 statement shall ~~also~~ state that all fees required by law to
 23 be paid during the preceding month in connection with
 24 matters pending before the court ~~during the preceding month~~
 25 have been paid into the county treasury, and listed in said

1 the itemized statement, and that he has not received or been
 2 promised, nor has any one else received or been promised for
 3 him, any other moneys, emolument, or thing ~~whatsoever~~ by
 4 virtue of or in connection with his office, and ~~said The~~
 5 statement shall be subscribed and sworn to by the justice.
 6 ~~This section, however, shall not apply to "miscellaneous~~
 7 ~~fees" excepted by section 25-304, supra."~~

8 Section 16. Section 25-401, R.C.M. 1947, is amended to
 9 read as follows:

10 "25-401. Jurors' fees in courts of record. Grand A
 11 grand or and trial jurors juror shall receive ~~twelve dollars~~
 12 ~~{12}~~ per day for attendance before any court of record and
 13 a mileage allowance, as provided in ~~section 59-801,~~ each way
 14 for traveling each way between his free and to their
 15 residence and the county seat. ~~Any A~~ juror who is excused
 16 from attendance upon his own motion on the first day of his
 17 appearance in obedience to notice, or who has been summoned
 18 as a special juror and not sworn in the trial of the case,
 19 in the discretion of the court, may receive per diem and
 20 mileage."

21 Section 17. Section 25-403, R.C.M. 1947, is amended to
 22 read as follows:

23 "~~25-403. Compensation of jurors~~ Jurors' fees in courts
 24 not of record and ~~at~~ coroner's inquests. Jurors in courts
 25 not of record, in both civil and criminal actions, shall

1 receive a fee of seven dollars and fifty cents ~~(\$7.50)~~ per
 2 day, but in ~~In~~ civil actions, the jury jurors' fees must be
 3 paid by the party demanding the jury, and ~~not be~~ taxed as
 4 costs against the losing party. Jurors in ~~corcorner's~~ inquest
 5 inquests shall receive ~~for their services the sum of seven~~
 6 dollars and fifty cents a fee of ~~(\$7.50)~~ per day."

7 Section 18. Section 82-503, R.C.M. 1947, is amended to
 8 read as follows:

9 "82-503. Fees. (1) The clerk ~~He~~ must collect in
 10 advance the following fees:

11 (a) For ~~for~~ filing the transcript on appeal, in each
 12 any civil case appealed to the supreme court, ~~twenty dollars~~
 13 ~~(\$20)~~ payable by the appellant, and ~~ten dollars~~ ~~(\$10)~~
 14 payable by the respondent, at the time of his appearance, as
 15 payment in full for all services rendered in ~~each~~ the case,
 16 up to the remittitur to the court below;

17 (b) for filing a petition for any writ, ~~twenty dollars~~
 18 ~~(\$20)~~, as payment in full for all services rendered in ~~each~~
 19 the cause;

20 (c) for a certificate of admission as an attorney and
 21 counselor, ~~five dollars~~ ~~(\$5)~~;

22 (d) for making transcripts, or copies of papers or
 23 record records, ~~fifteen~~ 15 cents ~~(\$15)~~ per folio;

24 (e) for comparing any document requiring a
 25 certificate, ~~five~~ 5 cents ~~(\$5)~~ per folio;

1 (f) for each certificate under seal, ~~one dollar~~ ~~(\$1)~~.
 2 (2) Three-fourths ~~(3/4)~~ of all fees collected by ~~him~~
 3 the clerk must be paid into the state treasury, ~~which and~~
 4 shall be credited to ~~the credit of~~ the general fund, ~~and~~
 5 ~~one-fourth~~ ~~(1/4)~~ One-fourth of all fees collected by him
 6 shall be paid to the ~~secretary of the~~ public employees'
 7 retirement ~~system board~~ division of the department of
 8 administration to be credited to the Montana judges'
 9 retirement ~~fund~~ system account."

10 Section 19. Section 82-505, R.C.M. 1947, is amended to
 11 read as follows:

12 "82-505. Settlements, ~~when and how made and accounts~~
 13 to state auditor. ~~He~~ The clerk is responsible and must
 14 account for, and, in his settlement with the state auditor,
 15 must be charged with, the full amount of all fees collected
 16 or chargeable, and accruing in causes brought into the court
 17 for services rendered therein up to the time of each
 18 settlement, ~~which~~ The settlement must take place quarterly,
 19 and ~~not~~ immediately thereafter the clerk must pay the
 20 amount found due into the treasury or to the public
 21 employees' retirement division, as provided in 82-503(2). He
 22 must also, at the end of each quarter, render to the state
 23 auditor, in such form as that officer prescribes, an account
 24 in detail, and under oath, of all fees chargeable and
 25 accruing in causes brought into court and not included in

1 his previous accounts rendered. His salary ~~must~~ may not be
 2 allowed or paid until all fees so accruing, ~~and~~ for which he
 3 is chargeable, have been accounted for and paid over."

4 Section 20. Section 82-2007, R.C.M. 1947, is amended
 5 to read as follows:

6 "82-2007. Distribution of reports. (1) On the
 7 publication of each volume of ~~said the~~ reports, the
 8 secretary of state shall purchase 300 copies from the of
 9 ~~said publisher, for the use of the state, three hundred~~
 10 ~~copies thereof, and he shall distribute the same then~~ in the
 11 ~~manner~~ following manner:

12 (a) ~~to~~ to the law libraries of each state and
 13 territory of the United States, one copy;

14 (b) to the library library of ~~Congress~~ Congress, five
 15 copies;

16 (c) to each of the judges of the United States
 17 district courts of the states of Idaho, Nevada, California,
 18 Washington, Montana, Wyoming, and Oregon, one copy;

19 (d) to each ~~state officer,~~ justice of the supreme
 20 court, district judge, county attorney, and clerk of ~~the a~~
 21 district court in this state, one copy;

22 (e) to each state office, as many copies as the
 23 secretary of state determines are needed;

24 (f) to the law library of the state of Montana, three
 25 copies.

1 (2) He shall also distribute ~~said the~~ reports to
 2 literary and scientific institutions, publishers, ~~and~~
 3 authors, and legislative reference libraries of other states
 4 with ~~the~~ which the state law librarian has established ~~or~~
 5 ~~may hereafter establish~~ a system of exchange.

6 (3) He shall also distribute to the University
 7 university of Montana ~~not to exceed up to 50 fifty~~ copies to
 8 be used by the law librarian of the ~~state~~ university for the
 9 purpose of exchanges with universities and institutions of
 10 higher education in other states.

11 (4) All reports distributed to state, district, and
 12 other officers in the state ~~shall be are~~ for the use of
 13 their office, and shall be, by the person receiving ~~the same~~
 14 ~~them~~, turned over to his successor in office, ~~and the The~~
 15 secretary of state shall take proper receipts for ~~each the~~
 16 reports."

17 Section 21. Section 93-219, R.C.M. 1947, is amended to
 18 read as follows:

19 "93-219. ~~Judge becoming candidate for elective~~
 20 ~~office resigning of supreme court~~
 21 ~~office exceptions vacancy Justice or judge not to run for~~
 22 ~~office -- resignation required. (1)(a) Whenever any If a~~
 23 person ~~holding or~~ occupying the office of chief justice or
 24 associate justice ~~or~~ of the supreme court ~~or judge of a~~
 25 district court of the state of Montana ~~shall become becomes~~

1 a candidate for election to any elective office under the
 2 laws of, ~~or in~~ the state of Montana, ~~such person he~~ shall
 3 ~~forthwith~~ immediately, and in any event at or before the
 4 ~~time required for such person to when he must~~ file as a
 5 candidate for such office ~~at in~~ any primary or special or
 6 general election, resign ~~said~~ from his office of chief
 7 justice, ~~or~~ associate justice ~~of said supreme court, or~~
 8 district judge.

9 (b) The resignation becomes effective immediately upon
 10 its delivery to the proper officer or superior.

11 (c) The resignation requirement applies except where
 12 ~~such~~ when the person is a bona fide candidate for
 13 ~~re-election~~ reelection to the identical office then ~~held or~~
 14 occupied by him or for another nonpartisan judicial office
 15 the term of which ~~shall~~ does not commence ~~not~~ earlier than
 16 the end of the term of the office then ~~held or~~ occupied by
 17 ~~such justice his, and said resignation shall become~~
 18 ~~effective forthwith on delivery of the same to the proper~~
 19 ~~officer or superior, and~~

20 (2) In the event of a failure ~~or~~ to resign, ~~said~~
 21 ~~the~~ office of chief justice, ~~or~~ associate justice, ~~of said~~
 22 ~~supreme court or of district judge of any of said district~~
 23 ~~courts the case shall, ipso facto, become wholly~~
 24 automatically becomes vacant and ~~unoccupied~~ and the ~~said~~
 25 former ~~holder or~~ occupant ~~shall have~~ has no further right,

1 power, or authority therein for any purpose, and no right to
 2 any emoluments thereof, notwithstanding the fact that a
 3 successor is not appointed or elected, ~~and said~~ The vacancy
 4 ~~shall become~~ becomes operative to deprive ~~any the~~ person of
 5 the emoluments of ~~said the~~ office ~~then held~~ in order to
 6 carry out the policy of this act."

7 Section 22. Section 93-302, R.C.M. 1947, is amended to
 8 read as follows:

9 "93-302. Number of judges. In each judicial district
 10 there must be the following number of judges of the district
 11 court, who must be elected by the qualified voters of the
 12 district, and whose term of office ~~must be~~ is six ~~(6)~~ years,
 13 ~~to wit:~~

14 (1) In in the first 1st, second 2nd, eleventh 11th,
 15 and sixteenth 16th districts, two judges each;

16 (2) in the thirteenth, eighth and fourth 4th, 8th, and
 17 13th districts, three judges, each; and,

18 (3) in all other districts, one judge each."

19 Section 23. Section 93-305, R.C.M. 1947, is amended to
 20 read as follows:

21 "93-305. Expenses when ~~sitting~~ out of district, ~~or~~
 22 ~~attending judges' conference. Every a~~ judge who ~~shall sit~~
 23 sits in the place of another judge in the trial or hearing
 24 of an action or proceeding in a district other than his own,
 25 or in the supreme court, or who ~~shall attend~~ attends a

1 conference of judges in Helena called by the chief justice
 2 of the supreme court, shall be paid his actual and necessary
 3 travel expenses while engaged in that service as follows:

4 (1) ~~His~~ his travel expenses in going from the county
 5 seat which he makes his place of residence to the place of
 6 trial, or conference, and return; and

7 (2) his board and lodging while engaged in the trial,
 8 hearing, or conference. ~~All travel expense reimbursements~~
 9 ~~shall be determined as provided for in sections 59-538,~~
 10 ~~59-539, and 59-801."~~

11 Section 24. Section 93-313, R.C.M. 1947, is amended to
 12 read as follows:

13 "93-313. Expenses of ~~judges holding court in other~~
 14 ~~counties when not in county of residence.~~ Each A district
 15 judge of a judicial district ~~in this state,~~ composed of more
 16 than one county, ~~when who,~~ for the purpose of holding court
 17 and disposing of judicial business, ~~he~~ goes to a county of
 18 his judicial district, other than the county in which he
 19 resides, and therein holds court or transacts judicial
 20 business, shall be paid all of his actual and necessary
 21 expenses of transportation and living, incurred on account
 22 thereof, ~~and all expenditures made therefor, as provided for~~
 23 ~~in sections 59-538, 59-539, and 59-801,~~ from the time he
 24 leaves his place of residence until he returns thereto."

25 Section 25. Section 93-325, R.C.M. 1947, is amended to

1 read as follows:

2 "93-325. Appointment ~~of judge~~ — salary —
 3 qualifications. (1) The judges of the judicial district in
 4 which a small claims court has been created shall appoint a
 5 judge of the small claims court who shall:

- 6 (a) take the oath required of judges;
- 7 (b) serve at the pleasure of the district court
- 8 judges;
- 9 (c) be paid a salary set by the district court judge
- 10 judges; and
- 11 (d) be an attorney licensed to practice law in ~~the~~
- 12 ~~state of~~ Montana.

13 (2) The ~~judge~~ judges of the district court may appoint
 14 more than one ~~(1)~~ small claims court judge for any small
 15 claims court, ~~and the~~ The salary shall be prorated among the
 16 judges appointed."

17 Section 26. Section 93-408, R.C.M. 1947, is amended to
 18 read as follows:

19 "93-408. ~~Jurisdiction~~ Civil jurisdiction of justices'
 20 courts. The ~~justice~~ justices' courts have jurisdiction:

- 21 ~~1~~ (1) ~~is in~~ in actions arising on contract for the
- 22 recovery of money only, if the sum claimed does not exceed
- 23 ~~fifteen hundred dollars (\$1,500),~~ exclusive of court costs;
- 24 ~~2~~ (2) ~~is in~~ in actions for damages not exceeding fifteen
- 25 ~~hundred dollars (\$1,500),~~ exclusive of ~~court~~ court costs,

1 for taking, detaining, or injuring personal property, or for
 2 injury to real property ~~where~~ when no issue is raised by the
 3 verified answer of the defendant involving the title to or
 4 possession of the real property same;

5 (3) in actions for damages not exceeding fifteen
 6 ~~hundred dollars~~ (\$1,500), exclusive of court costs, for
 7 injury to the person, ~~provided, except that,~~ in actions for
 8 false imprisonment, libel, slander, criminal conversation,
 9 seduction, malicious prosecution, ~~bastardy determination of~~
 10 paternity, and abduction, and alienation of affections, the
 11 justice of the peace ~~shall~~ does not have jurisdiction;

12 3-(4) ~~In~~ in actions to recover the possession of
 13 personal property, if the value of ~~such~~ the property does
 14 not exceed ~~fifteen hundred dollars~~ (\$1,500);

15 4-(5) ~~In~~ in actions for a fine, penalty, or
 16 forfeiture, not exceeding ~~fifteen hundred dollars~~ (\$1,500),
 17 ~~given imposed by a statute, or the an~~ ordinance of an
 18 incorporated city or town, ~~where~~ when no issue is raised by
 19 the answer involving the legality of any tax, impost,
 20 assessment, toll, or municipal fine;

21 5-(6) ~~In~~ in actions upon bonds or undertakings
 22 conditioned for the payment of money, if when the sum
 23 claimed does not exceed ~~fifteen hundred dollars~~ (\$1,500),
 24 though the penalty may exceed that sum;

25 6-(7) ~~To~~ to take and enter judgment for the recovery

1 of money on the confession of a defendant, when the amount
 2 confessed does not exceed ~~fifteen hundred dollars~~ (\$1,500),
 3 exclusive of court costs."

4 Section 27. Section 93-505, R.C.M. 1947, is amended to
 5 read as follows:

6 "93-505. Sittings of court — when private. (1) In an
 7 action for divorce, criminal conversation, ~~or~~ seduction, ~~or~~
 8 ~~breach of promise of marriage,~~ the court may direct the
 9 trial of any issue of fact joined therein to be private, and
 10 exclude all persons except the officers of the court, the
 11 parties, their witnesses, and counsel,

12 (2) ~~provided, that~~ During the examination of a witness
 13 in any cause, the court may, in ~~the exercise of a sound its~~
 14 discretion, ~~during the examination of a witness,~~ exclude any
 15 some or all of the other witnesses in the cause."

