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No. 39.

1st Session, 6th Parliament, 21 Victoria, 1858.

BILL.

An Act to amend and consolidate the
Jury Laws of Upper Canada.

Received and read 1st time, Friday, 9th
April, 1858.

Second reading, Tuesday, 13th April, 1858.

HON. MR. SIDNEY SMITH.

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

An Act to amend and consolidate the Jury Laws of Upper Canada.

WHEREAS it is expedient to amend and consolidate the various Acts relative to the mode of Selecting Jurors in Upper Canada the performance of their duties and the remuneration to be by them received with a view to reduce the expense attending the present system and to obtain a better class of Jurors than are now obtained : Therefore Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :

Preamble

INTERPRETATION.

I. The word "County," whenever it occurs in this Act, shall include and apply to "Unions of Counties" for Judicial purposes, and the word "Township" shall include and apply to "Unions of Townships."

Interpretation clause.

ISSUES OF FACT TO BE TRIED BY JURY.

II. All issues of fact now or hereafter joined in any action, real, personal or mixed, brought in any of Her Majesty's Courts of Justice within Upper Canada, and the assessment or inquiry of damages in any such action the trial or assessment of which is not otherwise provided for, shall be tried and determined or assessed and inquired of by the unanimous verdict of twelve Jurors, duly sworn for the trial of such issue or issues, or for the assessment or inquiry of such damages ; and the said Jurors may bring in a special verdict upon the trial of any such issue.

Issues of fact to be tried by a Jury unless otherwise provided.

2.—QUALIFICATIONS, EXEMPTIONS AND DISQUALIFICATIONS OF JURORS.

III. Unless exempted every person residing in any County, City, or other local judicial division in Upper Canada who is over the age of twenty-one years, and in the possession of his natural faculties and not infirm or decrepit, and who is assessed for local purposes upon property, real or personal, belonging to him in his own right or in that of his wife, to the amount hereinafter mentioned, shall be qualified and liable to serve as a Juror both on Grand and Petit Juries in Her Majesty's Superior Courts of Common Law at Toronto having General Criminal or Civil Jurisdiction throughout Upper Canada, and in all Courts of Civil or Criminal Jurisdiction within the County, City, or other local judicial division of the County in which he resides.

Who shall be qualified as a Juror.

Parting with property after assessment not to disqualify.

IV. No person enrolled as a Juror in respect of property of which he was at the time seized or possessed shall be disqualified or exempted from serving as such Juror in consequence of his having ceased to be seized or possessed of such property between the time of enrollment and of his being called upon to 5
serve as such Juror, nor shall the same form any ground of challenge to such Juror.

Joint proprietors to be deemed equally interested.

V. Whenever property is assessed on the assessment-roll of any Township, Village or Urbain Ward, as the property of two or more persons jointly, the Selectors of Jurors to whom it belongs 10
to extract from such roll the names thereon of those qualified and liable to serve as Jurors, may, and if they have the requisite information as to the names of the parties to enable them to do so, shall, in making such extract, and for all the purposes of this Act, treat such property as if it belonged to such persons 15
in equal proportions, and such Selectors shall treat each of such persons as respects his qualification and liability to serve as a Juror as if he had been severally assessed for such equal proportion of such property.

Property qualifications.

VI. The amount of property in respect of which a person is 20
qualified and liable to serve as a Juror shall, by the Selectors for each Township, Village or Urbain Ward, be determined by the relative amount of property for which the person is assessed on the assessment-roll of the Township, Village or Ward of which he is a resident inhabitant at the time of the annual selection of Jurors, and the mode for ascertaining the same shall be as 25
follows, that is to say : The names of one half of the assessed resident inhabitants of the Township, Village or Urbain Ward shall be copied from the assessment-roll of such Township, Village or Ward, commencing with the name of the person rated 30
at the highest amount on such roll and proceeding successively towards the name of the person rated at the lowest amount until the names of one half of the persons assessed upon such roll have been copied from the same ; and the amount for which the last of such persons is assessed upon the said roll, shall be 35
that which qualifies every resident inhabitant of such Township, Village or Urbain Ward, and renders him liable to serve as such Juror.

Mode of ascertaining such qualification.

Persons exempted from serving as Jurors ; and not to be inserted on the Rolls.

