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COMPLETING THE JURY PANEL[†]

by

John F. Onion, Jr.*

THE trial judge in Texas is often presented with the problem of completing a jury panel, and the proper action of the trial court in such cases is not always as simple as it might seem at first blush. From the time of the Texas Republic until 1876 the sheriff was directed by the writ of venire facias to summon a specified number of jurors. In attempting to eliminate this objectionable practice of "pick-up" juries, there has been created a maze of complicated mechanism of jury selection which leaves open for debate the question of how much improvement has been made in choosing jurors in this state. Today we have the jury commission method of selection,¹ a jury wheel method used in conjunction with an interchangeable panel,² and a jury commission method used in conjunction with an interchangeable panel.³ These methods of jury selection and their use often have a strong bearing on the problem of the trial court when it is called upon to complete the jury panel. This problem was recently pointed up by the holding of the Court of Criminal Appeals in *Coy v. State*.⁴ In a prosecution in Bexar County for murder, a capital felony, the list of jurors drawn from the jury wheel for service during the week the case was tried was exhausted without a jury having been obtained. It was held that the jury should have been completed from the names drawn from the jury wheel, and objection to completion of jury from "talesmen" selected by the sheriff should have been sustained. This case calls for a review of the law relating to filling deficient panels.

CAPITAL CASES

The trial of capital cases requires a specialized procedure, and because of the nature of the possible punishment, the Texas Court of Criminal Appeals has applied a strict rule of construction in passing upon the questions involved. The formation of juries in capital cases is governed by Title 8, Chapters 2 and 3, of the Code of

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¹ TEX. REV. CIV. STAT. ANN. arts. 2104-2116 (1926, Supp. 1956).

² *Id.* art. 2101 (1926).

³ *Id.* art. 2116c (Supp. 1956).

⁴ 288 S.W.2d 782 (Tex. Crim. 1956).

Criminal Procedure. Articles 591 and 592 of the Code provide for the method of obtaining a special venire in jury wheel and jury commission counties respectively.

Article 596 of the Texas Code of Criminal Procedure provides as follows: "On failure from any cause to select a jury from those summoned on the special venire, the court shall order the sheriff to summon any number of men that it may deem advisable, for the formation of the jury."

Prior to the enactment of this article it was held that whereas the law of 1876 made no provision as to the course to be pursued in supplying juries in capital cases after the special venire has been exhausted, the regular jurors for the week should be resorted to before the sheriff is ordered to summon talesmen.⁵ Even after the passage of Article 596, the same procedure was adopted in *Weaver v. State*,⁶ and *Cahn v. State*,⁷ and this practice was approved, though failure to observe it was held harmless, in *Williams v. State*.⁸ But the *Weaver* and *Cahn* cases were expressly overruled in *Weathersby v. State*,⁹ which held that under Article 596 the court was not bound to call the jurors for the week before ordering the sheriff to summon talesmen. Numerous cases followed the rule of the *Weathersby* case.¹⁰

The practice of having the sheriff summon talesmen after the exhaustion of the special venire was again approved in *Mays v. State*,¹¹ by an opinion written on rehearing which qualifies *Moore v. State*¹² and *Gabler v. State*,¹³ and so far as it decides to the contrary, overrules *Keith v. State*,¹⁴ which had held that it was error to summon talesmen, and that if additional veniremen were necessary they should be drawn from the list selected by the jury commissioners. The practice laid down in the *Mays* case was approved in a substantial number of cases.¹⁵

⁵ *Roberts v. State*, 5 Tex. Ct. App. 141 (1878).

⁶ 19 Tex. Ct. App. 547 (1885).

⁷ 27 Tex. Ct. App. 709, 11 S.W. 723 (1889).

⁸ 29 Tex. Ct. App. 89, 14 S.W. 388 (1890).

⁹ 29 Tex. Ct. App. 278, 15 S.W. 823 (1890).

¹⁰ *Bates v. State*, 67 S.W. 504 (Tex. Crim. 1902); *Sawyer v. State*, 47 S.W. 650 (Tex. Crim. 1898); *Deon v. State*, 40 S.W. 266 (Tex. Crim. 1897); *Thompson v. State*, 26 S.W. 198 (Tex. Crim. 1894); *Brotherton v. State*, 30 Tex. Ct. App. 369, 17 S.W. 932 (1891); *Habel v. State*, 28 Tex. Ct. App. 588, 13 S.W. 1001 (1890); *Hudson v. State*, 28 Tex. Ct. App. 323, 13 S.W. 388 (1890); *Murray v. State*, 21 Tex. Ct. App. 466, 1 S.W. 522 (1886).