16 Section 28. Section 93-507, R.C.M. 1947, is amended to
 17 read as follows:

18 "93-507. Nonjudicial days. (1) No court ~~must~~ may be
 19 open, nor ~~must~~ may any judicial business be transacted on
 20 legal holidays as provided for in ~~section 19-107 and or~~ on a
 21 day appointed by the president of the United States, or by
 22 the governor of this state, for a public fast, thanksgiving,
 23 or holiday, except for the following purposes:

24 1-(a) ~~To~~ to give, upon ~~their~~ its request, instructions
 25 to a jury when deliberating on ~~their~~ its verdict;

1 2. (b) To receive a verdict, or discharge a jury;
 2 3. (c) For the exercise of the powers of a
 3 magistrate in a criminal action, or in a proceeding of a
 4 criminal nature;

5 (2) ~~but injunctions~~ injunctions, writs of prohibition,
 6 and habeas corpus may be issued and served on any day."

7 Section 29. Section 93-702, R.C.M. 1947, is amended to
 8 read as follows:

9 "93-702. Qualifications and residence. (1) No person
 10 is eligible for the office of justice of the supreme court
 11 or judge of ~~the~~ a district court unless he is a citizen of
 12 the United States, ~~who~~ has resided in the state ~~two~~ (2)
 13 years immediately before taking office, and has been
 14 admitted to practice law in Montana for at least ~~five~~ (5)
 15 years prior to the date of appointment or election.

16 (2) A judge of ~~the~~ a district court need not be a
 17 resident of the district for which he is elected or
 18 appointed at the time of his election or appointment, but
 19 after his election or appointment, he ~~shall~~ must reside in a
 20 county seat in the district for which he is elected or
 21 appointed during his term of office. Justices of the supreme
 22 court ~~shall~~ must reside within the state, during their terms
 23 of office."

24 Section 30. Section 93-705, R.C.M. 1947, is amended to
 25 read as follows:

1 "93-705. ~~Judicial nomination commission creation~~
 2 Creation, composition, and function of commission. ~~There is~~
 3 ~~created~~ a judicial nomination commission for the state of
 4 Montana, is created, whose its function ~~it shall be~~ is to
 5 provide the governor with a list of candidates for ~~nominee~~
 6 nomination to fill any vacancy on the supreme court or any
 7 district court of the state of Montana. The commission shall
 8 be composed of seven ~~(7)~~ members as follows:

9 (1) four ~~(4)~~ lay members, who are neither judges or
 10 nor attorneys, active or retired, and who shall reside in
 11 different geographical areas of the state, and each of ~~these~~
 12 ~~four~~ (4) ~~members shall be~~ whom is representative of a
 13 different industry, business, or profession, whether ~~or not~~
 14 actively so engaged or retired, ~~such members who~~ shall be
 15 appointed by the governor;

16 (2) two (2) attorneys, actively engaged in the
 17 practice of law, one (1) from each congressional district,
 18 who shall be appointed by the supreme court;

19 (3) one (1) district judge elected by the district
 20 judges under an elective procedure initiated and conducted
 21 by the supreme court and certified to such election by the
 22 chief justice of the supreme court, and ~~The which for the~~
 23 ~~purpose of the language of this act~~ election shall be
 24 considered as an appointment, for the purposes of this act."

25 Section 31. Section 93-725, R.C.M. 1947, is amended to

1 read as follows:

2 "93-725. ~~Judicial officer not to participate in~~
 3 ~~investigation of self or relative~~ Nonparticipation of
 4 interested judicial officer. A judicial officer who is a
 5 member of the commission or of the supreme court shall pay
 6 not participate in any proceeding involving his own censure,
 7 suspension, removal, or retirement or that of his spouse, a
 8 relative within the sixth degree of consanguinity, ~~or that~~
 9 ~~of the spouse of such a relative."~~

10 Section 32. Section 93-726, R.C.M. 1947, is amended to
 11 read as follows:

12 "93-726. ~~Disqualification~~ Interim disqualification of
 13 ~~judge pending original prosecution or proceeding before~~
 14 ~~commission~~ judicial officer. A ~~judge~~ judicial officer is
 15 disqualified from acting as a ~~judge~~ such, without loss of
 16 salary, while there is pending:

17 (1) an indictment or an information charging him with
 18 a crime punishable as a felony under Montana or federal
 19 law; or

20 (2) a formal proceeding before the commission for his
 21 removal or retirement."

22 Section 33. Section 93-903, R.C.M. 1947, is amended to
 23 read as follows:

24 "93-903. No judicial officer to have partner
 25 practicing law. No ~~justice, judge, or other elective~~

1 ~~judicial official, OFFICER not of a court of record may~~
 2 have a partner acting as attorney or counsel in any court of
 3 this state."

4 Section 34. Section 93-1203, R.C.M. 1947, is amended
 5 to read as follows:

6 "93-1203. Grand jury defined. A grand jury is a body
 7 of persons, ~~seven~~ 11 in number, returned ~~in pursuance of~~ as
 8 provided by law, from the citizens of a county, before a
 9 court of competent jurisdiction, and sworn to inquire ~~of~~
 10 into public offenses committed or triable within the
 11 county."

12 Section 35. Section 93-1304, R.C.M. 1947, is amended
 13 to read as follows:

14 "93-1304. Who exempt from jury duty. (1) A person is
 15 exempt from liability to act as a juror if he is:

16 1. (a) A a judicial, civil, or military officer of the
 17 United States or of this state;

18 2. (b) A a person holding a public office in ~~the~~ this
 19 state, ~~or in~~ a county, ~~township~~ city, or town of this state:

20 3. (c) ~~As an~~ an attorney ~~at law~~ in practice;

21 4. (d) ~~A minister of the gospel, or a priest of any~~
 22 ~~denomination, or editor, a member of the clergy of any~~
 23 religion following his profession;

24 5. (e) an editor following his profession;

25 6. (f) A a teacher in a university, college, academy,

1 or school;

2 (g) an employee of the Montana state school for the
 3 deaf and blind;

4 6-(h) a practicing physician, dentist, or druggist
 5 actually engaged in the business of dispensing medicines;
 6 or

7 (i) a regularly licensed embalmer or undertaker;

8 7-(j) an officer, keeper, or attendant of a
 9 hospital, ~~asyle~~ mental health facility, or other charitable
 10 institution;

11 8-(k) ~~Engaged in the performance of duty as an~~ officer
 12 or attendant of the state prison, ~~penitentiary,~~ or of a
 13 county jail on active duty;

14 9-(l) an express agent, mail carrier, or
 15 superintendent, employee, or operator of a telegraph line
 16 doing general telegraph business in ~~the~~ this state;

17 10-(m) an active member of the national guard of
 18 Montana; ~~or~~

19 (n) an active member of a fire department of any city
 20 or town of this state; ~~The number of firemen hereby~~
 21 ~~exempted must not exceed twenty-eight (28), including~~
 22 ~~officers for each company organized, and each member from~~
 23 ~~each company must be selected from the roll of each company,~~
 24 ~~according to the seniority of membership, and a list~~
 25 ~~containing the names of such persons must be made out by the~~

1 ~~secretary of each company and filed with the clerk of the~~
 2 ~~board of county commissioners on the first Mondays of~~
 3 ~~December, March, June and September, and any failure to file~~
 4 ~~the list hereby required is considered a waiver of such~~
 5 ~~exemption.~~

6 11-(o) a superintendent on a railroad;

7 12-(p) a nurse engaged in a case; or

8 (q) a person caring directly for one or more children.

9 (2) The number of firemen exempted under subsection
 10 (1)(n) may not exceed 28, including officers, for each
 11 company organized. The exempt members shall be selected
 12 from the roll of each company according to the seniority of
 13 membership. The secretary of each company shall make a list
 14 of the exempt members and file it with the clerk of the
 15 board of county commissioners on the first Mondays of March,
 16 June, September, and December. Failure to file the list is
 17 considered a waiver of the exemption.

18 (3) When a person claims exemption under subsection
 19 (1)(g), the certificate of the superintendent of the school,
 20 under the official seal of the school, is sufficient
 21 evidence of qualified employment.

22 (4) The court must discharge a person from serving as
 23 a trial juror, in either of the following cases:

24 (a) Where when it satisfactorily appears that he ~~or~~
 25 ~~she~~ the person is not competent; and or

1 ~~(b)~~ where when it satisfactorily appears that ~~he or~~
 2 ~~she~~ the person is exempt and claims the benefit of
 3 exemption."

4 Section 36. Section 93-1503, R.C.M. 1947, is amended
 5 to read as follows:

6 "93-1503. Drawing -- how conducted. ~~4~~ (1) The clerk
 7 ~~must shall~~ place ~~said the~~ box on a rod so that ~~the--case~~ it
 8 may readily revolve, ~~and--said~~ The box must be revolved a
 9 sufficient number of times ~~so as~~ to ensure that the numbered
 10 slips in ~~said box~~ shall it become thoroughly mixed, ~~and~~
 11 ~~thereafter~~ Thereafter the judge ~~must shall~~ draw from ~~said~~
 12 ~~the~~ box, one ~~(1)~~ at a time, as many of the numbered slips as
 13 are ordered by the court.

14 ~~3~~ (2) A minute record of the drawing shall be entered
 15 in the minutes of the court, ~~which It~~ must show the names
 16 of the jurors corresponding to the numbers ~~so~~ drawn from
 17 ~~said the~~ jury box.

18 ~~3~~ (3) If the court is satisfied that the name of any
 19 person whose name is ~~so~~ drawn is deceased or ~~insane~~
 20 mentally incompetent or ~~she may have~~ has permanently removed
 21 moved from the county, ~~and the fact shall be made to appear~~
 22 ~~to the satisfaction of the court,~~ the name of ~~such the~~
 23 person shall be omitted from the list, and another ~~juror~~
 24 name shall be drawn in ~~his its~~ place, ~~and the fact~~ The
 25 reason for the omission shall be entered upon the minutes of

1 the court. The same ~~proceeding~~ procedure shall be ~~had~~
 2 followed as often as may be necessary, until the number of
 3 names of jurors required ~~shall~~ have been drawn.

4 ~~(4)~~ After the drawing ~~shall have~~ has been completed,
 5 the clerk shall make a copy of the list of names ~~of--the~~
 6 ~~persons--so~~ drawn, and certify the same. In his certificate
 7 he shall state the date of the order and of the drawing, ~~and~~
 8 the number of the ~~jurors~~ names drawn, and the time when and
 9 the place where ~~such the~~ jurors ~~shall be~~ are required to
 10 appear.

11 ~~(5)~~ Such The certificate and list shall be delivered
 12 to the sheriff for service.

13 ~~4~~ (5) No person ~~shall may~~ be asked to serve ~~on for~~
 14 more than one term during any year unless all the numbers in
 15 the jury box ~~no--4~~ have been drawn and there are no other
 16 qualified jurors available."

17 Section 37. Section 93-1603, R.C.M. 1947, is amended
 18 to read as follows:

19 "93-1603. Officer's return. The officer summoning ~~such~~
 20 the jurors shall, at the time fixed in the order for their
 21 appearance, return ~~it the~~ order to the court with a list of
 22 the persons summoned endorsed thereon."

23 Section 38. Section 93-1802, R.C.M. 1947, is amended
 24 to read as follows:

25 "93-1802. How constituted. (1) When, 11 of the persons

1 summoned as grand jurors who are competent and not excused,
 2 ~~eleven (11)~~ are present, they constitute the grand jury.

3 (2) ~~If when~~ more than ~~eleven (11)~~ of such persons are
 4 present, the clerk ~~must~~ shall write their names on separate
 5 ballots, and place the ballots in black capsules, ~~which the~~
 6 The capsules shall be deposited in a box large enough to
 7 hold all of the capsules without crowding, ~~and which the~~
 8 The box shall be so arranged that the clerk drawing the
 9 capsules from the box ~~shall be is~~ unable to observe or see
 10 the capsule he is about to draw, ~~and The clerk shall~~ draw
 11 ~~out eleven (11) of them, capsules, and the~~ The persons whose
 12 names are on the ballots so drawn shall constitute the grand
 13 jury.

14 (3) ~~If when~~ less than ~~eleven (11)~~ of such persons are
 15 present, the court ~~may~~ shall order a sufficient number to be
 16 ~~forthwith~~ immediately drawn from either the jury box and
 17 summoned to attend the court. ~~and whenever, of the persons~~
 18 ~~to complete a grand jury, more attend than are required, the~~
 19 ~~requisite number must be obtained by writing the names of~~
 20 ~~those so summoned and not excused on ballots, which the~~
 21 ~~ballots shall be placed in black capsules, and thereafter~~
 22 ~~deposited in a box, and then drawn as above provided."~~

23 Section 39. Section 93-1803, R.C.S. 1947, is amended
 24 to read as follows:

25 "93-1803. Manner of impaneling grand jury prescribed.

1 ~~Thereafter such proceedings must be had in impaneling the~~
 2 ~~grand jury After the jurors have been selected, the grand~~
 3 ~~jury shall be impaneled as are prescribed in sections~~
 4 ~~94-6301 to 94-6319 95-1401 through 95-1403."~~

5 Section 40. Section 93-1805, R.C.M. 1947, is amended
 6 to read as follows:

7 "93-1805. Clerk to call list of jurors summoned,
 8 prepare capsules. At the opening of court on the day trial
 9 jurors have been summoned to appear, the clerk shall call
 10 the names of those summoned, and the court ~~may then~~ hear the
 11 excuses of jurors summoned.

12 (2) The clerk shall ~~then~~ write the names of the jurors
 13 present and not excused upon separate ~~clips or~~ ballots of
 14 ~~paper, and fold such clips the ballots~~ so that the names are
 15 concealed, and place ~~said clips then~~ in black capsules, ~~and~~
 16 ~~there, is~~ In the presence of the court, the clerk shall
 17 deposit the capsules containing ~~said clips or the~~ ballots in
 18 a box large enough to hold all of ~~said the~~ capsules without
 19 crowding, ~~and which said The~~ box shall be so arranged that
 20 the ~~clerk judge~~ drawing ~~said the~~ capsules from ~~said the~~ box
 21 ~~shall be is~~ unable to observe or see the capsules he is
 22 about to draw, ~~and which said The~~ box must be kept sealed
 23 or locked until ordered by the court to be opened."

24 Section 41. Section 93-1806, R.C.M. 1947, is amended
 25 to read as follows:

1 "93-1806. Manner of impaneling ~~how prescribed.~~ (1)
 2 Whenever ~~thereafter~~ a civil action is called by the court
 3 for trial, and a jury is required, ~~such proceedings shall be~~
 4 ~~had in impaneling~~ the trial jury shall be impaneled as ~~are~~
 5 prescribed in ~~sections~~ 93-5001 ~~to through~~ 93-5015.

6 (2) ~~If~~ When the action ~~be is~~ a criminal one, the jury
 7 shall be impaneled as prescribed in Title 94 95."

