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BILL.

An Act respecting Jurors and Juries.

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1863.

Hon. Mr. ABBOTT.

QUEBEC:

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An Act respecting Jurors and Juries.

HER Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:—

QUALIFICATION OF JURORS.

1. The following persons and no others, (subject to the 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 least twenty thousand inhabitants or in the *banlieue* thereof, 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 immovable property of an assessed total value above two thousand dollars, or as occupant or lessee of immovable property of an assessed annual value above two hundred dollars, or who is a Justice of the Peace and has duly qualified as such ;

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 immovable property of an assessed total value above one thousand dollars, or as occupant or lessee of immovable property of an assessed annual value above one hundred dollars.

2. The following persons and no others, (subject to the 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 least twenty thousand inhabitants or in the *banlieue* thereof, 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 immovable property of an assessed total value of at least five hundred dollars, but not more than two thousand dollars, or as occupant or lessee of immovable property of an assessed annual value of at least fifty dollars, but not more than two hundred dollars, except Justices of the Peace duly qualified as such.

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 immovable 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 immovable property of an assessed annual value of at least forty dollars, but not more than one hundred dollars.

EXEMPTIONS.

- Exemptions in addition to those under the Militia Laws, &c.** 3. In addition to the exemptions provided for by the eighty-seventh chapter 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, the officers, non-commissioned officers and men of Volunteer Corps while they continue such; and all of such officers, non-commissioned officers and men, who have actually served as such during the period of seven years, 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: 5
- Public Servants, &c.** 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 or under bail 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 lingue*, are disqualified from being Jurors; 10
- Proviso.** 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 summons, 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 unless the Court be satisfied that the interests of the public service require the allowance of such exemption. 15
- Personal incapacity.** 4. Every Bailiff or other officer who serves a summons upon any Juror, shall call the attention of the person on whom service is made 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; 20
- Aliens.** 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 25
- Notice to be given of claim of exemption.** 45
- Duty of bailiff &c., serving summons as to claims to exemption.** 50
- Duty of Sheriff.** 55
- Additional jurors to be placed on the panel and summoned.**

- 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;
- 10 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 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;
- 20 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 discharge, and may be declared to be exempted and discharged accordingly, if he be entitled to exemption under this Act; Court may allow exemption claimed and proved.
- 25 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; Return of panel and proceedings of Sheriff.
- 30 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; but such discharged Jurors shall be considered as having served at the term of the Court for which they were summoned. Discharge of surplus Jurors

JURY LISTS.

- 35 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; Copies of Valuation Rolls to be sent to the Sheriff of the District.
- 40 1. Within two months 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; Or of revised Rolls under Cap. 6, Con. Stat. Canada.
- 45 1. Within two months 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; And so of new Rolls or revised Rolls.
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- Sheriff to make Lists of Grand and Petit Jurors.** 2. Upon the receipt of copies of the assessment or valuation rolls, or devised 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 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;
- Copies to be delivered to Prothonotary and Clerks of Crown and Peace.** 10
- How the List shall be made from the Rolls** 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 rolls 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 roll 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;
- Lists to be written in Registers.** 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;
- Public to have access to Lists** 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;
- Corrections by order of Court.** 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;
- Lists to be revised yearly.** 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 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 revisions 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 such additional names shall be arranged and distributed on the jury list, in the same manner as is herein provided for the distribution of the names of the Jurors inserted in such list at the making thereof. 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;

10 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;

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

15 10. Upon any complaint with notice to the party interested, and 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,

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

20 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 made over again or corrected as the case may be; and in such case the Court may make such order as to the costs of correcting such list or making anew such List as may in its

25 discretion appear just;

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 two months and free of charge to the

If the Roll^s be not transmitted in due time to the Sheriff.

30 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

Penalty.

35 own name, before any competent tribunal;

12. If in any Parish, Township, or local Municipality from which Jurors should be summoned under this Act, there shall be no assessment or valuation roll or revised assessment or valuation roll in existence, the Sheriff shall cause lists to be made of the persons within such locality qualified in respect of value of their property to be Grand and

40 Petit Jurors respectively under this Act; and such list shall be made from the best information attainable by inquiring in such locality, and shall be sworn to by the person employed to make the same, and such lists shall be retained, held and used for the same purposes and in the

45 same manner, and with the same effect, as if they were valuation or assessment rolls or revised valuation or assessment rolls, delivered to the Sheriff under this Act;

13. 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

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

55 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;

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

14. 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; 5

Court may order new lists in certain cases.

15. 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 respects. 10 15

THE PANELS.

Panels of Grand Jurors, except in Quebec and Montreal.

5. Except in the Districts of Quebec and Montreal, and in other Districts in which *Juries de medietate linguæ* shall be permitted as hereafter 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 a name to be indicated as hereinafter provided, 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; 20 25

Panels of Petit 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 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; 30 35

Half the Jurors summoned to Quebec and Montreal, to be of each language.

3. Of the Grand and Petit Jurors summoned to serve before any Court holding criminal jurisdiction at the Cities of Quebec 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, commencing in the same manner as is hereinafter provided for the making of Panels of Grand and Petit Jurors respectively; 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; 40 45 50

This may be extended to other districts.

Provision for preventing names on Panels being known before hand.

4. Before making any Panel of Petit Jurors in any district, the Sheriff of such district shall produce the appropriate 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 55

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 Juror with which such Panel shall commence; and the Sheriff shall return 5 such order before the Court for which the Jurors named in such Panel are summoned, together with such Panel and with his proceedings thereon;

5. A 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 10 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;

As to the Jurors who have already served.

6. Neither the Grand Jury Panel nor the Petit Jury Panel nor the name of any person on such Panel shall be communicated either verbal- 15 ly or otherwise to any person or persons whomsoever until after such panel is returned into Court by the Sheriff;

Panel is not to be made public until returned.

