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[No. 87.]

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2nd Session, 7th Parliament, 26 Victoria, 1863.

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# BILL.

An Act respecting Jurors and Juries.

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First reading, Tuesday, 3rd March, 1863.

Second reading, Friday, 6th March, 1863.

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Hon. Mr. Sol. Gen. ABBOTT.

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S. Derbyshire & G. Desbarats, Queen's Printer.

## An Act respecting Jurors and Juries.

**H**ER Majesty, by and with the advice and consent of the Preamble.  
 Legislative Council and Assembly of Canada, enacts as  
 follows :

## QUALIFICATION OF JURORS.

1. The following persons and no others, (subject to the Grand Jurors.  
 5 exemptions and disqualifications hereinafter provided for), are  
 qualified to act, and shall, when duly chosen and summoned, be  
 bound to serve as Grand Jurors, namely :

2. Every male person resident in a town or city containing at Towns and  
 Cities.  
 10 least twenty thousand inhabitants and within ten leagues of the  
 place of holding the Court in the district in which he resides,  
 who is assessed upon the valuation roll of such town or city, as  
 proprietor of immoveable property of an assessed total value  
 above two thousand dollars, or as occupant or lessee of immo-  
 15 veable property of an assessed annual value above two hun-  
 dred dollars ;

3. Within the limits of any other Municipality, every male Other Muni-  
 cipalities.  
 person resident within ten leagues of the place of holding the  
 Court, in the district in which he resides, who is assessed upon  
 the valuation roll of such Municipality as proprietor of immo-  
 20 veable property of an assessed total value above one thousand  
 dollars, or as occupant or lessee of immoveable property of an  
 assessed annual value above one hundred dollars.

2. The following persons and no others, (subject to the Petit Jurors.  
 25 exemptions and disqualifications hereinafter provided for,) are  
 qualified to act, and shall, when duly chosen and summoned,  
 be bound to serve as Petit Jurors :

2. Every male person resident in a town or city containing at Towns and  
 Cities.  
 30 least twenty thousand inhabitants, and within ten leagues of the  
 place of holding the Court in the district in which he re-  
 sides, who is assessed upon the valuation roll of such  
 town or city, as proprietor of immoveable property of an as-  
 35 sessed total value of at least five hundred dollars, but not more  
 than two thousand dollars, or as occupant or lessee of immo-  
 veable property of an assessed annual value of at least fifty  
 dollars, but not more than two hundred dollars ;

Other Municipalities.

3. Within the limits of any other Municipality, every male person resident within ten leagues of the place of holding the Court in the district in which he resides, who is assessed upon the valuation roll of such Municipality, as proprietor of immoveable property of an assessed total value of at least four hundred dollars, but not more than one thousand dollars, or as occupant or lessee of immoveable property of an assessed annual value of at least forty dollars, but not more than one hundred dollars. 5

#### EXEMPTIONS.

Exemptions in addition to those under the Militia Laws, &c.

Public Servants, &c.

3. In addition to the exemptions provided for by the thirty-fifth and eighty-seventh chapters of the Consolidated Statutes of Canada, Members of the Executive Council, Members of the Legislative Council, Members of the Legislative Assembly, the Clergy, Advocates and Attorneys practising in the Courts, Clerks of the Court of Queen's Bench, Prothonotaries of the Superior Court, Clerks of the General or Quarter Sessions of the Peace, Clerks of the Circuit Court, the other Officers of the said Courts, Coroners, Gaolers, Keepers of Houses of Correction, Sheriff's Officers, Constables or Bailiffs, Officers of the Customs, all persons in the civil service of Her Majesty's Government, under either Imperial or Provincial appointment, persons employed in the public offices, persons employed in the service of the Post Office, Naval or Military Officers on full pay, Officers employed in Military Service, Physicians, Surgeons and Apothecaries, Pilots duly licensed, Schoolmasters, not exercising any other profession, Masters of and persons engaged in navigating Steamboats, Engineers and Conductors of and persons employed upon and in the running of Railway Trains, persons above sixty years of age, and persons employed in the working of Grist Mills, are exempt from compulsory service as Jurors; provided notice of the intention to claim such exemption be given, as hereinafter provided: 10 15 20 25 30

Proviso.

Personal incapacity.

2. Persons below the age of twenty-one years; persons suffering from blindness, deafness or other bodily infirmity incompatible with the due performance of the duty of a Juror; persons in actual custody on a charge of Treason, or of any felony; persons convicted of Treason or of any felony; and Aliens, except when required for a Jury *de medietate linguæ*, are disqualified from being Jurors; 35

Aliens.

Notice to be given of claim of exemption.