8 Section 42. Section 93-1809, R.C.M. 1947, is amended
 9 to read as follows:

10 "93-1809. Manner of impaneling. ~~Thereafter~~ The jury
 11 shall be impaneled as provided in:

12 (a) Title 95, if the action is a criminal one, ~~the~~
 13 ~~jury must be impaneled as provided in Title 94;~~

14 (b) Sections 93-5001 through 93-5015, if the action is
 15 a civil one, ~~as provided in sections 93-5001 to 93-5015.~~"

16 Section 43. Section 93-1903, R.C.M. 1947, is amended
 17 to read as follows:

18 "93-1903. Matters written out and filed. All
 19 objections made, during the trial or hearing and the
 20 rulings, decisions, and opinions of the court, ~~and the~~
 21 ~~exceptions taken during the trial or hearing,~~ must be
 22 written out at length or printed in type by the reporter,
 23 and filed with the clerk ~~forthwith~~ immediately after the
 24 close of the trial or hearing, ~~and thereafter such~~
 25 ~~exceptions may be settled in a bill of exceptions, as~~

1 ~~provided in section 93-5505."~~

2 Section 44. Section 93-1904, R.C.M. 1947, is amended
 3 to read as follows:

4 "93-1904. ~~To furnish copies to parties, etc~~ Copies of
 5 proceedings. (1) Each reporter ~~specified in this chapter~~
 6 ~~must likewise furnish,~~ upon request, ~~furnish,~~ with all
 7 reasonable diligence, to the defendant in a criminal ~~cause,~~
 8 case or a party or his attorney in a civil ~~cause,~~ case in
 9 which he has attended the trial or hearing, a copy, written
 10 out at length or in narrative form, from his stenographic
 11 notes, of the testimony and proceedings upon the trial or
 12 hearing, or a part thereof, ~~upon the trial or hearing,~~ upon
 13 payment by the person requiring the same, ~~of the sum of~~
 14 ~~seven and one half cents (\$0.75)~~ 7 1/2 cents per folio.

15 (2) If the county attorney, ~~or~~ attorney general, or
 16 judge requires ~~such~~ a copy in a criminal ~~cause~~ case, the
 17 reporter is entitled to his fees therefor, ~~but he must~~
 18 furnish it, ~~and upon~~ upon furnishing it, he shall receive a
 19 certificate of the sum to which he is so entitled, which is
 20 a county charge, and must be paid by the county treasurer
 21 upon the certificate like other county charges.

22 (3) If the judge requires ~~such~~ a copy in a civil case
 23 to assist him in rendering a decision, the reporter ~~must~~
 24 furnish the same without charge therefor. In civil cases,
 25 all transcripts required by the county shall be furnished

1 without cost.

2 (4) If it appears to the judge that a defendant in a
3 criminal case is unable to pay for ~~such a~~ copy, ~~the case~~ it
4 shall be furnished to him and paid for by the county."

5 Section 45. Section 93-1906, R.C.M. 1947, is amended
6 to read as follows:

7 "93-1906. Salary and expenses ~~of reporter~~ —
8 apportionment. (1) ~~Every~~ Each reporter appointed under the
9 ~~provisions of this chapter~~ is entitled to receive an annual
10 salary of not less than ~~twelve thousand five hundred dollars~~
11 ~~(\$12,500)~~ and ~~not~~ or more than ~~sixteen thousand dollars~~
12 ~~(\$16,000)~~ and no other compensation except as provided in
13 93-1904, said The salary to shall be set by the judge in the
14 district in which the reporter works, ~~and no other~~
15 ~~compensation except as provided in section 93-1904,~~
16 ~~provided, however, that all transcripts and bills of~~
17 ~~exceptions required by the county shall be furnished without~~
18 ~~cost.~~ It is payable in monthly installments out of the
19 general funds of the counties comprising the district for
20 which ~~he~~ the reporter is appointed, according ~~and~~ in
21 proportion to the number of civil and criminal actions
22 ~~entered and~~ commenced in the district ~~courts~~ court of ~~such~~
23 ~~counties~~ in and for each county respectively in the
24 preceding year, ~~and it shall be the duty of the~~ The judge
25 of ~~each~~ the district shall, on the first day of January 1 of

1 each year, or as soon thereafter as possible may be, to
2 apportion the amount of ~~each~~ the salary to be paid by each
3 county in his district on the basis prescribed in this
4 subsection aforesaid.

5 (2) In judicial districts comprising more than one
6 county, the The reporter is allowed, in addition to the
7 salary and fees provided for in subsection (1) above
8 provided, in judicial districts comprising more than one (1)
9 county, his actual and necessary expenses of transportation
10 and living when he goes on official business to a county of
11 his judicial district other than the county in which he
12 resides, from the time he leaves his place of residence
13 until he returns thereto, ~~said The~~ expenses ~~to shall~~ be
14 apportioned and payable in the same way as the salary."

15 Section 46. Section 93-5008, R.C.M. 1947, is amended
16 to read as follows:

17 "93-5008. ~~Ballots when drawn from box No. 3 Procedure~~
18 when insufficient number attend. (1) If a sufficient number
19 of jurors duly drawn and notified do not attend to form a
20 jury, ~~or a jury is impaneled to another cause and set~~
21 ~~discharged,~~ the district judge shall, pursuant to an order
22 to be entered in the minutes, in the presence of the clerk
23 of the court draw a sufficient number of ballots from the
24 ~~box No. 3, specified in section 93-1506,~~ to complete the
25 jury. The sheriff ~~must~~ shall notify the persons thus drawn

1 to attend ~~forthwith,~~ immediately or at a time fixed by
 2 court. If for any reason a sufficient number of jurors to
 3 try the issue is not obtained from the persons notified,
 4 under an order made as prescribed in this section, the court
 5 may make another order, or successive orders, until a
 6 sufficient number is obtained.

7 (2) Each person so notified must attend at a the time
 8 required by the notice, and, unless excused by the court or
 9 set aside, must serve as a juror upon the trial. For a
 10 neglect or refusal ~~so~~ to do so, he may be fined in the same
 11 manner as a any other trial juror regularly drawn and
 12 notified, ~~as prescribed in this code,~~ and he is subject to
 13 the same exceptions and challenges as any other trial
 14 juror."

15 Section 47. Section 93-7501, R.C.M. 1947, is amended
 16 to read as follows:

17 "93-7501. Contempts a justice may punish for. A
 18 justice may punish ~~as for contempt,~~ persons guilty of the
 19 following acts, and no other:

20 4-(1) ~~Disorderly~~ disorderly, contemptuous, or insolent
 21 behavior toward the justice while holding the court, tending
 22 to interrupt the due course of a trial or other judicial
 23 proceeding;

24 2-(2) ~~A~~ a breach of the peace, boisterous conduct, or
 25 violent disturbance in the presence of the justice, or in

1 the immediate vicinity of the court held by him, tending to
 2 interrupt the due course of a trial or other judicial
 3 proceeding;

4 2-(3) ~~Disobedience~~ disobedience or resistance to the
 5 execution of a lawful order or process, made or issued by
 6 ~~him,~~ the justice;

7 4-(4) ~~Disobedience~~ disobedience to a subpoena duly
 8 served, or ~~refusing~~ refusal to be sworn or to answer as a
 9 witness;

10 5-(5) ~~Rescuing~~ rescuing any person or property in the
 11 custody of an officer by virtue of an order or process of
 12 the court, ~~held by him."~~

13 Section 48. Section 93-7602, R.C.M. 1947, is amended
 14 to read as follows:

15 "93-7602. ~~Entries therein primary evidence of the~~
 16 facts How entries made -- prima facie evidence. The ~~several~~
 17 ~~particulars of the last section specified items listed in~~
 18 93-7601 must be entered in the docket under the title of the
 19 action to which they relate, and, ~~(unless otherwise provided~~
 20 ~~in sections 93-6601 to 93-7604 provided)~~ through 93-7714, at
 21 the time when they occur. Such entries in a justice's
 22 docket, or a transcript thereof, certified by the justice,
 23 or his successor in office, are ~~prima facie~~ prima facie
 24 evidence of the facts so stated."

25 Section 49. Section 93-7605, R.C.M. 1947, is amended

1 to read as follows:

2 "93-7605. Proceedings when office becomes vacant ~~and~~
 3 ~~before a successor is appointed.~~ If the office of a justice
 4 ~~become becomes~~ vacant ~~by because of~~ his death, ~~or his~~
 5 removal from the county, or ~~otherwise, any other cause~~
 6 before his successor is ~~elected and qualified~~ appointed, the
 7 docket and papers ~~that were~~ in his possession of ~~such~~
 8 ~~justice must shall~~ be deposited in the office of some other
 9 justice in the county, ~~to be by his delivered who shall~~
 10 ~~deliver them~~ to the successor of ~~such the former~~ justice. If
 11 there is no other justice in the county, ~~then~~ the docket and
 12 papers ~~of each justice must shall~~ be deposited in the office
 13 of the county clerk, ~~to be by his delivered who shall~~
 14 ~~deliver them~~ to the successor in office of the ~~former~~
 15 justice."

16 Section 50. Section 93-7607, R.C.M. 1947, is amended
 17 to read as follows:

18 "93-7607. ~~Justice elected to fill vacancy who is the~~
 19 successor. The justice ~~elected~~ appointed to fill a vacancy
 20 is the successor of the justice whose office became vacant
 21 before the expiration of a full term. When a full term
 22 expires, the ~~same or another~~ person elected to take the
 23 numbered office, as provided in 93-401, in the same county
 24 from that time is the successor."

25 Section 51. Section 93-7704, R.C.M. 1947, is amended

1 to read as follows:

2 "93-7704. ~~Calling another justice, when, by whom~~
 3 Acting justices. (1) Disqualification. (a) ~~When whenever~~ a
 4 justice of the peace is disqualified from acting ~~or in~~ any
 5 action because of the application of subsection (1), (2), or
 6 (3) of ~~section~~ 93-901, he shall either transfer the action
 7 to another justice court in the same county or call a
 8 justice from a neighboring county to preside in his behalf,
 9 ~~who while so acting is vested with the power of the justice~~
 10 ~~for whom he so holds court.~~

11 ~~(2)(b) Illness or absence. In case of sickness~~
 12 Whenever a justice is sick, disability disabled, or absence
 13 of a justice absent and for such a period of time that the
 14 county commissioners of the county find that there is a
 15 delay in the proper administration of justice or upon the
 16 written request of the county attorney makes a written
 17 request, another justice, if there is one readily available,
 18 or a police city judge or some other qualified person shall
 19 be called in to hold court for the absent justice until the
 20 his return, ~~of the absent justice, and when so called and so~~
 21 ~~acting that person is vested with the power of the justice~~
 22 ~~for whom he so holds court.~~

23 ~~(3)(c) Vacation.~~ During the time, when a justice of
 24 the peace is on vacation or attending a training session,
 25 another justice of the peace of the same county shall be

1 authorized to handle matters that otherwise would be handled
 2 by the absent justice. When there is no other justice of
 3 the peace in the county, the county commissioners shall
 4 handle the situation in the same manner as if the justice
 5 were sick or absent.

6 ~~(4)(2) Necessary expenses.~~ Whenever a justice of the
 7 peace or ~~other another~~ person is called in to preside over
 8 the court of a justice ~~who is disqualified, sick, or absent~~
 9 under subsection (1), ~~that the~~ visiting justice ~~of the peace~~
 10 or other person shall be paid all necessary and actual
 11 expenses including mileage, ~~and if that~~ If the acting
 12 justice is not a justice of the peace receiving a salary,
 13 ~~then that acting justice he~~ shall also receive such
 14 compensation as is proper for the time involved. ~~Such~~
 15 ~~expenses shall be~~ The cost of implementing this subsection
 16 is a proper charge against the county where the court is
 17 held.

18 ~~(5)(3) Court docket entries.~~ When another justice, or
 19 any other qualified person is called to preside in a justice
 20 court, proper entries of all proceedings must be made in the
 21 docket of the justice for whom the visiting justice or
 22 person holds court. When the appointment is made by order
 23 of the county commissioners, the order shall be placed in
 24 the court docket.

25 ~~(6)(4) Jurisdiction of called in person.~~ When called

1 in to preside over a justice court ~~as above provided,~~ the
 2 visiting justice of the peace or other qualified person
 3 while acting as justice of the peace is vested with all the
 4 power of the justice for whom he ~~so~~ holds court."

5 Section 52. Section 93-7707, R.C.M. 1947, is amended
 6 to read as follows:

7 "93-7707. What provisions of code applicable to
 8 justices' courts. ~~Justices' Because justices' courts, being~~
 9 are courts of peculiar and limited jurisdiction, only those
 10 provisions of this code which are, in their nature,
 11 applicable to the organization, powers, and course of
 12 proceedings in justices' courts, or which have been made
 13 applicable by special provisions in ~~sections~~ 93-6601 ~~to~~
 14 ~~93-7804,~~ through 93-7714 are applicable to justices' courts
 15 and the proceedings therein."

16 Section 53. Section 93-7709, R.C.M. 1947, is amended
 17 to read as follows:

18 "93-7709. Special Deputy constables ~~—appointment.~~ If
 19 in any county there ~~should be~~ is no duly appointed ~~or~~
 20 qualified constable, the board of county commissioners ~~in~~
 21 ~~the county~~ may, at the request of a party, after being
 22 satisfied that it is expedient to do so, specially ~~depute~~
 23 deputize any proper person of suitable age not interested in
 24 the action to serve a summons, with or without an order to
 25 arrest the defendant, ~~or and~~ with or without a writ of

1 attachment, or to serve an execution. The ~~justice shall be~~
 2 ~~county commissioners are~~ liable upon ~~his~~ their official bond
 3 bonds for all official acts of the person so ~~deputed~~
 4 ~~deputized. Such deputation~~ The appointment of the deputy
 5 shall be made in writing ~~made~~ on the process, and a note
 6 thereof shall be made on the justice's docket."

7 Section 54. Section 93-2801-3, R.C.M. 1947, is amended
 8 to read as follows:

9 "93-2801-3. Distribution of proposed rules ==
 10 suggestions of ~~to~~ bench and bar ~~--- petitions of professional~~
 11 ~~associations.~~ Before any rule is adopted, the supreme court
 12 shall distribute copies of the proposed rule to the bench
 13 and bar of the state for their consideration and suggestions
 14 and shall give due consideration to such suggestions as they
 15 may submit to the court. The ~~Montana Bar Association~~ state
 16 bar of Montana or the ~~Association~~ association of Montana
 17 ~~Judges~~ judges may file with the supreme court a petition
 18 specifying ~~their~~ its suggestions concerning any existing or
 19 proposed rule and requesting a hearing thereon within ~~six~~
 20 ~~6~~ months after the filing of the petition."

21 Section 55. Section 95-2009, R.C.M. 1947, is amended
 22 to read as follows:

23 "95-2009. Appeal. ~~(a)~~ (1) All cases on appeal from
 24 justices' or ~~police~~ city courts must be tried anew in the
 25 district court and may be tried before a jury of six ~~(6)~~

1 ~~which may be drawn from either the regular panel or jury box~~
 2 ~~no. 3.~~

3 ~~(b)~~ (2) The defendant may appeal to the district court
 4 by giving written notice of his intention to appeal within
 5 ~~ten days~~ ~~(10)~~ days after judgment.

6 ~~(c)~~ (3) Within ~~thirty~~ ~~(30)~~ days the entire record of
 7 the ~~justice~~ justice's or ~~police~~ city court proceedings shall
 8 be transferred to the district court or the appeal shall be
 9 dismissed. It ~~shall be~~ is the duty of the defendant to
 10 perfect the appeal."

11 Section 56. Section 93-1404, R.C.M. 1947, is amended
 12 to read as follows:

13 "93-1404. Duty of clerk — jury boxes box. The clerk
 14 shall prepare and keep a jury box and contents as ~~follows~~
 15 prescribed in this section. The number of each juror shall
 16 be written, typed, or stamped on a slip of paper or other
 17 suitable material, identical in all respects, to the slips
 18 used for the other numbers. ~~and~~ The slips shall be placed in
 19 a box of ample size to permit ~~said numbers~~ them to be
 20 thoroughly mixed, ~~and which said~~ The box shall be ~~kept for~~
 21 ~~that purpose and shall be known as,~~ and plainly marked,
 22 "jury box ~~no. 1,~~". The ~~numbers~~ slips may be used as often as
 23 necessary, ~~provided, however,~~ except that none shall may be
 24 used which is in any manner ~~whatsoever~~ defaced or
 25 disfigured, or so marked that it may be recognized or

1 distinguished from the others in ~~said~~ the jury box ~~no. 4~~
 2 except by the number thereon. ~~There shall be so enclosed in~~
 3 ~~said box one number, and only one number.~~ The box shall
 4 contain only one slip for each number corresponding to the
 5 number before the name of each juror on the jury list."

