II. If it shall appear at the said October term for Prince County, or Hilary term for Queen's County, that the Sheriff of the County, (as the case may be,) has failed or has been unable to summon all the persons named in the panel of Petit Jurors drawn for such term, such panel shall not on that account be vitiated or set aside ; provided at least forty Petit Jurors shall appear to have been duly summoned, but all Jury trials at such terms or either of them, wherein a special Jury is not required, shall be proceeded with by the Court with Juries empanelled from such Petit Jurors as actually appear to have been summoned and shall be in attendance, and whose names shall be drawn or called by the Prothonotary or Deputy Prothonotary, for that purpose, in the usual manner ; and if a full or sufficient Petit Jury shall not appear, or appearing, shall be challenged or otherwise prove deficient, the Court of its own will, if it deem it necessary, or at the instance of either party to a suit, may order a *tales de circumstantibus*, returnable immediately, and all verdicts given or found by such Petit Jurors, notwithstanding any objection to be taken to the panels, or otherwise, because some one or more of the Jurors named therein have not been summoned, as by law required or otherwise, shall be, and the same are hereby rendered as legal and valid as if all the requisites in such respects had been fully complied with.

Petit Jury panels for same terms not to be vitiated by failure of Sheriff to summon all the persons named therein.

Provided 40 Petit Jurors shall have been summoned.

Trials to proceed with Juries impanelled from Jurors actually summoned, &c.

In case of deficiency in Petit Jury, &c, Court may order a tales, &c.

Verdicts given by such Petit Juries to be valid.

III. Nothing in this Act contained shall extend or be construed to extend to exempt any Grand or Petit Juror who may have been duly summoned from being fined for non-attendance or otherwise.

This Act not to exempt Jurors actually summoned from fines for non-attendance.