3. In every summons served upon any Juror requiring him to attend and serve as such Juror, a notice shall be inserted informing such Juror, that if he intends to claim exemption from serving as such Juror, upon any ground whatever; he must either inform the officer serving the summons at the time of such service, or notify the Sheriff issuing the summons, of his intention to claim such exemption, and of the ground of his claim, within two juridical days from the service of the sum- 40 45

mons, if such service be made within five leagues from the place at which such Juror is summoned to appear, or within three juridical days, if the distance exceeds five leagues ; and if such Juror neglect so to inform such officer, or notify such Sheriff of his intention to claim exemption, and of the grounds of such claim, he shall not be allowed the benefit of such exemption ;

4. Every Bailiff or other officer who serves a summons upon any Juror personally, shall call the attention of such Juror to such notice and shall state in the return made by him to the Sheriff of such service, whether or no such Juror gave him notice of any intention to claim exemption, and the ground upon which such Juror declared his intention to claim such exemption ; And the Sheriff shall insert upon the panel before he returns the same before the Court, opposite the name of any Juror who gives such notice, the fact of such notice having been given to him or to his officer, and the ground stated by such Juror as that upon which such claim is to be made ;

Duty of bailiff, &c, serving summons as to claims to exemption.

Duty of Sheriff.

5. Immediately upon receipt of notice, either from the Sheriff's officer or otherwise, of the intention of any Juror to claim exemption, accompanied by a statement of the ground of such claim, the Sheriff shall add to the Panel a further number of names of Jurors, equal to the number of Jurors who have notified such intention, added to those on the Panel who have not been served with a summons, by reason of death, absence from the Province. or other sufficient cause ; which names shall be taken from the proper Jury list in turn, commencing with the name of the Juror liable to serve which follows upon the list next after the last name upon the Panel, and proceeding with the taking of a sufficient number of names successively, in the order in which they appear on the list ; and shall proceed to summon such additional Jurors in the same manner as if they had been upon the Panel in the first instance ;

Additional jurors to be placed on the panel and summoned.

6. All the provisions hereinbefore contained as to notice to and from the Jurors respecting intended claims for exemption, and as to the mode of claiming exemption, and as to the invalidity of a claim made for exemption, without previous notice ; and as to the summoning of additional Jurors in the place of those not served with a summons, or who have given notice of their intention to claim exemption and of the ground of their claim,—shall apply to the Jurors so added to the Panel, in the same manner and to the same extent as to the Jurors placed upon the Panel in the first instance ;

Exemption provisions to apply to such additional jurors.

7. Any Juror who intends to claim exemption, and who has given notice of such claim and of the ground thereof, may make application to the Court for an order of exemption and dis-

Court may allow exemption claimed and proved.

charge, and may be declared to be exempted and discharged accordingly, if he be entitled to exemption under this Act ;

Return of panel and proceedings of Sheriff.

8. The Sheriff shall return before the Court the Panel as first made by him, together with the additions made to such Panel ; and shall also report his proceedings as to the summoning, or attempting to summon, the persons whose names appear in such Panel and in such additions ;

Discharge of surplus Jurors.

9. If in consequence of the disallowance of claims for exemption, there remain more than sixty Jurors in attendance upon the Court, the surplus number of Jurors may be discharged by the Court ; such surplus number being taken from amongst the names added to the Panel first made, commencing at the end thereof, unless specially otherwise ordered by the Court.

#### JURY LISTS.

Copies of Valuation Rolls to be sent to the Sheriff of the District.

4. Within two months from the time at which this act comes into force, the Clerk or Secretary-Treasurer of every Municipality, any part of which is within ten leagues of the place of holding the Court in the District in which such Municipality is situate, shall cause to be made and to be delivered without charge to the Sheriff of such District, at his office, a duly authenticated copy of the assessment or valuation roll of such Municipality, then in force therein for Municipal purposes ; or if such roll has been revised and corrected under the provisions of chapter six of the Consolidated Statutes of Canada, intituled : *An Act respecting Elections of Members of the Legislature*, then of such roll as so revised and corrected ;

Or of revised Rolls under Cap. 6, Con. Stat. Can.

And so of new Rolls or revised Rolls.

1. Within one month after the completion of any new valuation or assessment roll for Municipal purposes, or of the revision for electoral purposes of any assessment or valuation roll of any Municipality, any part of which is within ten leagues of the place of holding the Court in the District in which such Municipality is situate, the Clerk or Secretary-Treasurer of such Municipality shall in like manner cause to be made and delivered without charge, to the Sheriff of such District, at his office, a duly authenticated copy of such assessment or valuation roll, or revised assessment or valuation roll, as the case may be ;

Sheriff to make Lists of Grand and Petit Jurors.