6 Section 57. Section 93-1502, R.C.M. 1947, is amended
 7 to read as follows:

8 "93-1502. District judge to draw jury. Immediately
 9 ~~upon~~ after the order mentioned in ~~the preceding section~~
 10 ~~having 93-1501 has~~ been made, the district judge shall in
 11 the presence of the clerk of the court proceed to draw the
 12 jurors by number from the jury box ~~no. 4~~."

13 Section 58. Section 93-1512, R.C.M. 1947, is amended
 14 to read as follows:

15 "~~93-1512. Drawing additional jurors when original~~
 16 ~~number insufficient order designating number~~
 17 ~~needed selection from portion of county only notification~~
 18 ~~of jurors~~ Obtaining additional jurors when necessary.
 19 Whenever it appears to a district judge that additional
 20 jurors will be needed for any term or trial, the judge shall
 21 draw as many numbers from the jury box ~~no. 4~~ as are
 22 necessary to secure the required number of additional
 23 jurors. Before drawing the numbers, the judge shall by
 24 appropriate order designate the number of jurors needed,
 25 and, when the judge believes that securing the additional

1 jurors from all of the county would cause unnecessary delay
 2 or expense, ~~then~~ he may order the jurors selected from only
 3 a designated portion of the county, which portion shall
 4 never be less than the corporate limits of the county seat.
 5 If, in the selection of the additional jurors, a number is
 6 drawn and the jury list shows the person represented by the
 7 number to be a resident of an area outside the area
 8 designated by the court order, ~~then~~ that number shall be
 9 returned to the jury box and a new number drawn. When the
 10 required number of names have been selected, the judge may
 11 order the prospective jurors notified by telephone by the
 12 clerk of the court or he may order them summoned by the
 13 sheriff either by certified mail or by personal service."

14 Section 59. Section 93-1801, R.C.M. 1947, is amended
 15 to read as follows:

16 "93-1801. Grand jury -- when and how ~~to be impaneled~~
 17 drawn and summoned. Whenever in the opinion of the district
 18 judge a grand jury is necessary, he must make an order
 19 directing a grand jury to be drawn and summoned to attend
 20 before the court. The order must specify the number of ~~such~~
 21 jurors to be drawn, which must not be less than ~~fifteen (15)~~
 22 ~~nor~~ or more than ~~twenty (20)~~. The names of ~~such~~ the jurors
 23 must be drawn from the jury box ~~no. 1~~, mentioned in ~~section~~
 24 93-1404, ~~and the~~ The list of names shall be certified and
 25 the jurors summoned, ~~as provided for drawing and summoning~~

1 ~~in the same manner as for~~ trial jurors, ~~and the~~ The names
2 of any persons drawn who ~~may~~ are not be impaneled ~~upon~~ on
3 the grand jury must be again placed in ~~said~~ the jury box ~~no.~~
4 4."

5 Section 60. Repealer. Sections 11-1709, 16-3606,
6 93-221 through 93-233, 93-703, and 93-7608, R.C.B. 1947,
7 are repealed.

-End-

HOUSE BILL NO. 46
INTRODUCED BY KVAALEN

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO THE JUDICIARY AND THE COURTS OF THE STATE OF MONTANA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 10-1220, R.C.M. 1947, is amended to read as follows:

"10-1220. Adjudicatory hearing. (1) Prior to any adjudicatory hearing, the court shall determine whether the youth admits or denies the offenses alleged in the petition. If the youth denies all offenses alleged in the petition, the youth, his parent, guardian, or attorney may demand a jury trial on such contested offenses; in the absence of such demand, a jury trial is waived. If the youth denies some offenses and admits others, the contested offenses may be dismissed in the discretion of the youth court judge. The adjudicatory hearings shall be set ~~forthwith~~ immediately and accorded a preferential priority.

(2) An adjudicatory hearing shall be held to determine whether the contested offenses are supported by proof beyond a reasonable doubt in cases involving a youth alleged to be delinquent or in need of supervision. If the hearing is

there are no changes in HB 46, and due to length will not be rerun. Please refer to yellow copy for complete text.

before a jury, the jury's function shall be to determine whether the youth committed the contested offenses; if the hearing is before the youth court judge without a jury, the judge shall make and record his findings on all issues. If the allegations of the petitions are not established at the hearing, the youth court shall dismiss the petition and discharge the youth from custody.

(3) An adjudicatory hearing shall be recorded verbatim by whatever means the court ~~deems~~ considers appropriate.

(4) The youth charged in a petition must be present at the hearing and if brought from detention to the hearing, shall not appear clothed in institutional clothing.

(5) In a hearing on a petition under this section, the general public shall be excluded and only such persons admitted as have a direct interest in the case; except that when a hearing in the court is held on a written petition charging the commission of a felony, persons with a legitimate interest in the proceeding, including representatives of public information media, shall not be excluded from the hearing.

(6) If the court finds on the basis of a valid admission by a youth of the allegations of the petition or if a youth is found to be a delinquent youth or a youth in need of supervision the court shall schedule a dispositional hearing under this act.

1 (7) When a jury trial is required in a case, it may be
 2 held before ~~the regular trial panel. If the regular panel is~~
 3 ~~not in attendance, the court may draw a jury from jury box~~
 4 ~~no. 3, a jury selected as provided in Title 93, chapter 50."~~

5 Section 2. Section 11-1601, R.C.M. 1947, is amended to
 6 read as follows:

7 "11-1601. City court established ~~when open~~. A city
 8 court is established in each city or town, ~~the~~ which court
 9 ~~must always be open, except upon its nonjudicial days, and~~
 10 ~~upon such days it may transact original business only."~~

11 Section 3. There is a new R.C.M. section numbered
 12 11-1601.1 that reads as follows:

13 11-1601.1 Election and terms of office of city judges.
 14 The election of city judges and their terms of office are
 15 provided for in Title 11, chapter 7.

16 Section 4. Section 11-1602, R.C.M. 1947, is amended to
 17 read as follows:

18 "11-1602. ~~Jurisdiction of city courts~~ Concurrent
 19 jurisdiction. (1) The city court has concurrent jurisdiction
 20 with the ~~justice's~~ justice's court of all misdemeanors
 21 punishable by a fine not exceeding ~~five hundred dollars~~
 22 ~~(\$500),~~ or by imprisonment not exceeding ~~six (6) months,~~ or
 23 by both fine and imprisonment, ~~under the following~~
 24 ~~conditions:~~

25 (1) ~~Any action charging the commission of an offense~~

1 ~~within the city or town limits in violation of a city or~~
 2 ~~town ordinance shall be brought in the name of the city or~~
 3 ~~town as the plaintiff and against the accused as the~~
 4 ~~defendant.~~

5 (2) ~~Any other action brought for violation of a state~~
 6 ~~law within the city shall be brought in the name of the~~
 7 ~~state of Montana as the plaintiff and against the accused as~~
 8 ~~the defendant.~~

9 (3) (2) Application Applications for search warrants
 10 and complaints charging the commission of a felony may be
 11 filed in the city or town court, and when ~~they~~ they are so
 12 filed, the city judge ~~shall have~~ has the same jurisdiction
 13 and responsibility as a justice of the peace, including the
 14 holding of a preliminary hearing. The city attorney may
 15 file an application for a search warrant or a complaint
 16 charging the commission of a felony when the offense was
 17 committed within the city limits. The county attorney,
 18 however, must handle any action after a defendant is bound
 19 over to district court."

20 Section 5. Section 11-1603, R.C.M. 1947, is amended to
 21 read as follows:

22 "11-1603. ~~Jurisdiction for violation of ordinances,~~
 23 ~~and civil and criminal jurisdiction~~ Exclusive jurisdiction.
 24 The police city court also has exclusive jurisdiction of:

25 4, (1) Of all proceedings for the violation of any an

March 9, 1977

STANDING COMMITTEE REPORT
Senate Committee on Judiciary

That House Bill No. 46 be amended as follows:

1. Amend page 3, section 2, line 8.

Following: "."

Insert: "On judicial days, the court shall be open for all business, civil and criminal. On nonjudicial days as defined in 93-507, the court may transact criminal business only."

2. Amend page 9, section 10, line 17.

Following: line 17.

Insert: "(6) keep for the district court two separate indexes, one labeled "general index -- plaintiffs" and the other labeled "general index -- defendants", which shall be in the form prescribed in 16-3003;"

Renumber: all subsequent subsections

3. Amend page 43, section 49, line 4.

Following: "death"

Strike: "and"

Insert: "or"

4. Amend page 43, section 49, line 5.

Following: "county"

Strike: ", "

Following: "or"

Insert: "for"

HOUSE BILL NO. 46
INTRODUCED BY KVAALEN

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO THE JUDICIARY AND THE COURTS OF THE STATE OF MONTANA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 10-1220, R.C.M. 1947, is amended to read as follows:

"10-1220. Adjudicatory hearing. (1) Prior to any adjudicatory hearing, the court shall determine whether the youth admits or denies the offenses alleged in the petition. If the youth denies all offenses alleged in the petition, the youth, his parent, guardian, or attorney may demand a jury trial on such contested offenses; in the absence of such demand, a jury trial is waived. If the youth denies some offenses and admits others, the contested offenses may be dismissed in the discretion of the youth court judge. The adjudicatory hearings shall be set forthwith immediately and accorded a preferential priority.

(2) An adjudicatory hearing shall be held to determine whether the contested offenses are supported by proof beyond a reasonable doubt in cases involving a youth alleged to be delinquent or in need of supervision. If the hearing is

before a jury, the jury's function shall be to determine whether the youth committed the contested offenses; if the hearing is before the youth court judge without a jury, the judge shall make and record his findings on all issues. If the allegations of the petitions are not established at the hearing, the youth court shall dismiss the petition and discharge the youth from custody.

(3) An adjudicatory hearing shall be recorded verbatim by whatever means the court ~~deems~~ considers appropriate.

(4) The youth charged in a petition must be present at the hearing and if brought from detention to the hearing, shall not appear clothed in institutional clothing.

(5) In a hearing on a petition under this section, the general public shall be excluded and only such persons admitted as have a direct interest in the case; except that when a hearing in the court is held on a written petition charging the commission of a felony, persons with a legitimate interest in the proceeding, including representatives of public information media, shall not be excluded from the hearing.

(6) If the court finds on the basis of a valid admission by a youth of the allegations of the petition or if a youth is found to be a delinquent youth or a youth in need of supervision the court shall schedule a dispositional hearing under this act.

1 (7) When a jury trial is required in a case, it may be
 2 held before ~~the regular trial panel, if the regular panel is~~
 3 ~~not in attendance, the court may draw a jury from jury box~~
 4 ~~Nov 3, a jury selected as provided in Title 93, chapter 50a."~~

5 Section 2. Section 11-1601, R.C.M. 1947, is amended to
 6 read as follows:

7 "11-1601. City court established ~~when open~~. A city
 8 court is established in each city or town, ON JUDICIAL
 9 DAYS, THE COURT SHALL BE OPEN FOR ALL BUSINESS, CIVIL AND
 10 CRIMINAL, ON NONJUDICIAL DAYS AS DEFINED IN 93-507, THE
 11 COURT MAY TRANSACT CRIMINAL BUSINESS ONLY. The which--court
 12 ~~must always be open, except upon on nonjudicial days, and~~
 13 ~~upon such days it may transact criminal business only."~~

14 Section 3. There is a new R.C.M. section numbered
 15 11-1601.1 that reads as follows:

16 11-1601.1 Election and terms of office of city judges.
 17 The election of city judges and their terms of office are
 18 provided for in Title 11, chapter 7.

19 Section 4. Section 11-1602, R.C.M. 1947, is amended to
 20 read as follows:

21 "11-1602. ~~Jurisdiction of city courts~~ Concurrent
 22 jurisdiction. (1) The city court has concurrent jurisdiction
 23 with the justices' ~~justice's~~ court of all misdemeanors
 24 punishable by a fine not exceeding ~~five hundred dollars~~
 25 ~~(500)~~ or by imprisonment not exceeding ~~six (6)~~ months, or

1 by both fine and imprisonment, under the following
 2 conditions:

3 (1) Any action charging the commission of an offense
 4 within the city or town limits in violation of a city or
 5 town ordinance shall be brought in the name of the city or
 6 town as the plaintiff and against the accused as the
 7 defendant.

8 (2) Any other action brought for violation of a state
 9 law within the city shall be brought in the name of the
 10 state of Montana as the plaintiff and against the accused as
 11 the defendant.

12 (3)(2) Application Applications for search warrants
 13 and complaints charging the commission of a felony may be
 14 filed in the city or town court, and when ~~when~~ they are so
 15 filed, the city judge shall have ~~has~~ the same jurisdiction
 16 and responsibility as a justice of the peace, including the
 17 holding of a preliminary hearing. The city attorney may
 18 file an application for a search warrant or a complaint
 19 charging the commission of a felony when the offense was
 20 committed within the city limits. The county attorney,
 21 however, must handle any action after a defendant is bound
 22 over to district court."

23 Section 5. Section 11-1603, R.C.M. 1947, is amended to
 24 read as follows:

25 "11-1603. ~~Jurisdiction for violation of ordinances~~

1 ~~and civil and criminal jurisdiction~~ Exclusive jurisdiction.
2 The police city court also has exclusive jurisdiction of:

3 ~~1. (1) Of all~~ proceedings for the violation of any an
4 ordinance of the city or town, both civil and criminal;
5 ~~which must be prosecuted in the name of the city or town;~~

6 ~~2. (2) Of any action~~ when the amount of the taxes or
7 assessments sought does not exceed \$300, actions for the
8 collection of taxes and or assessments levied for any of the
9 following purposes, except that no lien on the property
10 taxed or assessed for the nonpayment of the taxes or
11 assessment may be foreclosed in any such action:

- 12 (a) city or town purposes; or
- 13 (b) for the erection or improvement of public
- 14 buildings;
- 15 (c) for the laying out, or opening, or improving any
- 16 of a public street, or sidewalk, alley, or bridge; or
- 17 (d) for the purpose of acquisition or the improvement
- 18 of any public grounds; or and

19 (e) for any and all public improvements made or
20 ordered by the city or town within its limits; ~~when the~~
21 ~~amount of the tax or assessments sought to be collected~~
22 ~~against the person assessed does not exceed three hundred~~
23 ~~dollars; but no lien upon the property taxed or assessed for~~
24 ~~the nonpayment of the taxes or assessment can be foreclosed~~
25 ~~in any such action;~~

1 ~~3. (3) Of an action~~ actions for the collection of money
2 due to the city or town or from the city or town to any
3 person, when the amount sought to be collected, exclusive of
4 interest and costs, does not exceed ~~three hundred dollars~~
5 \$300;

6 ~~4. (4) For when the amount claimed, exclusive of costs,~~
7 ~~does not exceed \$300, actions for:~~

- 8 (a) the breach of any an official bond given by any a
- 9 city or town officer; and
- 10 (b) for the breach of any contract; and
- 11 (c) any action for damages, in which when the city or
- 12 town is a party, or is in any way interested; and
- 13 (d) all the enforcement of forfeited recognizances
- 14 given to, or for the benefit of, or in on behalf of the city
- 15 or town; and

16 (e) upon all collection on bonds given upon any an
17 appeal taken from the judgment of the court in any action
18 mentioned in subsections (4)(a) through (4)(d) above named;
19 where the amount claimed, exclusive of costs, does not
20 exceed three hundred dollars;

21 ~~5. (5) For actions~~ for the recovery of personal
22 property belonging to the city or town, when the value of
23 the property, {exclusive of the damages for the taking or
24 detention}, does not exceed three hundred dollars \$300; and

25 ~~6. (6) Of an action~~ actions for the collection of any a

1 license fee required by any an ordinance of the city or
2 town."