VII. The followin persons are hereby absolutely freed and exempted from being returned and from serving as either Grand 40
or Petit Jurors in any of the Courts and shall not be inserted in the Rolls to be prepared and reported by the Selectors of Jurors as hereinafter mentioned :

1. Every person upwards of sixty years of age ;
2. Every member of the Executive Council of this Province ; 45
3. The Secretary of the Governor, and

4. Every officer and other person in the service of the Governor for the time being ;
5. Every officers of the Provincial Government, and
6. Every clerk and servant belonging to either House of the Provincial Parliament, or to the Public Departments of the Province ;
7. Every Inspector of Prisons ;
8. The Warden of the Provincial Penitentiary ; and
9. Every officer and servant of the said Penitentiary ;
10. Every Judge of a Court having general jurisdiction throughout Upper Canada ;
11. Every Judge of a County Court ; and
12. Every Judge of any other Court except the Quarter Sessions of the Peace, having jurisdiction throughout any County or City in Upper Canada ;
13. Every Sheriff, Coroner, Gaoler and Keeper of a House of Correction or of Lock-up House ;
14. Every Priest, Clergyman and Minister of the Gospel, recognized by law, to whatever denomination of Christians he may belong ;
15. Every member of the Law Society of Upper Canada actually engaged in the pursuit or practice of his profession, whether as a Barrister or Student ;
16. Every Attorney, Solicitor and Proctor actually practising ;
17. Every Officer of any Court of Justice whether of general, County, City, or other local jurisdiction, actually exercising the duties of his offices ;
18. Every Physician, Surgeon and Apothecary actually practising ;
19. Every Officer in Her Majesty's Army or Navy on full pay ;
20. Every Pilot and Seaman actually engaged in the pursuit of his calling ;
21. Every Officer of the Post Office, Customs, and Excise ;

22. Every Sheriff's Officer and Constable ;

23. Every County, Township, City, Town and Village, Treasurer and Clerk ;

24. Every Collector and Assessor ;

25. Every Professor, Master and Teacher of any University 5
College, County Grammar School, Common School or other
School or Seminary of learning, actually engaged in perform-
ing the duties of such appointment ;

26. Every officer and servant of any such University, 10
College, School or Seminary of learning, actually exercising
the duty of his office or employment ;

27. Every Miller ;

28. Every Firemen belonging to any regular Fire Company ;

Members of
the Legisla-
ture and cer-
tain munici-
pal functiona-
ries exempted
from serving
at certain
Courts.

VIII. Every Member of the Legislative Council or of the 15
Legislative Assembly of this Province,—every Warden and
every Member of any County Council,—every Mayor, Town-
reeve or Deputy Townreeve of any City, Town, Township
or Village,—every Justice of the Peace, and every other 20
Member and Officer of any Municipal Corporation, is hereby
absolutely freed and exempted from being selected by the
Selectors of Jurors hereinafter mentioned to serve as a
Grand or Petit Juror in Her Majesty's Inferior Courts, and
none of the names of any such persons shall be inserted in the
rolls from which Jurors are to be taken for such purposes, and 25
if any such name is at any time accidentally inserted in any
such roll, it shall, if drawn in selecting any Jury List or drafting
any Panel therefrom, be set aside and not inserted therein, and
every such person is moreover absolutely freed and exempted
from being returned upon any General Precept to serve as a 30
Petit Juror at any Sessions of Assize or *Nisi Prius*, Oyer and
Terminer or Gaol Delivery, and the name of any such person,
if drawn in drafting such panel, shall be set aside and not
inserted in the same.

Exemptions
arising from
having actual-
ly served as a
juror within a
certain time
previously.

IX. Every person whose name had been inserted in any 35
of the Jury Lists for the year next before that in which his
name is again drawn in any of such Lists, or for some prior
year within the Rule of Exemption hereby established, and
who had duly served on some Panel returned under a general
Precept from such Jury List, until discharged by the 40
Court to which such Panel was returned, shall be exempt from
having his name inserted in any such list for any subsequent
year within such rule of exemption, that is to say : if the Jurors'
Roll from which such name is drawn contains a sufficient num-
ber of names to make two complete Jury Lists of the denomina- 45

tion of such Jurors' Roll, and if it appears by the Jurors' Book of the preceding year that the name of such person was inserted in any of the Jury Lists for that year, and that he duly attended and served upon any such Panel the name of such person shall not be inserted in such Jury List ; and if there is a sufficient number of names on such Jurors' Roll to make three such complete Jury Lists, and if it appears by the Jurors' Books of either of the two preceding years, that his name was inserted in any of such Jury Lists for either of such years, and that he duly attended and served as aforesaid for either of such years, the name of such person shall not be inserted, and so on, *toties quoties*, allowing one additional year's exemption for each complete additional Jury List that such Jurors' Roll furnishes as aforesaid.