2. Upon the receipt of copies of the assessment or valuation rolls, or revised assessment or valuation rolls in force in every Municipality bound to furnish the same within a district, the Sheriff of such District shall forthwith prepare two lists : the first containing the names of all persons qualified to serve in such District as Grand Jurors ; the second, the names of those qualified to serve in such District as Petit Jurors ; and in such lists he shall also insert the christian name of such Juror--his occupation and residence ; and he shall keep the

Copies to be delivered to

said lists in his office and shall deliver a certified copy of the Grand Jury list to the Prothonotary of the Superior Court, and certified copies of the Grand Jury list and of the Petit Jury list, to the Clerk of the Crown and to the Clerk of the Peace respectively, in Districts where a Court of Quarter Sessions is held; and to the Clerk of the Crown only where that Court is not held;

Prothonotary,  
and Clerks of  
Crown and  
Peace.

3. In making out the Jury Lists, the Sheriff shall successively insert therein, one after the other, the name of the first person in every assessment or valuation roll or revised assessment or valuation roll furnished to him under this Act, who is qualified and liable to serve as a Juror under this Act, and afterwards the name of the second person in every such roll so qualified, and so on in rotation till the names of all the qualified persons appearing on such rolls are exhausted; but if the number of qualified Jurymen appearing upon any of such rolls exceeds the number appearing upon others, the Sheriff shall take from the more numerous list, in its turn, a proportionably greater number of names, so that the Jurors from each municipality may be distributed throughout the whole Jury List in a manner corresponding to the proportion which the total number of Jurors in such municipality bears to the total number of Jurors on the list;

How the List  
shall be made  
from the Rolls.

4. The lists of Jurors so prepared shall be written in registers in which the names of the Jurors shall be entered one after another without interruption, and shall be authenticated by the certificate and signature of the Sheriff, and such list shall not be altered in any manner whatsoever, except as hereinafter directed;

Lists to be  
written in Re-  
gisters.

5. All persons shall have free access to the lists so deposited in the Sheriff's Office, and in the offices of the said Prothonotaries or Clerks, between the hours of nine in the morning and four in the afternoon of every day, without becoming thereby liable to any fee or charge whatsoever;

Public to have  
access to Lists.

6. If a Juror dies or removes his domicile from the District, and the fact appears by the return of the Sheriff, or if any Juror has become disqualified from advanced age, or from bodily infirmity, and the fact is established to the satisfaction of the Court, in any term at which the name of such Juror appears upon the Panel, the Sheriff, under the direction of the Court, shall note the same in the Jury List, opposite the name of the Juror, in a blank column or columns retained for the purpose;

Corrections by  
order of Court.

7. The Lists of Jurors shall be revised by the Sheriff once in every year, which revision shall be completed on or before the Thirty-first day of December in every year other than that in which such Lists are first made; and such revision shall be

Lists to be re-  
vised yearly.

based upon the information obtained under the last preceding Section and upon the assessment or valuation rolls, and revised assessment or valuation rolls obtained from Municipalities under this Act;

How the revision shall be effected.

8. Such revision shall be effected by drawing a line through the name of each juror who has died or removed his domicile from the district, or is disqualified from serving by reason of advanced age or bodily infirmity; or who does not appear by the said assessment or valuation rolls or revised assessment or valuation rolls to be qualified to serve as a juror; and by adding to the jury lists the names in full with the residence and occupation of all persons whose names are not already inserted therein, who appear by such assessment or valuation rolls, or revised assessment or valuation rolls, to be qualified to serve as such jurors. And when any name is so struck out the reason of so striking it out shall be written opposite such name; and when any name is added, the date of such addition shall be written opposite such name, and in both cases the sheriff shall append his signature thereto;

Copies kept by Prothonotary, &c., to be corrected.

9. Forthwith after the revision of any jury list the Sheriff shall notify the Prothonotary of the Superior Court, and the Clerks of the Crown and of the Peace, of such revision; and thereupon they shall correct the copies thereof in their possession respectively, by the jury lists so revised by the Sheriff;

On complaint with notice, Court may order any list to be corrected.

10. Upon complaint with notice to the party interested, proof that in making a Jury List, the Sheriff has inserted therein the name of any person not qualified to serve as a Juror, or has omitted to insert therein the name of any person fit and qualified to serve as such, or that such List has not been made in the manner by this Act directed, the Court may order the name of such unqualified person to be struck out of such List, or the name of any person qualified to serve as a Juror to be inserted therein, or the List to be otherwise corrected as the case may be;

If the Rolls be not transmitted in due time to the Sheriff.

11. If any Clerk or Secretary-Treasurer of any Municipality fails to cause an authenticated copy of its assessment or valuation roll, or revised assessment or valuation roll, as the case may be, to be transmitted within the respective periods of one month, and free of charge to the Sheriff, as hereinbefore provided, the Sheriff shall procure the same from the Secretary-Treasurer; and he may recover from the Municipality his disbursements in and about procuring the same, including all travelling expenses of a Messenger, if one be sent; together with a like amount by way of penalty for such failure, with costs, by suit in his own name, before any competent tribunal;

Penalty.