¹¹ 96 S.W. 329 (Tex. Crim. 1906).

¹² 95 S.W. 514 (Tex. Crim. 1906).

¹³ 95 S.W. 521 (Tex. Crim. 1906).

¹⁴ 94 S.W. 1044 (Tex. Crim. 1906).

¹⁵ *Bullock v. State*, 165 S.W. 196 (Tex. Crim. 1914); *Bizzell v. State*, 162 S.W. 861 (Tex. Crim. 1914); *Williams v. State*, 132 S.W. 345 (Tex. Crim. 1910); *Gonzales v.*

Most of the cases which have been referred to were presented to the Court of Criminal Appeals prior to the enactment of the jury wheel law. However, the enactment of that law did not affect the practice of summoning talesmen after the exhaustion of the special venire in capital cases. In *Russell v. State* the court said as follows:

The provisions of title 8, c. 2, C.C.P., R. S. 1911, constitute the statutory rules for drawing juries in capital cases. The act of the Legislature (General Laws 1907, p. 269, amended 1911) establishes procedure for using a wheel instead of jury commissions in counties containing cities of over 20,000 inhabitants. There is found in that act, with reference to drawing special venires in capital cases, only article 660, C.C.P. 1911, which designates a method for drawing a special venire, and in the act there is no provision touching the method to be pursued after the venire is exhausted. Article 667 [now Art. 596, C.C.P.] which is a part of the title 8, C.C.P., says that "when from any cause, there is a failure to select a jury from those who have been summoned upon special venire, the court shall order the sheriff to summon any number of persons that it may deem advisable for the formation of the jury." *Mays v. State*, 50 Tex. Cr. R. 169, 96 S.W. 329 (1906).

The complaint of the failure of the court to resort to the jury wheel for the talesmen cannot be sustained.¹⁶

In short, whether the veniremen be selected by the jury commissioners or drawn from the wheel, the affect of Article 596 has been to give the court authority to order the bringing in of such number of talesmen as it may deem advisable.¹⁷

Even as late as 1948, the Court of Criminal Appeals held in *Wright v. State*¹⁸ that where a special venire had been ordered and then exhausted after only a few jurors had been selected, it was not error, in view of Article 596, to summon talesmen by use of the sheriff rather than from the jury wheel. The court distinguished this case from *Tuley v. State*¹⁹ where the trial court in ordering a special venire took a list of 71 qualified veniremen which had been selected by a commission and ordered the sheriff to summon 79 additional men so

State, 125 S.W. 395 (Tex. Crim. 1910); *Gibson v. State*, 110 S.W. 41 (Tex. Crim. 1908); *Blackwell v. State*, 100 S.W. 774 (Tex. Crim. 1907); *Wallace v. State*, 97 S.W. 1050 (Tex. Crim. 1906); *Horn v. State*, 97 S.W. 822 (Tex. Crim. 1906); *Woodward v. State*, 97 S.W. 499 (Tex. Crim. 1906); *Riley v. State*, 81 S.W. 711 (Tex. Crim. 1904); *Spears v. State*, 56 S.W. 347 (Tex. Crim. 1900); *Jackson v. State*, 30 Tex. Ct. App. 664, 18 S.W. 643 (1892).

¹⁶ 209 S.W. 671, 674 (Tex. Crim. 1919).

¹⁷ *Bennett v. State*, 252 S.W. 790 (Tex. Crim. 1923); *Gonzales v. State*, 125 S.W. 395 (Tex. Crim. 1910); *Spears v. State*, 56 S.W. 347 (Tex. Crim. 1900); *Sawyer v. State*, 47 S.W. 650 (Tex. Crim. 1898); *Brotherton v. State*, 30 Tex. Ct. App. 369, 17 S.W. 932 (1891).

¹⁸ 213 S.W.2d 826.

¹⁹ 204 S.W.2d 611 (Tex. Crim. 1947).

that 150 men would constitute the special venire. This was clearly error, as the men so summoned by the sheriff were not talesmen.

