

Jury, and shall not have any further or other allowance for the same upon taxation of costs, than such party would be entitled to, in case the cause had been tried by a common Jury, unless the Judge before whom the cause is tried, shall, immediately after the verdict in open Court, or afterwards upon a Summons at Chambers, certify under his hand that the same was a cause proper to be tried by a Special Jury.

#### IX.—VIEWS, JURIES DE MEDIETATE LINGUÆ AND INQUESTS.

Superior courts may grant views when they shall think them necessary—conditions, &c.

Certificate of view.

How viewers shall be chosen, if not agreed upon by the parties.

Viewers to be the first sworn on the jury.

Right of alien to be tried by jury, *de medietate* saved.

What persons only may be summoned as jurors on inquests.

L. And be it enacted, That when in any case either Civil or Criminal, or on any Penal Statute depending in either of Her Majesty's Superior Courts of Common Law at Toronto, it shall appear to such Court or to any Judge thereof in vacation, that it will be proper and necessary that some of the Jurors who are to try the issues in such case, should have the view of the place in question, in order to their better understanding the evidence that may be given upon the trial of such issues; in every such case, such Court, or any Judge thereof in vacation, may order a Rule to be drawn up containing the usual terms, and also requiring, if such Court or Judge shall so think fit, the party applying for the view to deposit in the hands of the Sheriff a sum of money to be named in the Rule, for payment of the expenses of the view and commanding Special Writs of *venire facias* and *distringas* to issue, by which the Sheriff or other Officer or Minister, to whom the said Writs shall be directed, shall be commanded to have six or more of the Jurors named in such Writs, or in the Panels thereunto annexed, (who shall be mutually consented to by the parties, or if they cannot agree, shall be drawn by ballot from such Panel as hereinafter provided,) at the place in question, some convenient time before the trial, who then and there shall have the place in question shewn to them by two persons in the said writs named, to be appointed by the Court or Judge; and the said Sheriff or other Officer or Minister, who is to execute any such writ, shall, by a Special return upon the same, certify that the view hath been had according to the command of the same, and shall specify the names of the viewers.

LI. And be it enacted, That when the parties in any such case shall not agree as to the Jurors to be nominated to take such view, such viewers shall, by the Sheriff or other Officer or Minister, to whom the *venire facias juratores* in such case shall be directed, be drawn by ballot from the Panel returned upon such *venire facias*, at some time and place to be appointed by such Sheriff or other Officer or Minister for that purpose, in the like manner as by the thirty-sixth section of this Act is provided for drawing Juries from the general Panel at *Nisi Prius*: Provided always nevertheless, that no such Sheriff or other Officer or Minister shall proceed to draw such viewers from such Panel without having first given at least forty-eight hours' notice in writing to the respective parties in such suit, of the day, hour and place of such drawing.

LII. And be it enacted, That when a view shall have been allowed in any case, those men who shall have had the view, or such of them as shall appear upon the Jury to try the issue, shall be first sworn, and so many only shall be added to the viewers who shall appear, as shall after all defaults and challenges allowed, make up a full Jury of twelve.

LIII. And be it enacted, That nothing herein contained shall extend or be construed to extend to any Jury of matrons or any Writ *de ventre inspiciendo*, or to deprive any alien not naturalized, indicted or impeached of any felony or misdemeanor, of the right of being tried by a Jury *de medietate linguæ*, but that on the prayer of every such alien so indicted or impeached, the Sheriff shall by command of the Court return for one half of the Jury a competent number of aliens, if so many there be in the Town or place where the trial is had, and if not then so many aliens as shall be found in the same town or place if any, and that no such alien Juror shall be liable to be challenged for want of any qualification required by this Act, but every such alien may be challenged for any other cause in like manner as if he were qualified by this Act.

LIV. And be it enacted, That no man shall be liable to be summoned or impanelled to serve as a Juror in any County, City or Town in Upper Canada, upon any inquest or inquiry to be taken or made before any Sheriff or Coroner, by virtue of any writ of inquiry,