In default of Revision, a Judge may order it to be made.

12. If any List of Jurors for any District, which the Sheriff is required to make, revise or renew, is not made, revised or renewed in the manner and within the period hereinbefore

fixed, then as soon as the fact is made known by the Sheriff, Prothonotary, Clerk of the Peace or of the Crown to any Judge of the Court of Queen's Bench, or any Judge of the Superior Court, when in such District; or whenever the fact has come to the knowledge of such Judge, he shall order the Sheriff of such District to make, revise or renew such List of Jurors, and shall, by such order, fix a period within which such List shall be made, revised or renewed;

13. The List made, revised or renewed under any such order shall then be of the same force and effect as if originally made within the time prescribed by law, and shall remain in force and be dealt with and used as if it had been so made; but nothing herein contained shall relieve the Sheriff from any penalty or liability incurred by his default to make, revise or renew such List as prescribed by law;

Revised List to be good, but Sheriff liable to penalty.

14. If at any time the book or register containing a Jury list should become defaced or be filled up, the Court, in its discretion, may order the Sheriff to make a new Jury list, instead of revising the list contained in the book so defaced or filled up; and thereupon the Sheriff shall make such new list from the information afforded him by the list which it is intended to replace, and from the assessment or valuation rolls, or revised assessment or valuation rolls furnished to him under this Act; And in so doing, and as to the making and delivery of certified copies of the new list so made, he shall be guided by the provisions hereinbefore contained in those respect.

Court may order new lists in certain cases.

#### THE PANELS.

5. Except in the Districts of Quebec and Montreal, and in other Districts in which Juries *de medietate linguæ* shall be permitted as hereinafter provided, the Panel of Grand Jurors to be summoned for any term of the Court of Queen's Bench, or for any Session of the Court of Quarter Sessions, in any District, shall be made from the Grand Jury List then in force in such District, by taking therefrom the names of twenty-four persons in turn, following uninterruptedly and successively the order of the List, commencing with the name next after the name of the Grand Juror last summoned, and so on successively until the number on the List has been entirely gone through, and then beginning again and going through in like manner:

Panels of Grand Jurors, except in Quebec and Montreal.

2. Except in the Districts of Quebec and Montreal, and in other Districts in which Juries *de medietate linguæ* shall be permitted as hereinafter provided, the panel of Petit Jurors to be summoned for any term of the Court of Queen's Bench, or for any session of the Court of Quarter Sessions, shall be made from the Petit Jury list then in force, by taking therefrom the names of sixty persons in turn, following the order of the list, commencing with a name to be indicated as hereinafter

Panels of Petit Jurors, except in Quebec and Montreal.

provided, and so on successively, omitting only the names of those Jurors who are not bound to serve at such term or session by reason of previous service, until the number on the list has been entirely gone through, and then beginning again and going through in like manner; 5

Provision for preventing names on Panels being known before hand.

3. Before making the Panel of Petit Jurors in any district, the Sheriff of such district shall produce the Petit Jury list before a Judge of the Court of Queen's Bench, or if there be no Judge of the Court of Queen's Bench then present in such District, then before a Judge of the Superior Court for Lower Canada, or if there be no Judge of the said Superior Court then present in such District, then before the Clerk of the Crown for such District; and the Judge or Clerk of the Crown as the case may be, shall thereupon, by an order under his hand, delivered to the Sheriff, indicate and declare the name of the Petit Juror with which the Panel of Petit Jurors for the next ensuing term shall commence; and the Sheriff shall return such order before the Court for which the Jurors named in such Panel are summoned together with such Panel and with his proceedings thereon; 10 15 20

As to the Jurors who have already served.

4. A Petit Juror shall not be bound to serve as such, nor shall his name be inserted in the Panel, so long as there remain upon the Jury list the names of Jurors who have served or have been summoned to serve as Jurors subsequent to the making of such list, a less number of times than he has served or has been summoned to serve, during the same period; 25

Panels not to be made public until returned.

5 Neither the Grand Jury Panel nor the Petit Jury Panel shall be communicated to any person or persons whomsoever until after it is returned into Court by the Sheriff;

Jury all of one language may be had by consent:—supplementary panel.

6. If on the arraignment of any person charged with an offence punishable with death, the prosecuting officer and the party prosecuted consent that the trial Jury shall be composed exclusively of persons speaking the English language, or of persons speaking the French language, the Sheriff shall forthwith make a supplementary panel of thirty Jurors, which panel shall be made by taking from the Jury list in order as they appear therein, the names of thirty persons speaking the required language, and resident within five leagues of the place of trial, commencing with the first name of a Juror qualified to be on such panel, which appears on the Jury list, after the name of the last Juror taken for the ordinary panel, for the term then sitting; 30 35 40

From among whom such Jury shall be taken.