The broad general authorization given to the Court by Article 596 of the summoning of talesmen is evidently applicable only to cases wherein the special veniremen summoned are found to be insufficient.²⁰

While the practice of summoning talesmen by use of the sheriff after the exhaustion of the special venire was being set hard and fast in our criminal procedure for capital cases, the trend of the legislation in this state has been both constant in not giving approbation to, and also determined to do away with, the selection of juries from jurors selected by the sheriff, commonly called "pick-ups." Such is evidenced, primarily, by our jury wheel laws.²¹

Article 2101 of the Civil Statutes,²² the interchangeable panel law (expressly not applicable to capital and lunacy cases), provides in Section 3 thereof as follows:

Said jurors, when impaneled shall constitute a general panel for the week, for service as jurors in all county and district courts in said county, and shall be used interchangeably in all of the said courts. In the event of a deficiency of said jurors at any given time to meet the requirement of all said courts, the judge having control of said general panel for the week shall order such additional jurors to be drawn from the wheel as may be sufficient to meet such emergency, but such jurors shall act only as special jurors and shall be discharged as soon as their services are no further needed. Resort to the wheel shall be had in all cases to fill out the general panel, except where waived by the parties or their attorneys; provided that by written agreement entered into by all parties to any cause or suit, or the attorney of record in such suit or cause filed therein, the sheriff or other officer in attendance upon said court, may summon the jury needed, or any part of same, in such cause or suit by talesmen, without resorting to the jury wheel, and in such cause or suit said jurors so selected shall be paid as if regularly drawn from the jury wheel.

Without doubt the legislature was prohibiting jury selection from "pick-ups" under the interchangeable jury law. On a trial for a misdemeanor or for a non-capital felony offense in a jury wheel county, there is no question but that the defendant should be accorded the right to a jury composed of persons whose names were drawn from the jury wheel. Not only does Article 2101 so specifically provide,

²⁰ *Palmer v. State*, 95 S.W.2d 459 (Tex. Crim. 1936); 26 TEX. JUR., *Jury* §§ 130, 147 (1933).

²¹ TEX. REV. CIV. STAT. ANN. arts. 2094-2101 (1926, Supp. 1956); Stayton, *The Pick-up Jury*, 19 TEXAS L. REV. 141 (1941).

²² TEX. REV. CIV. STAT. ANN. art. 2101 (1926).

but such is also the holding of the Court of Criminal Appeals in *Garza v. State*.²³

The policy of the law of this state with reference to the use of the pick-up jury was expressed by the Court of Criminal Appeals at an early date. In *Knight v. State*, Judge Harper, speaking for the court, said:

. . . [I]t is the policy of our law that jurymen be drawn commissioners, and not selected by the sheriff or any officer; that the jury wheel law was passed that jurymen drawn on each and every case might be secured in a way that no person could control their selection; and it is the part of wisdom to follow the mandates of the law, and let jurymen be selected in a way therein provided. No course should be adopted or followed that would result in juries being otherwise selected.²⁴

In recognition of the expressed disapproval of the pick-up jury, the legislature has taken steps to further eliminate such juries. In 1945 the legislature amended Article 2118 of the Civil Statutes²⁵ to read as follows:

On Monday, or other day, of each Court week, when a jury has been summoned and there are jury trials, the Court shall select a sufficient number of qualified jurors, in his discretion, to serve as jurors for the week. Such jurors shall be selected from the names included in the jury list for the week, if there be the requisite number of such in attendance who are not excused by the Court, but if such number be not in attendance at any time, the Court shall direct the sheriff to summon a sufficient number of qualified men to make up the requisite number of jurors, provided that in counties governed by the jury wheel law, sufficient names of qualified jurors, whom the sheriff will summon, shall be drawn from the jury wheel for jury trials in the district and county Courts, under order of the Court, to fill the panel for the week, unless the parties in any cause, in writing duly filed, or by stipulation in open Court noted of record, waive the said use of the jury wheel, and all said extra jurors summoned in either way shall be discharged when their services are no longer needed. The Court may adjourn the whole number of jurors for the week or any part thereof, to any subsequent day of the term, but the jurors shall not be paid for the time they may stand adjourned.

It is to be noted that this amendment applies to jury trials in the district and county courts and that no exception is made as to civil

²³ 136 S.W.2d 861 (Tex. Crim. 1940).

