

Non appearance or challenge.

Jurors to be sworn, &c.

Jurors who have not brought in verdict, not to be included in any ballot.

By consent, the same jury may try several causes.

Either party may demand a special jury, except in cases of treason or felony.

Proviso: in case of a new trial.

Venire facias for special jury, how sued out and indorsed.

distinct piece of Parchment, Card or Paper, such pieces of Parchment, Card or Paper, being all as nearly as reasonably may be of uniform and convenient size, and shall be delivered to the Clerk of Assize, Marshal or other Clerk of such Court by the Sheriff, and shall by direction and care of such Sheriff, be put together in a Box or Urn to be provided for that purpose, and when any issue shall be brought on to be tried by the Jurors returned upon such general precept, such Clerk of Assize, Marshal or other Clerk of such Court, shall in open Court draw out twelve of the said Parchments, Cards or Papers one after another, and if any of the men whose names shall be so drawn shall not appear or shall be challenged and set aside, then such further number until twelve men be drawn, who shall appear, and after all just causes of challenge allowed, shall remain as fair and indifferent, and the said twelve men so first drawn and appearing and approved as indifferent, their names being noted in the minute Book of such Clerk of Assize, Marshal or other Clerk of such Court, and they being sworn shall be the Jury to try the issue, and the names of the men so drawn and sworn, shall be kept apart by themselves until such Jury shall have given in their verdict, and the same shall be recorded, or until such Jury shall by consent of the parties, or by leave of the Court be discharged, and then the same names shall be returned to the box or urn, there to be kept with the other names remaining at that time undrawn, and so *Toties Quoties* as long as any issue remains to be tried.

XXXVII. And be it enacted, That if any issue shall be brought on to be tried at any of the said Sittings or Sessions before the Jury in any other issue shall have brought in their verdict, or being discharged, it shall be lawful for the Court to order twelve of the residue of the said Parchments, Cards or Papers not containing the names of any of the Jurors who shall not have so brought in their verdict or been discharged, to be drawn in the manner last aforesaid, for the trial of the issue which shall be so brought on to be tried.

XXXVIII. And be it enacted, That notwithstanding the two last preceding Sections, where no objection shall be made on the part of the Queen, or any other party, it shall be lawful for the Court to try any issue with the same Jury that shall have previously tried, or been drawn to try any other issue without their names being returned to the box or urn, and re-drawn or to order the name or names of any man or men in such Jury, whom both parties may consent to withdraw or who may be justly challenged or excused by the Court to be set aside, and another name or other names, to be drawn from the box or urn, and to try the issue with the residue of such original Jury, and with such men or men, whose name or names shall be so drawn, and who shall appear and be approved as indifferent, and so *toties quoties* as long as any issue remains to be tried.

VIII.—SPECIAL JURIES.

XXXIX. And be it enacted, That it shall be in the power of Her Majesty, or any prosecutor, Relator, Plaintiff, or Demandant, and of any Defendant or Tenant in any case whatsoever, whether civil or criminal or on any Penal Statute, excepting only on Indictments for Treason or Felony, to have the issues joined in any such cases and triable by a Jury, tried by a Special Jury to be struck as hereinafter provided upon suing out the necessary Jury Process for that purpose, and procuring such Special Jury to be struck and duly summoned for the day on which the trial of such case is to be had, and every Jury so struck shall be the Jury returned for the Trial of such issue: Provided always, that in the event of a new Trial being ordered in any such case after a verdict of any such Jury, the *venire facias juratores* shall set forth the names of the Jurors who sat on the first trial of such cause, or in the event of more trials than one having been previously had, the names of all Jurors who shall have sat upon any of such trials. And none of the Jurors who shall have so sat on any such former trial shall be returned, or sit as Jurors upon any subsequent trial of the same cause.

XL. And be it enacted, That in every such case the party desiring such Special Jury to be struck, whether an actor in such cause or not, shall have a right in person,