X. Service as a Juror upon any Panel returned by the Sheriff of a County, shall not exempt the person from again serving as a Juror upon any Panel returned by the High Bailiff or other proper Officer of a City embraced within the County of such Sheriff, though within the period of exemption provided for by the last preceding section, nor shall any such service upon any Panel returned by the High Bailiff or other proper Officer of any City having a Recorder's Court established in the same, exempt the person who so served, from again serving as a Juror upon any Panel returned to any of the Superior Courts of Criminal or Civil Jurisdiction, by the Sheriff of the County within the limits of which such City is embraced : and the Jury Lists for such Superior Courts for such County and for such City respectively, shall be selected without any regard being had to any such service, but the inhabitants of every such City shall be exempt from serving on Juries at any other than the City Courts, or on trials at the Bar of either of Her Majesty's Superior Courts of Common Law at Toronto, or upon trials ordered by the Court of Chancery, or at the Courts of Assize and *Nisi Prius*, Oyer and Terminer, and General Gaol Delivery for the County within the limits of which such City is situate.

Services as a City juror not to exempt as a County juror, and vice versa.

Citizens exempted from serving, except at certain Courts.

XI. Except only in the cases hereinafter expressly provided for, no man not being a natural born or naturalized subject of Her Majesty, is qualified to serve as a Grand or Petit Juror in any of the Courts aforesaid on any occasion whatever.

Aliens disqualified. Exception.

XII. No man attainted of any Treason or Felony, or convicted of any crime that is infamous, unless he has obtained a free pardon, nor any man who is under outlawry, is qualified to serve as a Grand or Petit Juror in any of the said Courts on any occasion whatsoever.

Attainted persons disqualified.

III.—SELECTION AND DISTRIBUTION OF JURORS FROM THE ASSESSMENT ROLL.

XIII. The Mayor or Townreeve, the City, Town, Village or Township Clerk, and the Assessor or Assessors if there be more

Certain municipal func-

tionaries to be selectors of jurors than one, of the respective Cities, Towns, Villages and Townships in Upper Canada, shall be *ex officio* the first Selectors of Jurors for every Township and Village, and for each Wards of every such City or Town.

When the selection shall be made. And where. XIV. The Selectors shall assemble annually on the first day of September, or if a Sunday or Statutory Holiday, then on the first day thereafter not being such Holiday, at the place where the Meetings of the Municipal Council of such City, Town, Village or Township are usually held, or at such other place within the Municipality as may for that purpose be appointed by the Head of such Municipal Corporation, or during his absence, or the vacancy of the Office, by the Clerk thereof for the purpose of selecting from the Assessment Rolls of such City, Town, Village or Township, the names of the persons qualified and liable to serve as Jurors under this Act. 5 10 15

Principles by which the selectors are to be governed. XV. The Selectors shall select such persons as in the opinion of the Selectors, or of a majority of them, are from the integrity of their characters, the soundness of their judgments, and the extent of their information, the most discreet and competent for the performance of the duties of Jurors. 20

The Clerks of Councils to produce assessment rolls, &c. XVI. The City, Town, Village or Township Clerk, or the Assessor or Assessors, or the other officer or person who has the actual charge or custody of the Assessment Rolls for any City, Town, Village or Township for the year, shall at the time aforesaid bring such Assessment Rolls to the annual meeting of the Selectors of Jurors for such City, Town, Village or Township and permit the use of the same for the purpose aforesaid. 25

Meeting of selectors. XVII. Such Selectors shall annually, on the said first day of September, or if they have been unable to complete the duty hereby imposed upon them on such first day, then on the first day next thereafter not being a Sunday or Statutory Holiday, proceed to select the names from such Rolls. 30

How selection to be made. XVIII. The Selectors after striking from the said Rolls the names of all persons exempt from serving as Jurors on any of the divisions of Jurors mentioned in the twentieth section of this Act, and also the names of those who are disqualified from serving as Jurors, shall select those qualified to serve on Juries, at least one third of the persons whose names then remain on the said Rolls. 35 40

In case of an equality of votes among the selectors— who to have the casting vote. XIX. In case of an equality of votes amongst such Selectors as to any one or more of the names to be so selected, or as to the Division of the Report of such Selectors in which any such name should be inserted in the distribution of such names as hereinafter provided, or as to any other incidental question which may arise, the Mayor or Townreeve, 45

or in case of his absence or the vacancy of the office, the City, Town, Village or Township Clerk, or in the absence or vacancy of the offices of both, then the Assessor whose Roll for the year contains the greatest number of assessed names, and in the case of joint Assessors the Assessor first named in the appointment of such Assessors, shall have a casting or double vote in the decision of the question.