²⁴ 147 S.W. 268, 270 (Tex. Crim. 1912). See also *Tuley v. State*, 204 S.W.2d 611 (Tex. Crim. 1947).

²⁵ TEX. REV. CIV. STAT. ANN. art. 2118 (Supp. 1956).

or criminal cases, nor as to the grade of the offense in criminal cases. Note also the similarity between the provision of the above quoted article and the provisions of Article 2101.

In 1949, Article 601a of the Code of Criminal Procedure²⁶ was amended to read as follows:

In counties having therein a city of at least two hundred and thirty-one thousand, five hundred (231,500) population as shown by the last preceding Federal Census, the Judge of the Court having jurisdiction of a capital case in which a motion for special venire has been made, shall grant or refuse such motion for a special venire and upon such refusal require the case to be tried by the regular jurors summoned for service, and such additional talesmen as may be ordered by the Court, in the Courts of such county where as many as one hundred (100) jurors have been summoned in such county for regular service for the week in which such capital case is set for trial, but the Clerk of such Court shall furnish the defendant or his counsel a list of the persons summoned for jury service for such work upon application therefor, and it is further provided that all laws and parts of laws in conflict with the provisions of this bill be and the same are hereby repealed to the extent of such conflict only.

As we have already seen, prior to the enactment of the above-quoted rule a special venire was drawn for the trial of practically all capital cases. In fact, there existed no statutory law regulating the selection of jurors in capital cases other than those statutes relating to special venires. Every defendant was accorded the right to a jury so selected and only the defendant could waive such right. In view of the fact that the interchangeable jury law, Article 2101, did not apply to capital cases the result was that in our more heavily populated counties several hundred men were summoned each week to serve as regular jurors for the week and a like number to serve as special veniremen. Such veniremen were not paid unless accepted for service. It was to remedy these defects that this legislation was enacted.

From what has been said, it is apparent that in counties having therein a city of 231,500 population or more we now have three statutes governing the organization of juries to try both civil and criminal cases, namely Article 601a of the Code of Criminal Procedure, Article 2101, and Article 2118 of the Civil Statutes. That these statutes, both civil and criminal, should be construed together in order to determine their meaning was settled by the Court of Criminal Appeals in *Curry v. State*.²⁷

²⁶ TEX. CODE CRIM. PROC. ANN. art. 601a (Supp. 1956).

²⁷ 248 S.W.2d 166 (Tex. Crim. 1952).

It is in the light of these cases and statutes that we must view the holding of the court in *Coy v. State*.²⁸ The *Coy* case was a murder trial conducted in the Special Criminal District Court (now Criminal District Court No. 2) of Bexar County, a county in which Article 601a is applicable. No motion for special venire was made and the accused proceeded with the selection of jurors from the panel for the week.²⁹

After the selection of ten jurors, the regular panel for the week was exhausted through use in other courts, by challenges for cause, and by peremptory challenges. At the order of the court the jury was completed from talesmen summoned by the sheriff.³⁰ The defendant objected to such procedure and insisted that the jury be completed from jurors whose names had been drawn from the jury wheel.

The Court of Criminal Appeals held that Articles 2101 and 2118 of the Civil Statutes evidenced the legislative trend to prohibit pick-up juries. The court further pointed out that Article 2118 had been expressly upheld in *Steadman v. State*³¹ (a non-capital felony) where it was held that if additional prospective jurors were needed on trial in a county operating under the jury wheel system, they should be drawn from the jury wheel as provided by law. The court concluded that Article 601a abolished the right to demand a special venire in capital cases in Bexar County, and that this of necessity places such capital cases upon the same footing as ordinary felony cases (such as the *Steadman* case), so far as concerning the source from which prospective jurors are to be selected in that county. The cause was reversed and remanded. The reader's attention is called to Judge Woodley's dissenting opinion.

The majority opinion does raise at least two questions in this writer's mind. Does this case hold that Article 601a, in providing for the use of the regular panel of jurors for the week in the trial of capital cases, repeals that part of Article 2101 which provides that it (the Interchangeable Jury Law) should have no application to the trial of capital cases? While the opinion does not do so expressly, it seems to do so by implication. Second, is Article 596 of the Code of Criminal Procedure (authorizing summoning by sheriff

²⁸ 288 S.W.2d 782 (Tex. Crim. 1956).