7. The Jurors on such supplementary panel shall, together with the Jurors on the ordinary panel speaking the required language, be the Jurors from among whom shall be selected in the ordinary manner the Jury to be sworn to try such person, and no notice of any intention to claim exemption shall be required of them or of any of them: 45

## SUMMONING THE JURY.

6. There shall be an interval of at least six days between the service of a summons upon a juror summoned to serve before any Court of Criminal Jurisdiction, and the day upon which he is called upon to appear, except when such juror is  
 5 summoned as one of a special or supplementary panel; but it shall be the duty of the Sheriff to cause the jurors mentioned in every ordinary panel made by him for the first or any other day of any term, to be summoned at least fourteen judicial days before the term or session of such Court, to afford  
 10 time for the summoning of additional jurors in the place of those who have either not been summoned or who have given notice of their intention to claim exemption;

Delay between summons and attendance, in Criminal cases.

2. If the party prosecuted is entitled under this Act to be tried either in whole or in part by persons skilled in the lan-  
 15 guage of his defence; and if from the number of challenges or from any other cause, there is in any such case a deficiency of such persons, the Court shall fix another day for the trial of such case; and the Sheriff shall supply the deficiency by sum-  
 20 moning for the day so fixed, such additional number of Jurors skilled in the language of the defence as the Court may order, and as are found inscribed on the List of Petit Jurors next in succession after the Jurors already summoned for the term or Session at which such trial is to be had;

Deficiency of Jurors how supplied.

3. In every District, the Sheriff, before summoning persons  
 25 to serve therein as Grand or Petit Jurors shall inquire of the Clerk of the Crown or the Clerk of the Peace, as the case may be, whether there are any Criminal cases to be tried at the next term or session of any Court of Criminal jurisdiction to be held therein:—and he shall not summon any Grand or Petit  
 30 Jurors for such Court, unless he is thereupon informed that such Jurors are required; but every such Court shall nevertheless meet at the time fixed by law; and if thereupon it appears to the Court to be necessary for the investigation or trial of any case coming before such Court, the Court may then direct the  
 35 Sheriff to summon the usual number of persons to serve as Grand or Petit Jurors before that Court on any day to which it may be adjourned; and all proceedings had at and before such adjourned Court, shall be as valid as if had at or before such Court at the ordinary time of holding it; and any Judge or  
 40 persons holding such adjourned Court shall adjourn the same from day to day, so long as there is any business before it; but the above provision shall in no way prevent the Court from proceeding in the absence of Grand or Petit Jurors, to the despatch of such business as does not require the intervention  
 45 of either of them;

Jurors not to be summoned if no case appears to be tried.

If such cases should afterwards arise.

4. Of the Grand and Petit Jurors summoned to serve before  
 any Court holding criminal jurisdiction at the Cities of Quebec Half the Jurors summoned to

Quebec and Montreal, to be of each language.

This may be extended to other districts.

Second panel not to be summoned unless required.

For what time the second panel shall be summoned if required.

First panel discharged.

If a Jury half of one language be demanded.

and Montreal, one half shall be composed of persons speaking the English language and the other half of persons speaking the French language, to be taken by the Sheriff, from the lists of Grand Jurors and Petit Jurors respectively in the order in which the names of each class respectively appear therein ; 5  
and the provisions of this section may be extended to any other district, by an Order of the Governor in Council, upon the presentment of the Grand Jury of such district, approved by the presiding Judge, asserting the expediency of such extension ;

5. Before summoning Petit Jurors for Criminal Matters in 10 any District, the Sheriff shall inquire of the Clerk of the Crown or of the Peace, as the case may be, whether the number of cases and the nature thereof to be tried before the Court appear to justify the summoning of a second panel of Petit Jurors, and if he is thereupon informed in writing that a 15 second panel will be required, then, but not otherwise, the Sheriff shall summon a second panel of Petit Jurors for such Court in the same manner, and to the same number, and subject to the same rules as to exemptions and as to additions to such panel, as that summoned for the first day of the Court ; and such 20 second panel of Petit Jurors shall, for the Court of Queen's Bench, be summoned to attend on the eighth juridical day of the Term thereof, and for the Court of General Quarter Sessions, on the sixth juridical day of the Session thereof ; and every such second panel of Petit Jurors shall attend and serve for the residue 25 of every such Term or Session ; and when a second panel of Jurors are summoned as aforesaid for any Term or Session, the Jurors on the first panel shall be discharged in the Court of Queen's Bench, on the seventh juridical day of such Term, or on the fifth juridical day of such Session, as the case may be. 30

#### OF THE TRIAL.

Trial Juries.

