

or by his Attorney or Agent, to sue out a Writ of *venire facias juratores* for that purpose, and every such Writ before it shall be delivered to the Sheriff or other Officer or Minister to whom it shall be directed, shall be indorsed with a direction to such Sheriff or other Officer or Minister requiring him to return a Special Jury on the same, and every such Sheriff or other Officer or Minister upon receipt of any such *venire facias*, so endorsed as aforesaid, shall, by a Memorandum in writing upon such Writ, appoint some convenient day and hour for striking such Special Jury, the day and hour to be so fixed for such purpose being sufficiently distant to enable the party suing out the said *venire* to give the necessary notice to the opposite party, as hereinafter provided.

XLI. And be it enacted, That in any such case the party, his Attorney or Agent suing out such *venire facias*, shall give notice in writing to the opposite party, his Attorney or Agent, that he had sued out a *venire facias* in such case for the purpose of having a Special Jury struck therein, and of the day and hour appointed by the Sheriff or other Officer or Minister for striking the same, which notice shall be served on such last mentioned party, his Attorney or Agent, at least four days before the day so appointed, and an Affidavit or Affirmation of such service, or an admission in writing under the hand of the Attorney or Agent on whom it may have been served, shall be produced to such Sheriff or other Officer or Minister at the time appointed for striking such Special Jury, and in default thereof the said Sheriff or other Officer or Minister shall not proceed to strike such Special Jury upon such Appointment.

Notice to be given to the other party of the time when the jury is to be struck.

XLII. And be it enacted, That every Special Jury to be struck under the authority of the thirty-ninth section of this Act, shall, except as hereinafter provided, consist solely of persons whose names shall appear on either the Roll of Grand Jurors for the Superior Courts or on the Roll of Grand Jurors for the Inferior Courts for the year in which the Writ of *venire facias* upon which such Jury shall be struck is returnable, and the same shall be struck in the manner hereinafter provided.

Special juries to be taken only from rolls of grand jurors.

XLIII. And be it enacted, That every such Special Jury shall be struck in the following manner, that is to say: the Sheriff having furnished himself with a set of Ballots or pieces of parchment, card or paper, of as uniform and convenient size as reasonably may be, and containing the same number of Ballots as there are numbers on the respective Grand Jurors' Rolls from which the said Special Jury is to be struck, and upon which ballots shall be printed or written, the whole of the numbers of such Grand Jurors' Rolls allowing one number to each Ballot, and distinguishing each number by the letters S. C. or I. C. according as it shall belong to the Roll of Grand Jurors for the Superior Courts, or to the Roll of Grand Jurors for the Inferior Courts, shall, at the office of the Clerk of the Peace, at the time appointed for such purpose as aforesaid, in the presence of all the parties in the case and of their Attorneys and Agents (if they respectively choose to attend, or if the said parties, their Attorneys or Agents, all or any of them do not attend, then upon such proof as is hereinbefore provided of the service of the notice of striking such Special Jury in their absence,) put all the said Ballots in a box or urn, to be by him provided for that purpose, and after having caused the said box or urn to be shaken so as sufficiently to mix the said Ballots, shall draw out of the said box or urn forty of the said numbers, one after another, and shall, as each number is drawn, refer to the corresponding number in the Grand Jurors' Roll, to which such Ballot shall belong, and read aloud the name to which such number is appended in the said Roll. And if at the time of so reading any such name, either party, or his Attorney or Agent, shall object that the man whose name shall be so drawn is in any manner incapacitated from serving on the said Jury, and shall also then and there prove the same to the satisfaction of such Sheriff, such name shall be set aside, and the said Sheriff shall instead thereof draw out of the said box or urn another number, and shall in like manner refer to the corresponding number in the Grand Jurors' Roll, to which such Ballot shall belong, and read aloud the name to which such number is appended in the said Roll. Which name may be in like manner set aside, and other numbers and names shall in every such case be resorted to, according to the mode of proceeding hereinbefore described, for the purpose of supplying names in the places of those set aside,

Mode of balloting for a special jury.

As to jurors, &c., objected to, and objection proved.