3 Section 6. There is a new R.C.M. section numbered
4 11-1603.1 that reads as follows:

5 11-1603.1. Who named as plaintiff. (1) An action
6 brought for violation of a city or town ordinance shall be
7 brought in the name of the city or town as the plaintiff and
8 against the accused as the defendant.

9 (2) An action brought for violation of a state law
10 within the city or town shall be brought in the name of the
11 state of Montana as the plaintiff and against the accused as
12 the defendant.

13 Section 7. Section 11-1604, R.C.M. 1947, is amended to
14 read as follows:

15 "11-1604. When substitute for judge called in cannot
16 act. The city judge or mayor may call in a justice of the
17 peace or some qualified resident of the city or town to act
18 in the judge's place, whenever the judge is:

19 (1) ~~in all cases in which the judge is a party in a~~
20 ~~case;~~ or

21 (2) ~~in which he is interested in a case;~~ or

22 (3) ~~when he is related to either party in a case by~~
23 ~~consanguinity or affinity within the sixth degree; and or~~

24 (4) ~~in case of his sickness sick, absence absent, or~~
25 ~~inability unable to act, the police judge or mayor may call~~

1 ~~in a justice of the peace or some qualified resident of the~~
2 ~~city or town, to act in his place and stead."~~

3 Section 8. Section 11-1710, R.C.M. 1947, is amended to
4 read as follows:

5 "11-1710. Summons -- time for answer. Summons the
6 summons in municipal court shall be signed by the clerk and
7 shall conform as near as may be possible to the provisions
8 of ~~section 93-3003 M. R. Civ. P., Rules 4 and 12(a)~~, except
9 that the time for answering shall be ten 10 days, instead of
10 twenty 20."

11 Section 9. Section 11-1711, R.C.M. 1947, is amended to
12 read as follows:

13 "11-1711. Practice -- reply. The provisions of
14 ~~sections 93-6901 to through 93-7405, inclusive, and sections~~
15 ~~93-7701 to through 93-7714, inclusive, are hereby adopted~~
16 ~~and made applicable to practice and procedure in municipal~~
17 ~~court, except where when the same they are repugnant to the~~
18 ~~provisions of this act; The the words "Municipal Court~~
19 ~~municipal court"~~ being substituted for justice court, and
20 "judge" for justice of the peace ~~where the same appears in~~
21 ~~said chapters. Where whenever~~ the answer contains a
22 counterclaim or any new matter, the plaintiff, ~~if he does~~
23 ~~not demur~~ shall within five 5 days after the service and
24 filing of the answer, reply to such the counterclaim or new
25 matter in the manner and form provided for in section

1 ~~93-3601~~ Mo. Rev. Stat., § 16-3001, R.C.M. 1947, is amended
 2 section 10. Section 16-3001, R.C.M. 1947, is amended
 3 to read as follows:
 4 "16-3001. Duties and records to be kept. The clerk of
 5 the district court, in addition to the duties prescribed
 6 elsewhere, must shall:
 7 ~~1~~ (1) ~~take~~ take charge of and safely keep or dispose
 8 of according to law all books, papers, and records which
 9 ~~may be~~ are filed or deposited in his office;
 10 ~~2~~ (2) ~~act~~ act as clerk of the district court and
 11 attend each term or session thereof and upon the judges at
 12 chambers when required;
 13 ~~3~~ (3) ~~issue~~ issue all process and notices required to
 14 be issued;
 15 ~~4~~ (4) enter all orders, judgments, and decrees proper to
 16 be entered;
 17 ~~5~~ (5) keep in each court a register of action, as
 18 provided in the code of civil procedure ~~23-8101~~, which must
 19 also state the names of the attorneys and all fees charged
 20 in each action ~~and a list of all the fees charged~~;
 21 ~~6~~ ~~keep for the district court in separate volumes~~
 22 ~~an index of all suits labeled "General index - Plaintiffs"~~
 23 ~~each page of which must be divided into seven columns under~~
 24 ~~their respective heads, alphabetically arranged as follows:~~
 25 ~~"Number of suits" "Plaintiffs" "Defendants" "Date of~~

1 judgment" "Number of judgment" "Page of entry of judgment
 2 in judgment book" "Page of minute book of district court"
 3 also an index labeled "General index - defendants" each
 4 page of which must be divided into seven columns under their
 5 respective heads, alphabetically arranged as follows:
 6 "Number of suits" "Defendants" "Plaintiffs" "Date of
 7 judgment" "Number of judgment" "Page of entry of judgment
 8 in judgment book" "Page in minute book of district court";
 9 (6) KEEP FOR THE DISTRICT COURT TWO SEPARATE INDEXES,
 10 ONE LABELED "GENERAL INDEX -- PLAINTIFFS" AND THE OTHER
 11 LABELED "GENERAL INDEX -- DEFENDANTS", WHICH SHALL BE IN THE
 12 FORM PRESCRIBED IN 16-3003;
 13 ~~5~~ (7) ~~Keep~~ keep a minute book, which must contain
 14 the daily proceedings of court, which may be signed by the
 15 clerk, ~~and which minute book~~ must be indexed in the names of
 16 both defendant and plaintiff;
 17 ~~6~~ (8) ~~Keep~~ keep a book called "Record ~~record~~ of
 18 probate proceedings", which must contain all the orders and
 19 proceedings of the district court sitting in probate
 20 matters ~~as prescribed elsewhere in this code~~ and which
 21 index must be indexed in the ~~name~~ names of the deceased
 22 person ~~and the executor or administrator or the names of~~
 23 the guardian or ~~and the~~ ward;
 24 ~~7~~ (9) ~~Keep~~ keep a book called the "Probate ~~probate~~
 25 record book", in which must be recorded all wills, bonds,

1 letters of administration, letters testamentary, and other
 2 papers as prescribed elsewhere in this code by law and
 3 which record must be indexed in like the same manner as the
 4 "Record record of probate proceedings";

5 ~~9191(10)~~ Keep keep two books;

6 (a) the first book must be labeled "declaration of
 7 intention to become citizens of the United States" and must
 8 have entered in it in one of which must be entered in
 9 alphabetical order the names of all persons who from the
 10 organization of the court have declared, or who may
 11 hereafter declare their intention to become citizens of the
 12 United States, and with the date of such declaration, which
 13 book must be labeled "Declaration of intention to become
 14 citizens of the United States," and;

15 (b) the second book must be labeled "naturalization --
 16 final papers" and must have entered in it in the other of
 17 which must be entered in alphabetical order the names of all
 18 persons who have been or may be hereafter admitted as
 19 citizens of the United States by the court of which he is
 20 clerk, which book must be labeled "Naturalization -- final
 21 papers" and enter, in a separate column, opposite each
 22 name, the country of which such the person was before
 23 formerly a citizen or subject, the date of his admission,
 24 and the page of the minute book or book of record containing
 25 the order admitting him as a citizen;

1 ~~9191(11)~~ Keep keep a book called "Register register
 2 of criminal actions," which must have a proper index and
 3 in which must be entered the title and number of the action
 4 with a memorandum of every paper filed, and order or
 5 proceeding had therein, with the date thereof, and a
 6 memorandum of the name of every witness, the number of days
 7 in attendance he attended, and his total witness fees; and
 8 a proper index to the same;

9 ~~9191(12)~~ Keep keep a book called a "Register
 10 register of probate and guardianship proceedings," in which
 11 must be entered the name of the estate and the register
 12 number, with a memorandum of every paper filed, and order or
 13 proceeding had therein, with the date thereof, and a
 14 memorandum of the fees charged;

15 ~~9191(13)~~ Keep on index book of persons sent to the insane
 16 asylum, as provided in section 38-288;

17 ~~9191(14)~~ Keep keep a fee book, in which must be
 18 shown, in an itemized form, all fees that he has received
 19 for any services rendered in his capacity as such clerk;

20 ~~9191(15)~~ Keep keep a book called a "Book book of
 21 jurors' certificates," in which must be contained contain
 22 the blank certificates and stubs to be filled, as provided
 23 in this code 25-405;

24 ~~9191(16)~~ Keep keep a "witness book," in which must
 25 be contained contained blank certificates and stubs to be

1 filled, as provided in ~~25-406~~ this code;

2 ~~to~~ ~~15~~ ~~(16)~~ keep keep a record of the attendance of all
3 jurors, and of witnesses in criminal actions, and compute
4 the mileage of each."

5 Section 11. Section 16-3603, R.C.M. 1947, is amended
6 to read as follows:

7 "16-3603. Governed by the law prescribing sheriffs'
8 duties. All the provisions of sections 16-2701 to through
9 16-2722 ~~inclusive of this code~~, except subsections (4), (5),
10 and (6) of the fourth and sixth subdivisions of section
11 16-2702, apply to constables and govern their powers,
12 duties, and liabilities."

13 Section 12. Section 16-3604, R.C.M. 1947, is amended
14 to read as follows:

15 "16-3604. Duties of justices of the peace. Justices of
16 the peace must perform such duties as are prescribed in
17 sections 93-6601 to through 93-7714 ~~of the code of civil~~
18 ~~procedure (title 93)~~ and such any other duties as are
19 prescribed by law."

20 Section 13. Section 16-3605, R.C.M. 1947, is amended
21 to read as follows:

22 "16-3605. Justices not to practice law. (1) Except as
23 provided in subsection (2), a No justice of the peace ~~shall~~
24 ~~may not~~;

25 (a) practice law;

1 (b) draw contracts, conveyances, or other legal
2 instruments or documents; nor

3 (c) shall they take any claim or bill for collection,
4 nor or act as a collection agent in any sense whatever; nor
5 or

6 (d) shall they perform any legal duties other than
7 those prescribed by law as their his official duties in the
8 conduct of cases and proceedings in their courts his court.
9 Any justice of the peace violating any of the provisions in
10 this section shall be deemed guilty of a malfeasance in
11 office, and shall forthwith be removed from his office of
12 justice of the peace, and shall thereafter be disqualified
13 from holding such office.

14 (2) Provided, however, that a justice of the peace
15 who is an attorney and who is admitted to practice law
16 before the supreme court of the state of Montana may engage
17 in the general practice of law and practice law in all
18 courts in the state of Montana, except that such a justice
19 of the peace, his law partner or associate, or a member,
20 associate, or employee of a firm of which he is a member
21 shall may not represent a party involved in a case which is
22 filed or tried in his court or in any justice court located
23 in the same township county as his court, or which is
24 appealed from said courts such a court.

25 (3) A justice of the peace who violates any of the

1 provisions of this section is guilty of malfeasance in
 2 office and shall be removed from his office of justice of
 3 the peace and thereafter be disqualified from holding such
 4 office."

5 Section 14. Section 16-3607, R.C.M. 1947, is amended
 6 to read as follows:

7 "16-3607. Justice or constable purchasing not to
 8 purchase judgment. (1) A Every justice of the peace ~~or~~
 9 ~~constable of the same county, who purchases~~ may not purchase
 10 or is be interested in the purchase of any judgment or part
 11 thereof on the his docket ~~of~~ or on any docket in the his
 12 possession ~~of such justice, is guilty of a misdemeanor. A~~
 13 constable may not purchase or be interested in the purchase
 14 of any judgment or part thereof on the docket of a justice
 15 of the peace of the county of which he is a constable or on
 16 a docket in the possession of such a justice.

17 (2) Violation of subsection (1) is a misdemeanor."

18 Section 15. Section 25-307, R.C.M. 1947, is amended to
 19 read as follows:

20 "25-307. Collection and disposition of fees --
 21 itemized statement. ~~Justices~~ Each justice of the peace shall
 22 collect the fees prescribed by law for justice. ~~Justices~~
 23 courts and shall pay ~~the same~~ them into the county treasury
 24 of the county wherein ~~they~~ he holds office, on or
 25 before the tenth ~~10th~~ day of each month, to be credited to

1 the general fund of the county, ~~and he~~ shall also file an
 2 itemized statement showing all fees received during the
 3 preceding month in the his justice court, ~~and~~ the
 4 statement shall also state that all fees required by law to
 5 be paid during the preceding month in connection with
 6 matters pending before the court ~~during the preceding month~~
 7 have been paid into the county treasury, and listed in ~~and~~
 8 the itemized statement, and that he has not received or been
 9 promised, nor has any one else received or been promised for
 10 him, any other moneys, emolument, or thing whatsoever by
 11 virtue of or in connection with his office, ~~and~~ and ~~and~~ the
 12 statement shall be subscribed and sworn to by the justice.
 13 ~~This section, however, shall not apply to "miscellaneous~~
 14 ~~fees" excepted by section 25-304, supra."~~

15 Section 16. Section 25-401, R.C.M. 1947, is amended to
 16 read as follows:

17 "25-401. Jurors' fees in courts of record. Grand A
 18 grand or and trial jurors juror shall receive twelve dollars
 19 ~~{+12}~~ per day for attendance before any court of record and
 20 a mileage allowance, as provided in section 59-801, each way
 21 for traveling each way between his ~~from and to~~ their
 22 residence and the county seat. Any A juror who is excused
 23 from attendance upon his own motion on the first day of his
 24 appearance in obedience to notice, or who has been summoned
 25 as a special juror and not sworn in the trial of the case,

1 in the discretion of the court, may receive per diem and
2 mileage."

3 Section 17. Section 25-403, R.C.M. 1947, is amended to
4 read as follows:

5 "25-403. ~~Compensation-of-jurors~~ Jurors' fees in courts
6 not of record and ~~et~~ coroner's inquests. Jurors in courts
7 not of record, in both civil and criminal actions, shall
8 receive ~~a fee of seven-dollars-and-fifty-cents--(\$7.50)~~ per
9 day, ~~but-in~~ In civil actions, the jury jurors' fees must be
10 paid by the party demanding the jury, and ~~must-be~~ taxed as
11 costs against the losing party. Jurors in coroner's inquest
12 inquests shall receive ~~for-their-services-the-sum-of-seven~~
13 ~~dollars-and-fifty-cents~~ a fee of \$7.50 per day."

14 Section 18. Section 82-503, R.C.M. 1947, is amended to
15 read as follows:

16 "82-503. Fees. (1) The clerk He must collect in
17 advance the following fees:

18 (a) ~~For~~ for filing the transcript on appeal, in each
19 any civil case appealed to the supreme court, ~~twenty-dollars~~
20 ~~(\$20)~~ payable by the appellant, and ~~ten--dollars--(\$10)~~
21 payable by the respondent, at the time of his appearance, as
22 payment in full for all services rendered in each the case,
23 up to the remittitur to the court below;

24 (b) for filing a petition for any writ, ~~twenty-dollars~~
25 ~~(\$20),~~ as payment in full for all services rendered in each

1 the cause;

2 (c) for a certificate of admission as an attorney and
3 counselor, ~~five-dollars--(\$5);~~

4 (d) for making transcripts, or copies of papers or
5 record records, fifteen 15 cents ~~(\$15)~~ per folio;

6 (e) for comparing any document requiring a
7 certificate, five cents ~~(\$05)~~ per folio;

8 (f) for each certificate under seal, one-dollar--(\$1).