7. Except in the cases hereinafter mentioned, the names of the Petit Jurors summoned to attend any Court of Criminal Jurisdiction, shall be called over in the order in which they stand on the panel, and the first twelve Jurors whose names are so called and who are present in Court, and are not lawfully 35 challenged, shall be sworn for the first trial ; and the Clerk shall, at every trial, begin at the name next after that of the last Juror sworn, and so on until he has gone through the panel when he shall begin at the top thereof again, and go through it as aforesaid, omitting the names of any Jurors who 40 are then engaged in trying any case ;

2. If any prosecuted party, upon being arraigned, demands a jury composed, for the one half at least, of persons skilled in the language of his defence, if such language be English or French, he shall be tried by a jury composed, for the one half, 45 at least, of the persons whose names stand first in succession upon the Panel, and who, on appearing, and not being lawfully

challenged, are found in the judgment of the Court to be skilled in the language of the defence ;

3. If upon the trial of a person for any crime not punishable with death, the prosecuting officer and the party prosecuted consent that the trial jury shall be composed exclusively of persons speaking the English language or of persons speaking the French language ; the jury shall be composed of the first twelve persons speaking the language agreed upon, who being called in succession from the Panel appear and are not lawfully challenged ;

Jury all of one language by consent.

4. But if there be not a sufficient number of persons speaking the language agreed upon, remaining unchallenged, the remainder of the number required shall be taken from the Panel without reference to language, in the order in which they appear therein ;

If there be not sufficient on the panel.

5. No person arraigned and about to be tried for any felony shall be permitted peremptorily to challenge more than twenty of the Jurors, appearing when called in Court to serve as Jurors upon such trial ; and no challenge on behalf of the Crown shall be finally maintained by the Court except for cause, unless there remains a sufficient number of qualified Jurors in attendance on the Court, without the persons challenged, after the right of challenge on behalf of the party prosecuted has been exhausted ;

Peremptory challenges by prisoner limited.

Crown challenges.

6. Judgment after verdict upon any indictment or information for any Felony or Misdemeanour shall not be arrested, stayed or reversed because any unqualified person or persons served upon the Jury who tried the case.

Unqualified persons on Jury not to affect judgment.

#### OF CHANGING THE VENUE.

8. In any case in which a person is charged with the commission of any offence punishable with death, and in which, by reason of any unusual excitement prevailing generally at the place where the proceedings against such prisoner are pending, there is just cause for apprehending that an impartial verdict will not be rendered upon such trial ; the Court, or any Judge thereof, either before or after the presentation of a Bill of indictment against him, upon application to that effect, either on behalf of the Crown or of the prisoner, sustained by satisfactory proof of the allegation of such application, may order the transmission of the prisoner for trial to another District ; But if the application be made on behalf of the Crown, all additional expense thereby caused to the prisoner in procuring the attendance of witnesses shall be paid by the Crown ;

In what cases and how the place of trial may be changed.

And in cases of persons in Military or Naval Service.

2. Any person in Her Majesty's Military or Naval Service, or any seaman or mariner usually employed upon seagoing vessels, or any other person temporarily within the limits of Lower Canada and having no legal domicile therein, charged with the commission of any felony and imprisoned upon such charge, may be removed for trial, either before or after the presentation of a Bill of indictment against him, to any District other than that in which the offence is committed, if upon application to that effect on behalf of the Crown, it be shown to the satisfaction of the Court in Term or of any Judge thereof in vacation, that the trial may be proceeded with in such other District at an earlier period than in the District in which the prisoner is in custody; but all additional expense thereby caused to the prisoner in procuring the attendance of witnesses shall be paid by the Crown;

Expenses.

Order of Court to be warrant to Sheriff, &c.

3. The order of the Court or of the Judge made under either of the two last preceding sections, shall be a sufficient warrant, justification and authority to all Sheriffs, Gaolers and Peace Officers for the removal, disposal and reception of the prisoner in conformity with the terms of such order; And the Sheriff may appoint and empower any Constable to convey the prisoner to the Gaol in the District in which the trial is ordered to be held;

Transmission of Indictment and other papers.

4. Forthwith upon the order of removal being made by the Court, the Clerk of the Crown shall transmit to the Clerk of the Crown of the district to which the prisoner is ordered to be removed for trial, under his hand and the seal of the Court of Queen's Bench, the indictment, if any has been found against the prisoner, and all inquisitions, informations, depositions, recognizances and other documents whatsoever, relating to the prosecution against him.

#### JURORS AND JURIES IN CIVIL CASES.

Who shall be special Jurors.