7. 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 20 speaking the English language, or of persons speaking the French language, the Sheriff shall forthwith make a supplementary panel of thirty-two Jurors, which panel shall be made by taking from the Jury list in order as they appear therein, the names of thirty-two persons speaking the required language, and resident within five leagues of the place of 25 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;

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

8. The Jurors on such supplementary panel shall serve so long as the Court shall order; and while such Jurors are in attendance no other 30 supplementary panel shall be summoned; and the Jurors on the supplementary panel together with the Jurors on the ordinary panel speaking the required language shall 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 35 of them or of any of them.

From among whom such Jury shall be taken.

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 summoned as one of a special or supplementary 40 panel, in which case an interval of forty-eight hours shall be sufficient; 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 juridical days before the term or session of such Court, to afford time for the summoning of additional 45 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 language of his defence; and if from the number of challenges or from any other cause, there is 50 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 summoning 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 55 the Jurors already summoned for the term or Session at which such trial is to be had;

Deficiency of Jurors how supplied.

Jurors not to be summoned if no case appears to be tried. 3. In every District, the Sheriff, before summoning persons to serve therein as Grand or Petit Jurors shall inquire of the Clerk of the Crown or 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 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 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 person 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 of either of them;

If such cases should afterwards arise. 4. Before summoning Petit Jurors for Criminal Matters in 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 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 panels, as that summoned for the first day of the Court; and such second panel of Petit Jurors shall, for the Court of Queen's Bench, be summoned to attend on the eighth judicial day of the Term thereof, and for the Court of General Quarter Sessions, on the sixth judicial day of the Sessions thereof; and every such second panel of Petit Jurors shall attend and serve for the residue 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 judicial day of such term, or on the fifth judicial day of such Session, as the case may be.

Second panel not to be summoned unless required.

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

First panel discharged.

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 challenged or declared disqualified, 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 are then engaged in trying any case;

If a Jury half of one language be demanded. 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 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 or disqualified from serving.
4. But if there be not a sufficient number of persons speaking the language agreed upon, remaining unchallenged or qualified, the remainder of the number required shall be taken from the Panel without reference to language, in the order in which they appear therein;
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 been exhausted;
6. Judgment after verdict upon any indictment or information for any Felony or Misdemeanor shall not be arrested, stayed or reversed because any unqualified person or persons served upon the Jury who tried the case:
- Jury all of one language by consent.
- If there be not sufficient on the panel.
- Peremptory challenges by prisoner limited.
- Crown challenges.
- 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 transmissions of the prisoner for trial to another District; but no application for a change of the name shall be allowed on behalf of the Crown in cases where the offence charged is of a political character, and 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;
2. Any person in Her Majesty's Military or Naval Service, or any seaman or mariner usually employed upon sea-going 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 under an order to that effect from the Court having criminal jurisdiction where such prisoner is so imprisoned, or any Judge thereof, 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 on 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;
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,
- In what cases and how the place of trial may be changed.
- And in cases of persons in Military or Naval Service Expenses.
- Order of Court to be warrant to Sheriff, &c.

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 Juror 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;

How the panel for any civil case shall be taken 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 last summoned;

Jurors in mercantile cases, to be traders. 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;

And between traders and non-traders, by consent. 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;

If one party does not consent. 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;

Juries de medietate linguæ. 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;

Jurors all of one language by consent.

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;

How the Jury to be summoned shall be struck.

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;

Striking Jurors de medietate linguæ.

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;

If their be a deficiency of traders on the List.

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;

Delay between summons and attendance.

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.

Talesmen may be taken by consent.

PAYMENT OF JURORS.

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; or if the Building and Jury Fund of such District is sufficient to enable Municipal contributions to such fund to be altogether dispensed with, then each Petit Juror so summoned shall receive such allowance as may be fixed by the Judge holding 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

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

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.

- Gaspé and Bonaventure.**

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

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- Allowance to Jurors in civil cases.**

3. In every civil suit, each of the trial jurors shall be allowed *one dollar* for each days'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 ;

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- Jury discharged if not paid.**

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.

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PENALTIES.

- On Sheriffs, Prothonotaries, &c., wilfully infringing this Act.**

11. Every Sheriff, Prothonotary, Clerk of the Peace, or Clerk of the Crown, who will 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* :

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- On Jurors summoned and not serving.**

2. Every person summoned to serve as a Juror under the authority of this Act, who refuses or neglects to appear in obedience to the summons, or to attend in conformity with the law, without assigning some lawful cause or excuse therefor, shall incur a penalty for each offence not exceeding ten dollars, nor exceeding in the aggregate \$50 for all of such offences committed during the same term of any Court, 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; and the provisions of this sub-section shall apply to Jurors summoned in matters of Expropriation, in the City of Montreal, under the Act 14 and 15 Vic., chap. 128, section 68.

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- 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.

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- Penalties on officers of the Court.**

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

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INTERPRETATION.

- Yearly value of leased property how calculated if not assessed.**

12. If the 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 ;

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- Municipality, what shall be**

2. The word Municipality includes towns and cities and every-kind of Municipal corporation whatsoever ;

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- 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

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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 to whose name it is placed.

4. The first eight sections of this Act with the sub-sections thereof shall apply only to criminal matters, except where the context plainly extends the provisions thereof to other matters.

13. Chapter eighty-four of the Consolidated Statutes for Lower Canada is hereby repealed; but all Jury Lists made thereunder shall remain in force until new Jury Lists are made under this Act.

Cap. 84 Consolidated Statutes L. C. repealed.

10 14. This Act shall apply to Lower Canada only.

Act limited to L. C.