9 (2) Three-fourths (3/4) of all fees collected by him
10 the clerk must be paid into the state treasury, ~~which~~ and
11 shall be credited to ~~the--credit--of~~ the general fund, and
12 ~~one-fourth--(1/4)~~ One-fourth of all fees collected by him
13 shall be paid to the ~~secretary-of-the~~ public employees'
14 retirement ~~system--board~~ division of the department of
15 administration to be credited to the Montana judges'
16 retirement fund system account."

17 Section 19. Section 82-505, R.C.M. 1947, is amended to
18 read as follows:

19 "82-505. Settlements, ~~when-and-how-made~~ and accounts
20 to state auditor. He The clerk is responsible and must
21 account for, and, in his settlement with the state auditor,
22 must be charged with, the full amount of all fees collected
23 or chargeable, and accruing in causes brought into the court
24 for services rendered therein up to the time of each
25 settlement, which the settlement must take place quarterly,

1 and must immediately thereafter the clerk must pay the
 2 amount found due into the treasury or to the public
 3 employees' retirement division, as provided in 82-503(2). He
 4 must also, at the end of each quarter, render to the state
 5 auditor, in such form as that officer prescribes, an account
 6 in detail and under oath of all fees chargeable and
 7 accruing in causes brought into court and not included in
 8 his previous accounts rendered. His salary must ~~may~~ not be
 9 allowed or paid until all fees so accruing and for which he
 10 is chargeable have been accounted for and paid over."

11 Section 20. Section 82-2007, R.C.M. 1947, is amended
 12 to read as follows:

13 "82-2007. Distribution of reports. (1) On the
 14 publication of each volume of ~~said the~~ reports, the
 15 secretary of state shall purchase 300 copies from the of
 16 ~~said~~ publishers for the use of the state, three-hundred
 17 ~~copies thereof, and he~~ shall distribute ~~the same~~ them in the
 18 manner following manner:

19 (a) ~~To~~ to the law libraries of each state and
 20 territory of the United States, one copy;

21 (b) to the ~~Library~~ library of Congress ~~congress~~, five
 22 copies;

23 (c) to each of the judges of the United States
 24 district courts of the states of Idaho, Nevada, California,
 25 Washington, Montana, Wyoming, and Oregon, one copy;

1 (d) to each ~~state--officer~~ justice of the supreme
 2 court, district judge, county attorney, and clerk of the a
 3 district court in this state, one copy;

4 (e) to each state office, as many copies as the
 5 secretary of state determines are needed;

6 (f) to the law library of the state of Montana, three
 7 copies.

8 (2) He shall also distribute ~~said the~~ reports to
 9 literary and scientific institutions, publishers, and
 10 authors, and legislative reference libraries of other states
 11 with whom which the state law librarian has established or
 12 ~~may hereafter establish~~ a system of exchange.

13 (3) He shall also distribute to the ~~University~~
 14 university of Montana ~~not to exceed up to 50~~ fifty copies to
 15 be used by the law librarian of the state university for the
 16 purpose of exchanges with universities and institutions of
 17 higher education in other states.

18 (4) All reports distributed to state, district, and
 19 other officers in the state ~~shall be~~ are for the use of
 20 their offices and shall be, by the person receiving ~~the same~~
 21 them, turned over to his successor in office, ~~and the~~ the
 22 secretary of state shall take proper receipts for ~~such the~~
 23 reports."

24 Section 21. Section 93-219, R.C.M. 1947, is amended to
 25 read as follows:

1 *93-219. Judge--becoming--candidate--for--elective
 2 office--resigning-----of-----supreme-----court
 3 office--exceptions--vacancy Justice or judge not to run for
 4 office -- resignation required. (1)(a) Whenever--any If a
 5 person holding--or occupying the office of chief justice or
 6 associate justice on of the supreme court or judge of a
 7 district court of the state of Montana shall-become becomes
 8 a candidate for election to any elective office under the
 9 laws ofor--in the state of Montana, such-person he shall
 10 forthwith immediately, and in any event at or before the
 11 time required--for--such--person--to when he must file as a
 12 candidate for such office at in any primary or special or
 13 general election, resign said from_his office of chief
 14 justice, or associate justice of--said--supreme--court, or
 15 district judge.

16 (b) The resignation becomes effective immediately upon
 17 its delivery to the proper officer or superior.

18 (c) The resignation requirement applies except where
 19 such when_the person is a bona fide candidate for
 20 re-election reelection to the identical office then held-or
 21 occupied by him or for another nonpartisan judicial office
 22 the term of which shall does_not commence not earlier than
 23 the end of the term of the office then held-or occupied by
 24 such---justice him, and--said--resignation--shall--become
 25 effective--forthwith--on--delivery--of--the--same--to--the--proper

1 officer-or-superior, and
 2 (2) in In the event of a failure so to resign, said
 3 the office of chief justice, or associate justice, of--said
 4 supreme--court or of district judge of-any-of-said-district
 5 courts--the--same--shall--ipso--facto--become--wholly
 6 automatically becomes vacant and--unoccupied and the said
 7 former holder-or occupant shall-have has no further right,
 8 power, or authority therein for any purpose, and no right to
 9 any emoluments thereof, notwithstanding the fact that a
 10 successor is not appointed or elected, and--said the vacancy
 11 shall-become becomes operative to deprive any the person of
 12 the emoluments of said the office then-held in order to
 13 carry out the policy of this act."

14 Section 22. Section 93-302, R.C.M. 1947, is amended to
 15 read as follows:

16 *93-302. Number of judges. In each judicial district
 17 there must be the following number of judges of the district
 18 court, who must be elected by the qualified voters of the
 19 district, and whose term of office must-be is six-(6) years,
 20 to-wit:

21 (1) in in the first 1st, second 2nd, eleventh 11th,
 22 and sixteenth 16th districts, two judges each;

23 (2) in the thirteenth-eighth-and-fourth 4th, 8th, and
 24 13th districts, three judges, each; and

25 (3) in all other districts, one judge each."

1 Section 23. Section 93-305, R.C.M. 1947, is amended to
2 read as follows:

3 "93-305. Expenses when ~~sitting~~ out of district ~~or~~
4 ~~attending-judges'-conference~~. Every A judge who ~~shall-sit~~
5 ~~sits~~ in the place of another judge in the trial or hearing
6 of an action or proceeding in a district other than his own
7 or in the supreme court, or who ~~shall-attend~~ attends a
8 conference of judges in Helena called by the chief justice
9 of the supreme court shall be paid his actual and necessary
10 travel expenses while engaged in that service as follows:

11 (1) ~~His~~ his travel expenses in going from the county
12 seat which he makes his place of residence to the place of
13 trial, or conference, and ~~return,~~ and

14 (2) his board and lodging while engaged in the trial,
15 hearing, or conference. ~~All-travel-expense-reimbursements~~
16 ~~shall-be-determined-as-provided-for-in-sections-59-538,~~
17 ~~59-539-and-59-801."~~

18 Section 24. Section 93-313, R.C.M. 1947, is amended to
19 read as follows:

20 "93-313. Expenses ~~of-judges-holding-court-in-other~~
21 ~~counties-when-not-in-county-of-residence~~. Each A district
22 judge of a judicial district ~~in-this-state,~~ composed of more
23 than one county ~~when-who,~~ for the purpose of holding court
24 and disposing of judicial business, he goes to a county of
25 his judicial district, other than the county in which he

1 resides, and therein holds court or transacts judicial
2 business, shall be paid all of his actual and necessary
3 expenses of transportation and living incurred on account
4 thereof ~~and-all-expenditures-made-therefor-as-provided-for~~
5 ~~in-sections-59-538--59-539--and-59-801,~~ from the time he
6 leaves his place of residence until he returns thereto."

7 Section 25. Section 93-325, R.C.M. 1947, is amended to
8 read as follows:

9 "93-325. Appointment ~~of-judge~~ -- salary --
10 qualifications. (1) The judges of the judicial district in
11 which a small claims court has been created shall appoint a
12 judge of the small claims court who shall:

13 (a) take the oath required of judges;

14 (b) serve at the pleasure of the district court
15 judges;

16 (c) be paid a salary set by the district court judge
17 judges; and

18 (d) be an attorney licensed to practice law in the
19 ~~state-of~~ Montana.

20 (2) The judge ~~judges~~ of the district court may appoint
21 more than one ~~to~~ small claims court judge for any small
22 claims court, ~~and-the~~ the salary shall be prorated among the
23 judges appointed."

24 Section 26. Section 93-408, R.C.M. 1947, is amended to
25 read as follows:

1 "93-408. Jurisdiction ~~Civil jurisdiction~~ of justices'
2 courts. The ~~justice justices'~~ courts have jurisdiction:

3 ~~1*(1) In in~~ actions arising on contract for the
4 recovery of money only, if the sum claimed does not exceed
5 ~~fifteen-hundred-dollars-(\$1,500);~~ exclusive of court costs;

6 ~~2*(2) In in~~ actions for damages not exceeding ~~fifteen~~
7 ~~hundred-dollars-(\$1,500);~~ exclusive of courts ~~court~~ costs;
8 for taking, detaining, or injuring personal property, or for
9 injury to real property where ~~when~~ no issue is raised by the
10 verified answer of ~~the~~ defendant involving the title to or
11 possession of the ~~real property same~~;

12 ~~(3) In~~ actions for damages not exceeding ~~fifteen~~
13 ~~hundred--dollars--(\$1,500);~~ exclusive of court costs;
14 injury to the person;
15 ~~provided, except that, in~~ actions for
16 false imprisonment, libel, slander, criminal conversation,
17 seduction, malicious prosecution, ~~bastardy determination of~~
18 ~~paternity, and~~ abduction, ~~and alienation-of-affections,~~ the
19 justice of the peace ~~shall does~~ not have jurisdiction;

20 ~~3*(4) In in~~ actions to recover the possession of
21 personal property, if the value of ~~such the~~ property does
22 not exceed ~~fifteen-hundred-dollars-(\$1,500);~~

23 ~~4*(5) In in~~ actions for a fine, penalty, or
24 forfeiture, not exceeding ~~fifteen-hundred-dollars--(\$1,500),~~
25 given ~~imposed~~ by a statute, or the an ordinance of an
incorporated city or town, where ~~when~~ no issue is raised by

1 the answer involving the legality of any tax, impost,
2 assessment, toll, or municipal fine;

3 ~~5*(6) In in~~ actions upon bonds or undertakings
4 conditioned for the payment of money, ~~if when~~ the sum
5 claimed does not exceed ~~fifteen--hundred--dollars--(\$1,500),~~
6 though the penalty may exceed that sum;

7 ~~6*(7) To to~~ take and enter judgment for the recovery
8 of money on the confession of a defendant, when the amount
9 confessed does not exceed ~~fifteen-hundred-dollars-(\$1,500);~~
10 exclusive of court costs."

11 Section 27. Section 93-505, R.C.M. 1947, is amended to
12 read as follows:

13 "93-505. Sittings of court -- when private. ~~(1) In~~ an
14 action for divorce, criminal conversation, ~~or~~ seduction, ~~or~~
15 ~~breach-of-promise-of-marriage,~~ the court may direct the
16 trial of any issue of fact joined therein to be private, and
17 exclude all persons except the officers of the court, the
18 parties, their witnesses, and counsel;

19 ~~(2) provided, that~~ ~~During the examination of a witness~~
20 in any cause, the court may, ~~in the exercise of a sound its~~
21 discretion, ~~during the examination of a witness,~~ exclude any
22 ~~some~~ or all of ~~the other~~ witnesses in the cause."

23 Section 28. Section 93-507, R.C.M. 1947, is amended to
24 read as follows:

25 "93-507. Nonjudicial days. ~~(1) No court must may~~ be

1 open nor ~~must~~ may any judicial business be transacted on
 2 legal holidays as provided for in section 19-107 and ~~or~~ on a
 3 day appointed by the president of the United States or by
 4 the governor of this state for a public fast, thanksgiving,
 5 or holiday, except for the following purposes:

6 1. ~~(a) To~~ to give, upon ~~their~~ its request, instructions
 7 to a jury when deliberating on ~~their~~ its verdict;

8 2. ~~(b) To~~ to receive a verdict, or discharge a jury;

9 3. ~~(c) For~~ for the exercise of the powers of a
 10 magistrate in a criminal action, or in a proceeding of a
 11 criminal nature;

12 4. ~~but-injunctions~~ Injunctions, writs of prohibition,
 13 and habeas corpus may be issued and served on any day."

14 Section 29. Section 93-702, R.C.M. 1947, is amended to
 15 read as follows:

16 "93-702. Qualifications and residence. (1) No person
 17 is eligible for the office of justice of the supreme court
 18 or judge of ~~the~~ a district court unless he is a citizen of
 19 the United States, ~~who~~ has resided in the state ~~two-~~(2)
 20 years immediately before taking office, and has been
 21 admitted to practice law in Montana for at least ~~five-~~(5)
 22 years prior to the date of appointment or election.

23 (2) A judge of ~~the~~ a district court need not be a
 24 resident of the district for which he is elected or
 25 appointed at the time of his election or appointment, but

1 after his election or appointment, he ~~shall~~ must reside in a
 2 county seat in the district for which he is elected or
 3 appointed during his term of office. Justices of the supreme
 4 court ~~shall~~ must reside within the state during their terms
 5 of office."

6 Section 30. Section 93-705, R.C.M. 1947, is amended to
 7 read as follows:

8 "~~93-705. Judicial-nomination-commission---creation--~~
 9 Creation, composition, and function of commission. ~~There-is~~
 10 ~~created-~~ A judicial nomination commission for the state of
 11 Montana is created, whose ~~its~~ function ~~it-shall-be~~ is to
 12 provide the governor with a list of candidates for ~~nominee~~
 13 nomination to fill any vacancy on the supreme court or any
 14 district court of the state of Montana. The commission shall
 15 be composed of seven ~~(7)~~ (7) members as follows:

16 (1) four ~~(4)~~ (4) lay members, who are neither judges or
 17 ~~or~~ attorneys, active or retired, and who ~~shall~~ reside in
 18 different geographical areas of the state and each of ~~these~~
 19 ~~four-~~(4) ~~members--shall--be~~ whom is representative of a
 20 different industry, business, or profession, whether ~~or-not~~
 21 actively so engaged or retired, ~~such-members who~~ shall be
 22 appointed by the governor;

23 (2) two ~~(2)~~ (2) attorneys, actively engaged in the
 24 practice of law, one ~~(1)~~ (1) from each congressional district,
 25 who shall be appointed by the supreme court;

1 (3) one ~~fit~~ district judge elected by the district
 2 judges under an elective procedure initiated and conducted
 3 by the supreme court and certified to such election by the
 4 chief justice of the supreme court, ~~and the which for the~~
 5 ~~purpose of the language of this act~~ election shall be
 6 considered ~~as~~ an appointment for the purposes of this act."

7 Section 31. Section 93-725, R.C.M. 1947, is amended to
 8 read as follows:

9 "93-725. ~~Judicial officer not to participate in~~
 10 ~~investigation of self or relative~~ Nonparticipation of
 11 interested judicial officer. A judicial officer who is a
 12 member of the commission or of the supreme court ~~shall~~ may
 13 not participate in any proceeding involving his own censure,
 14 suspension, removal, or retirement or that of his spouse, a
 15 relative within the sixth degree of consanguinity, or that
 16 of the spouse of such a relative."