XX. The Selectors having made Selection, shall, for the purpose of the Report thereof distribute the names of the persons so selected from each Roll into four divisions; the first, consisting of persons to serve as Grand Jurors in the Superior Courts; the second, of persons to serve as Grand Jurors in the Inferior Courts; the third, of persons to serve as Petit Jurors in the Superior Courts, including the Court of Chancery; and the fourth, of persons to serve as Petit Jurors in the Inferior Courts, and shall make such distribution according to the best of their judgment, with a view to the relative competency of the parties to discharge the duties required of them respectively.

Names of jurors to be distributed into four divisions, and how.

XXI. The said Selectors shall make such distribution amongst the said four divisions, as nearly as may be in the following proportions relatively to the whole number of persons so selected by them from each of such Rolls for that purpose, that is to say: One fifteenth under the first of such Divisions; two fifteenths under the second of such Divisions;—four fifteenths under the third of such Divisions;—and eight fifteenths under the fourth of such Divisions.

Proportionate number in each division.

XXII. The said Selectors of Jurors respectfully shall thereupon;

1. Make out in duplicate under their hands and seals, or under the hands and seals of such of them as perform the duty, a report of their Selection and Distribution for the Township, or Village or Urban Ward, as the case may be which Report shall be as nearly as may be in the form set forth in the Schedule to this Act, marked A, and be filled up agreeably to the directions contained in the notes to such Schedule.

Selectors to make out a duplicate report, &c.

2. There shall be subjoined to each duplicate Report a written declaration subscribed by the Selectors, stating each for himself, that he had respectively made the Selection and Distribution to the best of his judgment and information pursuant to this Act, and without fear, favour or affection of, to, or for any person or persons whomsoever, gain, reward or hope thereof, other than such fees as they are lawfully entitled to receive for the same under the authority of this Act; and

Declaration to be subjoined to the report.

3. One of such Duplicate Reports shall on or before the fifteenth day of the same month of September, be deposited by such Selectors with the Clerk of the Peace for the County in which

A duplicate report shall be deposited with

Clerks of the Peace the Town, Village or Township lies, or within the limits of which such City is embraced; and the other, duplicate with the City, Town, Village or Township Clerk, as the case may be;

Who shall keep the same on file. 4. And such Clerks respectively, shall such duplicate reports on file in their respective offices for the use and information of all who may have lawful occasion to examine or make use of the same; and 5

In case of loss, a copy of such duplicate report to be filed. 5. In case of the loss or destruction of any Duplicate original Selectors' Report, the Officer in whose office the same was when so lost or destroyed, shall as soon as reasonably may be procure from the Officer to whom the legal custody of the other Duplicate original of such Report belongs, a certified copy of such Duplicate Report and file the same in his office in lieu of the Duplicate original, and such certified copy shall be thenceforth taken, received, and acted upon in all respects as if it were the Duplicate Original Report so lost or destroyed. 15

IV.—JURORS' BOOK AND SECOND SELECTION OF JURORS.

Clerk of the peace to prepare jurors' books in form of Schedule B. XXIII. The Clerk of the Peace for every County shall annually procure a Book and keep the same as nearly as may be in the Form set forth in the Schedule to this Act marked B, and agreeably to the directions contained in the notes to such Schedule, and such book shall be called "The Jurors' Book" for the County of which he is such Clerk of the Peace, and the year for which such Book is to be used as hereafter provided shall be inserted therein. 25

In which shall be entered the names of grand and petit jurors. XXIV. Such Clerk shall, between the fifteenth day of September and the thirty-first day of October in each year, transcribe into such Book, from the Reports of the first Selectors of Jurors for the different Townships, Villages and Urban Wards, or other like local divisions of his County, so made to him for such year as aforesaid, or from such of them as have been so made to him on or before such fifteenth day of September, the names and additions of all persons selected to serve as Grand or Petit Jurors, as the same are set forth and distributed in such Reports. 30 35