²⁹ In this connection, see *Woods v. State*, 211 S.W.2d 210 (Tex. Crim. 1948), where the court held that where no special venire has been provided and the regular jury for the week is called into the box, and the accused proceeds to select jurors from this panel, he may be regarded as having waived his right to a special venire. See also *Terwillinger v. State*, 191 S.W.2d 481 (Tex. Crim. 1945).

³⁰ TEX. CODE CRIM. PROC. ANN. art. 596 (1941).

³¹ 206 S.W.2d 597 (Tex. Crim. 1947).

after exhaustion of special venire) still applicable in counties having a city of 231,500 population or more where a motion for special venire is granted? It is to be noted that Article 601a provides that such motion can be granted or refused. While the general practice has been to refuse the motion for a special venire, (but not without exception)³² it would appear that where such motion is granted, and the special venire is exhausted, Article 596 would be applicable, and the court could properly order talesmen by use of the sheriff. It would thus seem that the method of selecting talesmen after the exhaustion of the panel or veniremen would depend upon the action of the trial court in passing on the motion for a special venire.

NON-CAPITAL CRIMINAL CASES

Normally Articles 626-641 of the Texas Code of Criminal Procedure would govern the formation of a jury in a non-capital criminal case, but before one can rely on that, it is essential to determine whether it is a jury commission or jury wheel county, and it is sometimes important whether or not interchangeable panels are maintained. In jury commission counties it is clear from the above stated articles that a deficiency of jurors may be remedied by having the sheriff summon talesmen at the order of the trial court.³³ This procedure has been followed and approved in a jury commission county using an interchangeable panel under Article 2116c, Sections 3, 4 and 5 of the Civil Statutes.³⁴

However, in jury wheel counties the filling of a deficient jury panel in a non-capital criminal case would be controlled by the holding of the Court of Criminal Appeals in *Steadman v. State*.³⁵ The court held that it was error to have the sheriff summon talesmen, and expressly upheld the 1945 amendment to Article 2118, Texas Revised Civil Statutes, providing that the names of additional prospective jurors, if needed, must be taken from the jury wheel. This case was later cited with approval in *Mitchell v. State*.³⁶

However this rule, while strengthened, was *not* brought about by the 1945 amendment to Article 2118 and by the holding in

³² See *DeVault v. State*, 264 S.W.2d 126 (Tex. Crim. 1954); *Miers v. State*, 251 S.W.2d 404 (Tex. Crim. 1952).

³³ *Burns v. State*, 141 S.W.2d 604 (Tex. Crim. 1940); *McChristy v. State*, 141 S.W.2d 605 (Tex. Crim. 1940); *Campbell v. State*, 61 S.W.2d 819 (Tex. Crim. 1933); *King v. State*, 269 S.W. 1042 (Tex. Crim. 1925); *Reynolds v. State*, 160 S.W. 362 (Tex. Crim. 1913); *Hackleman v. State*, 91 S.W. 592 (Tex. Crim. 1906); *Leslie v. State*, 47 S.W. 367 (Tex. Crim. 1898).

³⁴ *McFarland v. State*, 146 S.W.2d 188 (Tex. Crim. 1940).

³⁵ 206 S.W.2d 597 (1947).

³⁶ 214 S.W.2d 597 (Tex. Crim. 1948) (a D.W.I. case).

Steadman v. State. As early as 1940 the Court of Criminal Appeals held in *Garza v. State*,³⁷ as follows:

The above quoted statutes (Articles 2094-96, 2101 of the Civil Statutes) being a special law applicable to Bexar County and other counties in which there are three or more district courts, it therefore supercedes the general law on the subject. It is obvious to us that in counties having three or more district courts, the judge is not authorized to instruct the sheriff to go out and summon men for jury service in either the district or county courts, unless by agreement of parties, etc. He is not even permitted to summon talesmen, but resort must be had to the jury wheel in procuring a jury or jurors for service—unless there is a contrary agreement or such procedure is waived, etc.³⁸

It would seem clear then that in counties to which the jury wheel laws are applicable under Article 2094, as amended, the rule has been established in non-capital criminal cases that in the event of the exhaustion of the regular jury panel the names of additional prospective jurors must be taken from the jury wheel unless such procedure is waived by the parties.