17 Section 32. Section 93-726, R.C.M. 1947, is amended to
 18 read as follows:

19 "93-726. ~~Disqualification~~ Interim disqualification of
 20 ~~judge pending criminal prosecution or proceeding before~~
 21 ~~commission~~ judicial officer. A judge judicial officer is
 22 disqualified from acting as ~~a judge~~ such, without loss of
 23 salary, while there is pending:

24 (1) an indictment or an information charging him with
 25 a crime punishable as a felony under Montana or federal

1 law; or

2 (2) a formal proceeding before the commission for his
 3 removal or retirement."

4 Section 33. Section 93-903, R.C.M. 1947, is amended to
 5 read as follows:

6 "93-903. No judicial officer to have partner
 7 practicing law. No ~~justice, judge, or other elective~~
 8 ~~judicial officer,~~ OFFICER must of a court of record may
 9 have a partner acting as attorney or counsel in any court of
 10 this state."

11 Section 34. Section 93-1203, R.C.M. 1947, is amended
 12 to read as follows:

13 "93-1203. Grand jury defined. A grand jury is a body
 14 of persons, ~~seven~~ 11 in number, returned ~~in pursuance of~~ as
 15 provided by law from the citizens of a county before a
 16 court of competent jurisdiction and sworn to inquire of
 17 into public offenses committed or triable within the
 18 county."

19 Section 35. Section 93-1304, R.C.M. 1947, is amended
 20 to read as follows:

21 "93-1304. Who exempt from jury duty. (1) A person is
 22 exempt from liability to act as a juror if he is:

23 ~~to~~ (a) A a judicial, civil, or military officer of the
 24 United States or of this state;

25 ~~to~~ (b) A a person holding a public office in ~~the~~ this

1 state or in a county, township city, or town of this state;

2 3*(c) An an attorney at-law in practice;

3 4*(d) A minister of the gospel, or a priest of any

4 denomination, or editor, a member of the clergy of any

5 religion following his profession;

6 6*(e) an editor following his profession;

7 5*(f) A a teacher in a university, college, academy,

8 or school;

9 6*(g) an employee of the Montana state school for the

10 deaf and blind;

11 6*(h) A a practicing physician, dentist, or druggist

12 actually engaged in the business of dispensing medicines;

13 or

14 6*(i) a regularly licensed embalmer or undertaker;

15 7*(j) An an officer, keeper, or attendant of a

16 hospital, asylum mental health facility, or other charitable

17 institution;

18 8*(k) Engaged in the performance of duty as an officer

19 or attendant of the state prison, penitentiary, or of a

20 county jail on active duty;

21 9*(l) An an express agent, mail carrier, or

22 superintendent, employee, or operator of a telegraph line

23 doing general telegraph business in the this state;

24 10*(m) An an active member of the national guard of

25 Montana; or

1 11*(n) an active member of a fire department of any city

2 or town of this state; the number of firemen hereby

3 exempted must not exceed twenty-eight (28), including

4 officers for each company organized, and such members from

5 each company must be selected from the roll of such company

6 according to the seniority of membership, and a list

7 containing the names of such persons must be made out by the

8 secretary of each company and filed with the clerk of the

9 board of county commissioners on the first Mondays of

10 December, March, June and September, and any failure to file

11 the list hereby required is considered a waiver of such

12 exemption;

13 11*(o) A a superintendent on a railroad;

14 12*(p) A a nurse engaged in a case; or

15 13*(q) a person caring directly for one or more children.

16 12) The number of firemen exempted under subsection

17 11)(n) may not exceed 28, including officers, for each

18 company organized. The exempt members shall be selected

19 from the roll of each company according to the seniority of

20 membership. The secretary of each company shall make a list

21 of the exempt members and file it with the clerk of the

22 board of county commissioners on the first Mondays of March,

23 June, September, and December. Failure to file the list is

24 considered a waiver of the exemption.

25 13) When a person claims exemption under subsection

1 ~~(1)(g), the certificate of the superintendent of the school,~~
 2 ~~under the official seal of the school, is sufficient~~
 3 ~~evidence of qualified employment.~~

4 (4) The court must discharge a person from serving as
 5 a trial juror in either of the following cases:

6 (a) Where ~~when~~ it satisfactorily appears that ~~he--or~~
 7 ~~she the person~~ is not competent; ~~and~~ ~~or~~

8 (b) Where ~~when~~ it satisfactorily appears that ~~he--or~~
 9 ~~she the person~~ is exempt and claims the benefit of
 10 exemption."

11 Section 36. Section 93-1503, R.C.M. 1947, is amended
 12 to read as follows:

13 "93-1503. Drawing -- how conducted. ~~1~~(1) The clerk
 14 ~~must shall~~ place ~~said the~~ box on a rod so that ~~the--same it~~
 15 ~~may~~ readily revolve, ~~and--said the~~ box must be revolved a
 16 sufficient number of times ~~so--as~~ to ensure that the numbered
 17 slips in ~~said--box--shall it~~ become thoroughly mixed, ~~and~~
 18 ~~thereafter hereafter~~ the judge ~~must shall~~ draw from ~~said~~
 19 ~~the~~ box, one ~~it~~ at a time, as many of the numbered slips as
 20 are ordered by the court.

21 ~~2~~(2) A minute record of the drawing shall be entered
 22 in the minutes of the court, ~~which it~~ must show the names
 23 of the jurors corresponding to the numbers ~~so~~ drawn from
 24 ~~said the~~ jury box.

25 ~~3~~(3) If ~~the court is satisfied that the name--of~~ any

1 person ~~whose name is~~ so drawn is deceased or ~~insane~~
 2 ~~mentally incompetent~~ or ~~who--may--have~~ ~~has~~ permanently removed
 3 ~~moved~~ from the county, ~~and--the--fact--shall--be--made--to--appear~~
 4 ~~to--the--satisfaction--of--the--court,~~ the name of such ~~the~~
 5 person shall be omitted from the list, and another juror
 6 ~~name shall be~~ drawn in his ~~its~~ place, ~~and--the--fact the~~
 7 ~~reason for the omission~~ shall be entered upon the minutes of
 8 the court. The same proceeding ~~procedure~~ shall be had
 9 ~~followed~~ as often as may be necessary, until the number ~~of~~
 10 ~~names~~ of jurors required ~~shall~~ have been drawn.

11 (4) After the drawing ~~shall have has~~ been completed,
 12 the clerk shall make a copy of the list of names ~~of--the~~
 13 ~~persons--so~~ drawn, and certify the same. In his certificate
 14 he shall state the date of the order and of the drawing, ~~and~~
 15 the number of the ~~jurors names~~ drawn, and the time when and
 16 the place where ~~such the~~ jurors ~~shall--be~~ ~~are~~ required to
 17 appear.

18 (5) Such ~~the~~ certificate and list shall be delivered
 19 to the sheriff for service.

20 ~~4~~(6) No person ~~shall may~~ be asked to serve ~~on for~~
 21 more than one term during any year unless all the numbers in
 22 ~~the~~ jury box ~~has--i~~ have been drawn and there are no other
 23 qualified jurors available."

24 Section 37. Section 93-1603, R.C.M. 1947, is amended
 25 to read as follows:

1 "93-1603. Officer's return. The officer summoning such
 2 ~~the~~ jurors shall, at the time fixed in the order for their
 3 appearance, return ~~it~~ the order to the court with a list of
 4 the persons summoned endorsed thereon."

5 Section 38. Section 93-1802, R.C.M. 1947, is amended
 6 to read as follows:

7 "93-1802. How constituted. ~~(1)~~ When ~~11~~ of the persons
 8 summoned as grand jurors ~~who are~~ competent and not excused,
 9 ~~eleven-(11)~~ are present, they constitute the grand jury.

10 ~~(2)~~ If ~~when~~ more than ~~eleven-(11)~~ of such persons are
 11 present, the clerk ~~must~~ shall write their names on separate
 12 ballots, and place the ballots in black capsules, ~~which the~~
 13 ~~the~~ capsules shall be deposited in a box large enough to
 14 hold all of the capsules without crowding, ~~and--which--the~~
 15 ~~the~~ box shall be so arranged that the clerk drawing the
 16 capsules from the box ~~shall be is~~ unable to observe--or see
 17 the capsule he is about to draw, ~~and the clerk shall~~ draw
 18 ~~out-eleven-(11)-of-they~~ capsules, ~~and the the~~ persons whose
 19 names are on the ballots so drawn shall constitute the grand
 20 jury.

21 ~~(3)~~ If ~~when~~ less than ~~eleven-(11)~~ of such persons are
 22 present, the court ~~may~~ shall order a sufficient number to be
 23 forthwith immediately drawn from either ~~the jury~~ box and
 24 summoned to attend the court. ~~And whenever--of--the--persons~~
 25 ~~to-complete-a-grand-jury--more-attend-than-are-required--the~~

1 ~~requisite--number--must--be--obtained--by--writing--the--names--of~~
 2 ~~those--so--summoned--and--not--excused--on--ballots,--which--the~~
 3 ~~ballots--shall--be--placed--in--black--capsules,--and--thereafter~~
 4 ~~deposited--in--a--box,--and--then--drawn--as--above--provided."~~

5 Section 39. Section 93-1803, R.C.M. 1947, is amended
 6 to read as follows:

7 "93-1803. Manner of impaneling grand jury prescribed.
 8 ~~Hereafter--such--proceedings--must--be--had--in--impaneling--the~~
 9 ~~grand--jury~~ After the jurors have been selected, the grand
 10 jury shall be impaneled as are prescribed in sections
 11 ~~94-6301 to 94-6319~~ 95-1401 through 95-1403."

12 Section 40. Section 93-1805, R.C.M. 1947, is amended
 13 to read as follows:

14 "93-1805. Clerk to call list of jurors summoned,
 15 prepare capsules. At the opening of court on the day trial
 16 jurors have been summoned to appear, the clerk shall call
 17 the names of those summoned, and the court may ~~then~~ hear the
 18 excuses of jurors summoned.

19 ~~(2)~~ The clerk shall ~~then~~ write the names of the jurors
 20 present and not excused ~~upon~~ on separate ~~strips~~ or ballots of
 21 paper, and fold ~~such strips~~ the ballots so that the names are
 22 concealed, and place ~~said strips~~ them in black capsules, ~~and~~
 23 ~~there--in~~ in the presence of the court, the clerk shall
 24 deposit the capsules containing ~~said strips~~ or ~~the~~ ballots in
 25 a box large enough to hold all of ~~said the~~ capsules without

1 crowding, ~~and which said~~ The box shall be so arranged that
2 the clerk ~~judge~~ drawing ~~said the~~ capsules from ~~said the~~ box
3 ~~shall--be~~ is unable to observe or see the capsules he is
4 about to draw, ~~and which said~~ The box must be kept sealed
5 or locked until ordered by the court to be opened."

6 Section 41. Section 93-1806, R.C.M. 1947, is amended
7 to read as follows:

8 "93-1806. Manner of impaneling ~~--how-prescribed.~~ (1)
9 Whenever thereafter a civil action is called by the court
10 for trial, and a jury is required, ~~such proceedings shall be~~
11 ~~had in impaneling~~ the trial jury shall be impaneled as are
12 prescribed in sections 93-5001 to through 93-5015.

13 (2) ~~if~~ When the action ~~be~~ is a criminal one, the jury
14 shall be impaneled as prescribed in Title 94 95."

15 Section 42. Section 93-1809, R.C.M. 1947, is amended
16 to read as follows:

17 "93-1809. Manner of impaneling. ~~Thereafter~~ The jury
18 shall be impaneled as provided in:

19 (a) Title 95, if the action is a criminal one ~~--the~~
20 ~~jury must be impaneled as provided in Title 94;~~

21 (b) Sections 93-5001 through 93-5015, if the action is
22 a civil one, ~~as provided in sections 93-5001 to 93-5015"~~

23 Section 43. Section 93-1903, R.C.M. 1947, is amended
24 to read as follows:

25 "93-1903. Matters written out and filed. All

1 objections made during the trial or hearing and the
2 rulings, decisions, and opinions of the court ~~--and--the~~
3 ~~exceptions--taken--during--the--trial--or--hearing,~~ must be
4 written out at length or printed in type by the reporter
5 and filed with the clerk forthwith immediately after the
6 close of the trial or hearing, ~~and--thereafter--~~ such
7 ~~exceptions--may--be--settled--in--a--bill--of--exceptions--as~~
8 ~~provided in section 93-5505"~~

9 Section 44. Section 93-1904, R.C.M. 1947, is amended
10 to read as follows:

11 "93-1904. ~~To--furnish--copies--to--parties--etc~~ Copies of
12 proceedings. (1) Each reporter ~~specified in this chapter~~
13 ~~must likewise furnish,~~ upon request, furnish with all
14 reasonable diligence, to the defendant in a criminal cause
15 case or a party or his attorney in a civil cause case in
16 which he has attended the trial or hearing, a copy, written
17 out at length or in narrative form, from his stenographic
18 notes, of the testimony and proceedings upon the trial or
19 hearing, or a part thereof, ~~upon the trial or hearing,~~ upon
20 payment by the person requiring the same, of the--sum--of
21 ~~seven-and-one-half-cents-(\$075)~~ 7 1/2 cents per folio.

22 (2) If the county attorney, or attorney general, or
23 judge requires such a copy in a criminal cause case, the
24 reporter is entitled to his fees therefor, but he must
25 furnish it, ~~and upon~~ Upon furnishing it, he shall receive a

1 certificate of the sum to which he is so entitled, which is
 2 a county charge, and must be paid by the county treasurer
 3 upon the certificate like other county charges.

4 (3) If the judge requires such a copy in a civil case
 5 to assist him in rendering a decision, the reporter must
 6 furnish the same without charge therefor. In civil cases,
 7 all transcripts required by the county shall be furnished
 8 without cost.

9 (4) If it appears to the judge that a defendant in a
 10 criminal case is unable to pay for such a copy, ~~the same~~ it
 11 shall be furnished to him and paid for by the county."

12 Section 45. Section 93-1906, R.C.M. 1947, is amended
 13 to read as follows:

14 "93-1906. Salary and expenses of ~~reporter~~ --
 15 apportionment. (1) Every ~~Each~~ reporter appointed ~~under~~ the
 16 ~~provisions of this chapter~~ is entitled to receive an annual
 17 salary of not less than ~~twelve thousand five hundred dollars~~
 18 ~~(\$12,500)~~ and not ~~or~~ more than ~~sixteen thousand dollars~~
 19 ~~(\$16,000)~~ and no other compensation except as provided in
 20 93-1904, said ~~The~~ salary to ~~shall~~ be set by the judge in the
 21 district in which the reporter works, ~~and no other~~
 22 ~~compensation except as provided in section 93-1904,~~
 23 ~~provided, however, that all transcripts and bills of~~
 24 ~~exceptions required by the county shall be furnished without~~
 25 ~~cost.~~ It is payable in monthly installments out of the

1 general funds of the counties comprising the district for
 2 which he ~~the reporter~~ is appointed, ~~according~~ and in
 3 proportion to the number of civil and criminal actions
 4 entered ~~and~~ commenced in the district courts ~~court of such~~
 5 counties in and for each county respectively in the
 6 preceding year, ~~and it shall be the duty of the~~ ~~The~~ judge
 7 of such ~~the~~ district shall, on the first day of January 1 of
 8 each year, or as soon thereafter as possible may be, to
 9 apportion the amount of ~~such the~~ salary to be paid by each
 10 county in his district on the basis prescribed in this
 11 subsection aforesaid.