9. Every person resident within five leagues of the Court House in the district in which he has his ordinary domicile, who is qualified to act as a Grand Juror, and whose name is inscribed upon the Grand Jury List for such district, is qualified to act; and (subject to the exemptions and disqualifications hereinbefore provided for) shall, when duly chosen and summoned, be bound to serve as a special juror in such district:

Special Jury List to be made from Grand Jury List.

2. Upon the receipt by the Prothonotary of the Superior Court of any district of the copy of the Grand Jury List for such district, as hereinbefore provided, he shall proceed to make a special jury list by extracting from the Grand Jury List the names of the persons therein inscribed who are qualified to act as special jurors; and the Prothonotary shall, from time to time, revise and correct such special jury list by the revised and corrected Grand Jury List in the hands of the Sheriff;

3. Whenever a special Jury is ordered by the Court or Judge the Prothonotary of the Court shall take the forty-eight Jurors having the special qualification (if any) required in the case, standing on the list next after the last previous Jury summoned therefrom, and shall continue to take them in regular order until the list is gone through ; or, if the Jury is required to be composed of persons having different qualifications, then he shall select them in the manner hereinbefore provided for Juries *de medietate linguæ*, commencing always with the name of the first qualified Juror appearing on the Jury List next after that of the Juror lastsummoned ;
4. The Jurors to be summoned to try any issue raised in any civil suit of a mercantile nature, between merchants, traders and trading corporations ; or between a merchant or trader and a trading corporation, shall be selected from those persons speaking the required language, who are designated in the special jury list as merchants or traders, in the order in which they appear on such list ;
5. Upon the unopposed demand of either of the parties in any suit of a mercantile nature between merchants, traders or trading corporations, and persons or corporations not engaged in trade, the Court or a Judge thereof may order that the Jurors to be summoned for the trial of any issue raised therein, shall be selected in the same manner as if all the parties to such suit were engaged in trade ;
6. If such demand be opposed by any other party to such suit, the Court or Judge shall order that the Jurors, to be summoned for such trial, shall be composed in equal numbers of those persons who are designated in the Special Jury List as Merchants and Traders, and of those who are not designated in the said list as such in the order in which the names of each class respectively appear therein ;
7. If the parties to such suit be of different origins, and if any of them demand a jury *de medietate linguæ*, the Court or Judge shall order that the jurors, summoned for such trial, shall be composed in equal numbers of persons speaking the English language and of persons speaking the French language ;
8. If the parties to any cause be all either of French or of English origin ; or if, being of different origins, the demand of any of them to that effect be unopposed ; the Court or any Judge thereof may order that the jurors to be summoned to try any issue in such suit, shall be composed exclusively of persons speaking the English language, or of persons speaking the French language, according to the language of the parties, or according to the demand, as the case may be ;

How the plead for any civil case shall be taken.

Jurors in mercantile cases, to be traders.

And between traders and non-traders, by consent.

If one party does not consent.

Juries *de medietate linguæ*.

Jurors all of one language by consent.

How the Jury  
to be summoned  
shall be  
struck.

9. Each party, or their Attorneys respectively, may strike out of the panel the names of twelve of the said Jurors, and the twenty-four Jurors remaining after such striking out shall be the Jurors to be summoned by the Sheriff, from among whom shall be taken the twelve Jurors who shall be sworn to hear and determine the matter at issue between the parties; And their names shall be called in the order in which they stand upon the panel, unless a different order of call be provided for by this Act, or directed by the Judge at the trial, in order to secure as far as may be the kind of Jury required in the case; And the first twelve who answer to their names shall be sworn;

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Striking Juries  
*de medietate  
linguæ.*

10. On the striking of a Jury *de medietate linguæ* or of a Jury composed under the order of a Court or Judge, in part of traders and in part of non-traders, neither of the parties shall strike from the panel the names of more than six persons speaking the same language, when the difference in qualification is in language; or of more than six persons therein designated as merchants or traders, and of six persons not therein designated as such, when the difference in qualification is in the nature of the Jurors' occupation;

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If there be a  
deficiency of  
traders on the  
List.

11. If in any such case there are not upon the Jury List the number of merchants or traders who ought to be summoned to form the Jury, the panel shall be completed by taking other names from the said list in the order hereinbefore prescribed, but the names of the Jurors being merchants or traders shall be called before those of the other Jurors at the trial;

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Delay between  
summons and  
attendance.

12. Persons required to serve as special Jurors, in civil matters, shall be summoned, at least, four days before the day fixed for the trial on which they are to serve;

Talesmen may  
be taken by  
consent.

13. If part of the Jurors, summoned in any case, be challenged or make default, so that twelve Jurors fit and qualified cannot be sworn, the Court or Judge presiding may, with the consent of the parties, and not otherwise, order the Sheriff or Officer by whom the Jury was summoned, to complete the number, by forthwith taking from among the persons present in Court as many persons qualified to be Jurors as are wanted to complete the required number.