CIVIL CASES

The question of the method of selection of talesmen generally arises when the number of jurors available is insufficient to permit the jury list to contain twenty-four names if in the district court, or twelve if in the county court. Ordinarily this necessity should not arise in counties maintaining a central interchangeable jury panel, but on rare occasions it may, as in *Coy v. State*.³⁹ If the interchangeable panel is drawn from the jury wheel, the necessary additional jurors must be drawn from the wheel unless such drawing is waived by written agreement of all parties, in which event the additional men or women may be "picked-up" by the sheriff.⁴⁰ If the interchangeable panel is provided by the jury commissioners, an inadequacy in number is remedied by the presiding judge's directing the sheriff, a deputy, or other peace officer attending court, to fill the panel with special jurors who will be discharged when no longer needed.⁴¹

³⁷ 136 S.W.2d 861 (Tex. Crim. 1940) (willful burning of the personal property of another).

³⁸ This was a County Court at Law case. See TEX. REV. CIV. STAT. ANN. art. 2103a (Supp. 1956) which was enacted subsequent to this case.

³⁹ 288 S.W.2d 782 (Tex. Crim. 1956).

⁴⁰ TEX. REV. CIV. STAT. ANN. art. 2118 (Supp. 1956); TEX. REV. CIV. STAT. ANN. art. 2101 (1926).

⁴¹ TEX. REV. CIV. STAT. ANN. art. 2116c, §§ 4, 5 (Supp. 1956).

In counties which do not maintain interchangeable jury panels, the filling of a deficiency has traditionally been by having the sheriff summon a sufficient number of qualified persons to complete the panel, and this continues to be the practice where the panel for the week was *not* drawn from the jury wheel.⁴² Indeed, Rule 225, Texas Rules of Civil Procedure, which is clearly concerned with the procedure in counties not maintaining interchangeable panels, provides broadly for such "pick-up" supplements in any case where the panel is deficient. This rule reflected the practice at the time it was promulgated in 1941. It must now be construed, however, with the 1945 amendment to Article 2118, which evidenced, as pointed out earlier, the legislative intent that "pick-up" talesmen should not be employed in completing panels which had been drawn from jury wheels. The statute and rule may be reconciled by treating the statute as applicable only to the panel for the week, and the latter as controlling with respect to the panel for the case. But this construction, even if correct, tends to defeat the desirable legislative purpose evidenced in the 1945 amendment, and possibly would not be sustained by the courts. A clarifying amendment to Rule 225 is indicated.

Should the challenges for cause reduce the number of names on the list below twenty-four in the district court and twelve in the county court, the court must secure additional prospective jurors to supply this shortage before the parties exercise their peremptory challenges.⁴³ In this situation the court

... shall order other jurors to be drawn from the wheel or from the central jury panel or summoned, as the practice may be in this particular county, and their names written upon the list instead of those set aside for cause.⁴⁴

Formerly, the statute merely directed the court to have additional jurors "drawn or summoned." The wording added by the quoted rule probably will not produce many serious problems of interpretation. If there are additional men available from the panel for the week, they will be called to fill the gaps, and will be selected from the panel in accordance with the procedure followed in determining the names initially inserted on the jury list. If the general panel has been exhausted, then it must be augmented. Where it was selected by the commissioners for the individual court, the sheriff will pick-up the needed men. Where interchangeable panels are used,

⁴² TEX. REV. CIV. STAT. ANN. art. 2118 (Supp. 1956).

⁴³ TEX. RULES CIV. PROC. ANN. rules 231, 232 (1955).

⁴⁴ *Id.* rule 231; formerly TEX. REV. CIV. STAT. ANN. art. 2146 (1926).

the central panel will be increased in accordance with the provisions for calling additional jurors for temporary service. And in those counties where the panel is selected from the wheel for the particular court, additional names will be drawn from the wheel unless by written agreement of all the parties a "pick-up" procedure is substituted.

In conclusion, it appears to this writer that it certainly behooves any trial judge before completing a jury panel to examine the nature of the case, the method of jury selection in the particular county, as well as whether interchangeable panels are used, and all applicable statutes. The need for simplification and uniformity of all jury selection statutes is definitely indicated, and it seems a desirable subject for the State Bar of Texas to undertake for study with the goal of presenting recommendations to the legislature. A simplified and uniform method of jury selection would reduce the chances of reversible error and certainly lessen the effect of the layman's accusation leveled against courts and the legal profession that cases are too often reversed on technicalities.