12 (2) In judicial districts comprising more than one
 13 county, ~~the~~ the reporter is allowed, in addition to the
 14 salary and fees provided for in subsection (1) above
 15 provided, in judicial districts comprising more than one (1)
 16 county, his actual and necessary expenses of transportation
 17 and living when he goes on official business to a county of
 18 his judicial district other than the county in which he
 19 resides, from the time he leaves his place of residence
 20 until he returns thereto, ~~said~~ ~~The~~ expenses to ~~shall~~ be
 21 apportioned and payable in the same way as the salary."

22 Section 46. Section 93-5008, R.C.M. 1947, is amended
 23 to read as follows:

24 "93-5008. Ballots ~~when drawn from box Nov-3 Procedure~~
 25 when insufficient number attend. (1) If a sufficient number

1 of jurors duly drawn and notified do not attend to form a
 2 jury ~~or a jury is impaneled to another cause and not~~
 3 ~~discharged,~~ the district judge shall, pursuant to an order
 4 to be entered in the minutes, in the presence of the clerk
 5 of the court draw a sufficient number of ballots from the
 6 ~~box now specified in section 93-1506,~~ to complete the
 7 jury. The sheriff ~~must~~ shall notify the persons thus drawn
 8 to attend forthwith, immediately or at a time fixed by
 9 court. If for any reason a sufficient number of jurors to
 10 try the issue is not obtained from the persons notified,
 11 under an order made as prescribed in this section, the court
 12 may make another order, or successive orders, until a
 13 sufficient number is obtained.

14 [2] Each person so notified must attend at ~~e~~ the time
 15 required by the notice, and, unless excused by the court or
 16 set aside, must serve as a juror upon the trial. For a
 17 neglect or refusal ~~so~~ to do so, he may be fined in the same
 18 manner as ~~e~~ any other trial juror regularly drawn and
 19 notified, ~~as prescribed in this code,~~ and he is subject to
 20 the same exceptions and challenges as any other trial
 21 juror."

22 Section 47. Section 93-7501, R.C.M. 1947, is amended
 23 to read as follows:

24 "93-7501. Contempts a justice may punish for. A
 25 justice may punish ~~as~~ for contempt, persons guilty of the

1 following acts, and no other:

2 1. ~~(1) Disorderly~~ disorderly, contemptuous, or insolent
 3 behavior toward the justice while holding the court, tending
 4 to interrupt the due course of a trial or other judicial
 5 proceeding;

6 2. ~~(2) A~~ a breach of the peace, boisterous conduct, or
 7 violent disturbance in the presence of the justice, or in
 8 the immediate vicinity of the court held by him, tending to
 9 interrupt the due course of a trial or other judicial
 10 proceeding;

11 3. ~~(3) Disobedience~~ disobedience or resistance to the
 12 execution of a lawful order or process, made or issued by
 13 ~~him~~ the justice;

14 4. ~~(4) Disobedience~~ disobedience to a subpoena duly
 15 served, or ~~refusing~~ refusal to be sworn or to answer as a
 16 witness;

17 5. ~~(5) Rescuing~~ rescuing any person or property in the
 18 custody of an officer by virtue of an order or process of
 19 the court, ~~held by him.~~

20 Section 48. Section 93-7602, R.C.M. 1947, is amended
 21 to read as follows:

22 "93-7602. Entries ~~therein~~ primary ~~evidence~~ of ~~the~~
 23 facts ~~now entries made~~ prima facie evidence. The ~~several~~
 24 ~~particulars of the last section specified~~ items listed in
 25 93-7601 must be entered in the docket under the title of the

1 action to which they relate, and, unless otherwise provided
 2 in sections 93-6601 to-93-7004-provided through 93-7714, at
 3 the time when they occur. Such entries in a justice's
 4 docket, or a transcript thereof, certified by the justice
 5 or his successor in office, are prima-facie prima facie
 6 evidence of the facts so stated."

7 Section 49. Section 93-7605, R.C.M. 1947, is amended
 8 to read as follows:

9 "93-7605. Proceedings when office becomes vacant and
 10 before-a-successor-is-appointed. If the office of a justice
 11 become becomes vacant by because of his death, or OR his
 12 removal from the county, or otherwise, FOR any other cause
 13 before his successor is elected-and-qualified appointed, the
 14 docket and papers that were in his possession of-such
 15 justice-must shall be deposited in the office of some other
 16 justice in the county, to--be-by-him-delivered who shall
 17 deliver them to the successor of such the former justice. If
 18 there is no other justice in the county, then the docket and
 19 papers of-such-justice-must shall be deposited in the office
 20 of the county clerk, to--be-by-him-delivered who shall
 21 deliver them to the successor in office of the former
 22 justice."

23 Section 50. Section 93-7607, R.C.M. 1947, is amended
 24 to read as follows:

25 "93-7607. Justice--elected--to-fill-vacancy who is the

1 successor. The justice elected appointed to fill a vacancy
 2 is the successor of the justice whose office became vacant
 3 before the expiration of a full term. When a full term
 4 expires, the ~~same--or--another~~ person elected to take ~~the~~
 5 numbered office, as provided in 93-401, in the--same--county
 6 from that time is the successor."

7 Section 51. Section 93-7704, R.C.M. 1947, is amended
 8 to read as follows:

9 "93-7704. ~~Calling--another--justice, when--by--whom~~
 10 Acting Justice. (1) Disqualification. (a) ~~When whenever~~ a
 11 justice of the peace is disqualified from acting on in any
 12 action because of the application of subsection (1), (2), or
 13 (3) of section 93-901, he shall either transfer the action
 14 to another justice court in the same county or call a
 15 justice from a neighboring county to preside in his behalf, ~~2~~
 16 ~~who--while-so-acting-is-vested-with-the-power-of-the-justice~~
 17 ~~for-whom-he-so-holds-court,~~

18 (2)(b) ~~fitness--or--absence, in--case--of--sickness~~
 19 Whenever a justice is sick, disability disabled, or absence
 20 of-a-justice absent and for-such-a-period-of-time--that the
 21 county commissioners of--the--county find that there is a
 22 delay in the proper administration of justice or upon--the
 23 ~~written--request--of~~ the county attorney makes a written
 24 request, another justice, if there is one readily available,
 25 or a police city judge or some other qualified person shall

1 be called in to hold court for the absent justice until ~~the~~
 2 ~~his return of the absent justice and when so called and so~~
 3 ~~acting that person is vested with the power of the justice~~
 4 ~~for whom he so holds court.~~

5 ~~(3)(c) Vacation.~~ During the time, when a justice of
 6 the peace is on vacation or attending a training session,
 7 another justice of the peace of the same county shall be
 8 authorized to handle matters that otherwise would be handled
 9 by the absent justice. When there is no other justice of
 10 the peace in the county, the county commissioners shall
 11 handle the situation in the same manner as if the justice
 12 were sick or absent.

13 ~~(4)(2) Necessary expenses.~~ Whenever a justice of the
 14 peace or ~~other another~~ person is called in to preside over
 15 the court of a justice ~~who is disqualified, sick, or absent~~
 16 ~~under subsection (1), that the~~ visiting justice ~~of the peace~~
 17 or other person shall be paid all necessary and actual
 18 expenses including mileage, ~~and--if--that~~ if the acting
 19 justice is not a justice of the peace receiving a salary,
 20 ~~then--that--acting--justice~~ he shall also receive such
 21 compensation as is proper for the time involved. ~~Such~~
 22 ~~expenses--shall--be~~ The cost of implementing this subsection
 23 is a proper charge against the county where the court is
 24 held.

25 ~~(5)(1) Court docket entries.~~ When another justice, or

1 any other qualified person is called to preside in a justice
 2 court, proper entries of all proceedings must be made in the
 3 docket of the justice for whom the visiting justice or
 4 person holds court. When the appointment is made by order
 5 of the county commissioners, the order shall be placed in
 6 the court docket.

7 ~~(6)(4) Jurisdiction of called-in person.~~ When called
 8 in to preside over a justice court ~~as above provided,~~ the
 9 visiting justice of the peace or other qualified person
 10 while acting as justice of the peace is vested with all the
 11 power of the justice for whom he ~~so~~ holds court."

12 Section 52. Section 93-7707, R.C.M. 1947, is amended
 13 to read as follows:

14 "93-7707. What provisions of code applicable to
 15 justices' courts. ~~Justices' Because justices' courts--being~~
 16 ~~are~~ courts of peculiar and limited jurisdiction, only those
 17 provisions of this code which are, in their nature,
 18 applicable to the organization, powers, and course of
 19 proceedings in justices' courts, or which have been made
 20 applicable by special provisions in ~~sections 93-6601 to~~
 21 ~~93-7047~~ through 93-7714 are applicable to justices' courts
 22 and the proceedings therein."

23 Section 53. Section 93-7709, R.C.M. 1947, is amended
 24 to read as follows:

25 "93-7709. ~~Special Deputy~~ constables --appointment. If

1 in any county there ~~should be~~ is no duty appointed or
 2 ~~qualified~~ constable, the board of county commissioners in
 3 ~~the county may,~~ at the request of a party, after being
 4 satisfied that it is expedient to do so, specially ~~depute~~
 5 ~~appoint~~ any proper person of suitable age not interested in
 6 the action to serve a summons, with or without an order to
 7 arrest the defendant--~~or~~ and with or without a writ of
 8 attachment, or to serve an execution. The ~~justice--shall--be~~
 9 ~~county commissioners are~~ liable upon his their official bond
 10 ~~bonds~~ for all official acts of the person so ~~deputed~~
 11 ~~deputized.~~ Such deputation The appointment of the deputy
 12 shall be made in writing ~~made~~ on the process, and a note
 13 thereof ~~shall be~~ made on the justice's docket."

14 Section 54. Section 93-2801-3, R.C.M. 1947, is amended
 15 to read as follows:

16 "93-2801-3. Distribution of proposed rules ~~==~~
 17 ~~suggestions of~~ to bench and bar ~~--petitions of professional~~
 18 ~~associations.~~ Before any rule is adopted, the supreme court
 19 shall distribute copies of the proposed rule to the bench
 20 and bar of the state for their consideration and suggestions
 21 and ~~shall~~ give due consideration to such suggestions as they
 22 may submit to the court. The ~~Montana Bar Association state~~
 23 ~~bar of Montana~~ or the ~~Association~~ association of Montana
 24 judges ~~judges~~ may file with the supreme court a petition
 25 specifying ~~their~~ its suggestions concerning any existing or

1 proposed rule and requesting a hearing thereon within ~~six~~
 2 ~~ten~~ months after the filing of the petition."

3 Section 55. Section 95-2009, R.C.M. 1947, is amended
 4 to read as follows:

5 "95-2009. Appeal. ~~(a)(1)~~ All cases on appeal from
 6 justices' or police city courts must be tried anew in the
 7 district court and may be tried before a jury of six ~~to~~
 8 ~~which may be drawn from either the regular panel or jury box~~
 9 ~~now~~ 3.

10 ~~(b)(2)~~ The defendant may appeal to the district court
 11 by giving written notice of his intention to appeal within
 12 ~~ten days~~ ~~(10)~~ days after judgment.

13 ~~(c)(3)~~ Within ~~thirty~~ ~~(30)~~ days the entire record of
 14 the justice ~~justice's~~ or police city court proceedings shall
 15 be transferred to the district court or the appeal shall be
 16 dismissed. It ~~shall be~~ is the duty of the defendant to
 17 perfect the appeal."

18 Section 56. Section 93-1404, R.C.M. 1947, is amended
 19 to read as follows:

20 "93-1404. Duty of clerk -- jury boxes ~~box~~. The clerk
 21 shall prepare and keep a jury box and contents as ~~follows~~
 22 ~~prescribed in this section.~~ The number of each juror shall
 23 be written, typed, or stamped on a slip of paper or other
 24 suitable material, identical in all respects, to the slips
 25 used for the other numbers, and The slips shall be placed in

1 a box of ample size to permit ~~said numbers~~ them to be
 2 thoroughly mixed, ~~and which said the~~ box shall be kept ~~for~~
 3 ~~that purpose and shall be known as~~ and plainly marked,
 4 "jury box ~~now it~~". The numbers slips may be used as often as
 5 necessary ~~provided however, except that~~ none shall may be
 6 used which is in any manner whatsoever defaced or
 7 disfigured or so marked that it may be recognized or
 8 distinguished from the others in ~~said the~~ jury box ~~now it~~
 9 except by the number thereon. ~~There shall be so enclosed in~~
 10 ~~said box one number, and only one number~~ the box shall
 11 contain only one slip for each number corresponding to the
 12 number before the name of each juror on the jury list."

13 Section 57. Section 93-1502, R.C.M. 1947, is amended
 14 to read as follows:

15 "93-1502. District judge to draw jury. Immediately
 16 upon after the order mentioned in ~~the preceding section~~
 17 ~~having 93-1501 has~~ been made, the district judge shall in
 18 the presence of the clerk of the court proceed to draw the
 19 jurors by number from ~~the~~ jury box ~~now it~~."

20 Section 58. Section 93-1512, R.C.M. 1947, is amended
 21 to read as follows:

22 "93-1512. ~~Drawing additional jurors when original~~
 23 ~~number insufficient order designating number~~
 24 ~~needed selection from portion of county only notification~~
 25 ~~of jurors~~ Obtaining additional jurors when necessary.

1 whenever it appears to a district judge that additional
 2 jurors will be needed for any term or trial, the judge shall
 3 draw as many numbers from ~~the~~ jury box ~~now it~~ as are
 4 necessary to secure the required number of additional
 5 jurors. Before drawing the numbers, the judge shall by
 6 appropriate order designate the number of jurors needed,
 7 and when the judge believes that securing the additional
 8 jurors from all of the county would cause unnecessary delay
 9 or expense, then he may order the jurors selected from only
 10 a designated portion of the county, which portion shall
 11 never be less than the corporate limits of the county seat.
 12 If, in the selection of the additional jurors, a number is
 13 drawn and the jury list shows the person represented by the
 14 number to be a resident of an area outside the area
 15 designated by the court order, then that number shall be
 16 returned to the jury box and a new number drawn. When the
 17 required number of names have been selected, the judge may
 18 order the prospective jurors notified by telephone by the
 19 clerk of the court or he may order them summoned by the
 20 sheriff either by certified mail or by personal service."

21 Section 59. Section 93-1801, R.C.M. 1947, is amended
 22 to read as follows:

23 "93-1801. Grand jury -- when and how ~~to be impaneled~~
 24 drawn and summoned. Whenever in the opinion of the district
 25 judge a grand jury is necessary, he must make an order

1 directing a grand jury to be drawn and summoned to attend
 2 before the court. The order must specify the number of such
 3 jurors to be drawn, which must not be less than fifteen-~~(15)~~
 4 nor or more than ~~twenty-(20)~~. The names of ~~such the~~ jurors
 5 must be drawn from ~~the~~ jury box ~~now-ly~~ mentioned in ~~section~~
 6 ~~93-1404v, and--the~~ the list of names shall be certified and
 7 ~~the jurors~~ summoned ~~as provided for drawing and summoning~~
 8 in the same manner as for trial jurors, ~~and the the~~ names
 9 of any persons drawn who ~~may are~~ not be impaneled upon on
 10 the grand jury must be again placed in ~~said the~~ jury box ~~now~~
 11 t."

12 Section 60. Repealer. Sections 11-1709, 16-3606,
 13 93-221 through 93-233, 93-703, and 93-7608, R.C.M. 1947,
 14 are repealed.

-End-