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#### PAYMENT OF JURORS.

In what cases  
and at what  
rates Petit  
Jurors in criminal  
cases  
may be paid.

10. If the Building and Jury Fund of any District will suffice for the payment of the Petit Jurors in attendance upon any Court of Criminal Jurisdiction (but not otherwise) each Petit Juror summoned from a Municipality that has not signified its wish in the manner provided by the sixteenth section of the Consolidated Statutes of Canada, chapter one-hundred and nine, that the Petit Jurors from within its limits should not be paid, shall receive such allowance as may be fixed by the Judge holding

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such Court ; But the allowance to any juror summoned from beyond the limits of the Municipality wherein such Court is held, shall not be less than *fifty cents*, nor exceed *one dollar* for each day during which such juror is necessarily absent from his usual place of residence ; and the allowance to each juror resident within the limits of the Municipality within which such Court is held, shall not exceed one half of the allowance to jurors summoned from beyond such limits :

2. The County of Gaspé and that of Bonaventure shall be each deemed a district for the purposes of this section ;

Gaspé and  
Bonaventure.

3. In every civil suit, each of the trial Jurors shall be allowed *one dollar* for each day's attendance on the trial, which shall be paid to such jurors by the party requiring such trial, before the said jurors shall be held to render their verdict in such suit, and shall form part of the costs to be taxed against the unsuccessful party ;

Allowance to  
Jurors in civil  
cases.

4. On failure of such payment, the Jury shall be discharged without verdict ; and in such case, the said allowance shall form part of the taxed costs against the party demanding the trial by jury, and, when recovered, shall be paid over by the Prothonotary of the Court to the said Jurors.

Jury dis-  
charged if not  
paid.

#### PENALTIES.

11. Every Sheriff, Prothonotary, Clerk of the Peace, or Clerk of the Crown, who wilfully or negligently offends against any of the provisions of this Act shall, for the first offence, incur a penalty not exceeding *sixty dollars*, nor less than *forty dollars*, and for the second offence a penalty not exceeding *eighty dollars*, nor less than *sixty dollars*, and for the third or any subsequent offence, a penalty not exceeding *two hundred and eighty dollars*, nor less than *one hundred and twenty dollars* :

On Sheriff,  
Prothonotaries,  
&c., wilfully  
infringing this  
Act.

2. Every person summoned to serve as a Juror under the authority of this Act, who refuses or neglects to serve without assigning some lawful cause or excuse therefor, shall incur a penalty not exceeding *twenty dollars*, which shall be levied, on rule or order of the Court, by the Sheriff on the goods and chattels of such person, and in default thereof he may be imprisoned for such time, not exceeding fifteen days, as the said Court may direct, with power to reduce or mitigate the said penalty or imprisonment, upon good cause shewn to the said Court ;

On Jurors sum-  
moned and not  
serving.

How levied.

3. The penalties hereby imposed upon Officers of the Court shall be levied on rule or order of the Court, in the same manner as is provided by the last preceding sub-section ; and all penalties hereby imposed upon other persons must be sued for within

Penalties on  
officers of the  
Court.

Limitation, &c. of suits for penalties. six months next after the offence committed and not afterwards ; and where no other mode of recovering them is herein provided, shall be recovered, with costs, by suit in any court having civil jurisdiction to the amount of the Penalty, in the district within which the offence has been committed and every such penalty shall be levied with costs in the ordinary course of law ; 5

Distribution of penalties. 4. The penalties hereby imposed shall belong to the Building and Jury Fund for the District in which each penalty is recoverable.

#### INTERPRETATION.

Yearly value of leased property how calculated if not assessed. 12. If assessed annual value is referred to in this Act, as a test of qualification, and any property occupied by a lessee is not assessed as to its annual value upon the appropriate valuation roll, the annual value of such property shall be held to be in the proportion of ten per centum upon the total value of such property as shewn by the valuation roll : 15

Municipality, what shall be. 2. The word Municipality includes towns and cities and every kind of municipal corporation whatsoever ;

Special qualification of Jurors to be inserted in panels. 3. If the Sheriff or Prothonotary be required, by this Act or by any order made thereunder, to insert in any panel of any kind, the names of persons possessing any special qualification either of language or occupation, such qualification shall be by him inserted on the panel opposite the name of such Juror ; and such designation of qualification shall be *prima facie* evidence of the possession of such qualification by the Juror opposite whose name it is placed. 20 25

Cap. 84 Consolidated Statutes L. C. repealed. 13. Chapter eighty-four of the Consolidated Statutes for Lower Canada is hereby repealed.

Act limited to L. C. 14. This Act shall apply to Lower Canada only.