Such book to contain four rolls of jurors. XXV. Such names shall be transcribed into the Book in four Rolls, the first to be called "Roll of Grand Jurors to serve in Her Majesty's Superior Courts of Criminal Jurisdiction," the second, "Roll of Grand Jurors to serve in Her Majesty's Inferior Courts of Criminal Jurisdiction," the third, "Roll of Petit Jurors to serve in Her Majesty's Superior Courts of Criminal or Civil Jurisdiction and in the Court of Chancery," and the fourth, "Roll of Petit Jurors to serve in Her Majesty's Inferior Courts of Criminal or Civil Jurisdiction." 40

XXVI. In each of such Rolls shall be transcribed the names and additions of all persons by the Selectors selected and reported as aforesaid to serve as Jurors in each respective County. Names and addition of jurors.

XXVII. The Clerk of the Peace shall, on or before the thirty-first day of December, cause a correct copy of such Jurors' Book certified by him to be a true copy of the original, to be made and deposited in the office of the Clerk or Deputy Clerk of the Crown and Pleas of Her Majesty's Court of Queen's Bench in the County, as the case may be, and from it, in the event of the loss or destruction of the original by fire or other accident, a duplicate original of such Jurors' Book shall be made; and being certified by the said Clerk or Deputy Clerk of the Crown and Pleas, to be truly copied from the copy deposited in his office, shall, upon such loss or destruction being established upon oath or affirmation before two or more Justices of the Peace of the County, be received and used on all occasions and for all purposes, as the original so lost or destroyed. Deposit of certified Jurors' book with the Clerk or Deputy Clerk of the Crown of Q. B. in the County.

XXVIII. In every case of the destruction of any original Jurors' Book, the Clerk of the Peace for the County shall as soon as reasonably may be procure a duplicate original of such book certified as aforesaid, and deposit the same in his office as above provided. When copies therefrom to be procured.

XXIX. In every such case the Clerk of the Peace shall as soon as may be thereafter, give to the Sheriff or other Officer or Minister of the County to whom the return of Jury Process belongs, notice of such destruction, and of the procurement and deposit of such duplicate original in lieu thereof; Whereupon such Sheriff, Officer or Minister shall furnish to such Clerk of the Peace copies of all Panels of Jurors drafted by such Sheriff or other Minister from the Jury Lists in such book; and such Clerk of the Peace shall thereupon enter such Panels in such duplicate Original Jurors' Book in like manner, as the same entered in the said Original Jurors' Book. Notice to be given to the Sheriff, &c.

XXX. In every case in which a Proclamation issues disuniting a Junior County from a Senior County or Union of Counties to take effect from and after the first day of January of the then following year, the Clerk of the Peace for the Union of Counties of which such Junior County is at the time a member, shall procure two of such Jurors' Books, one for the County or Counties from which such Junior County is to be so disunited, and the other for such Junior County itself. When united Counties dissolved, what shall be done by Clerk of the peace.

XXXI. Such Clerk shall transcribe into the former of such Books the names and additions of all persons selected for the different Townships, Villages and Urban Wards of such Senior County or Counties, and into the latter of such Books, the names and additions of all persons selected for the different Townships, and Urban Wards of such Junior County respectively. How the jurors' names shall be arranged in the books and rolls.

Clerk of the
peace to pre-
pare ballots,
&c.

XXXII. In every such case the preparing of the Books, the selecting of the Jury Lists, and the performing of all other acts and things required by this Act to be done for such Junior County for such following year, shall be done and performed by the Clerk of the Peace and Court of General Quarter Sessions of the Peace for such original Union of Counties and by the Chairman and Officers thereof. 5

Clerk of the
peace of senior
County to de-
liver Jurors'
book to Clerk
of the peace of
junior County.

XXXIII. In every such case as soon as may be after the Jurors' Book for the Junior County has been completed and the Copies thereof made and deposited in the proper offices, the Clerk of the Peace of the original Union of Counties shall, on demand thereof, deliver the same to the Clerk of the Peace of the Junior County, who shall thereupon give him a receipt for such Book. 10

Treasurer of
junior County
to pay ac-
counts there-
for.

XXXIV. Upon such receipt being filed with the Treasurer of such Junior County, and upon the accounts of the Clerk of the Peace and Crier of the said Court of Quarter Sessions of such original Union of Counties for the services thus performed for such Junior County being verified by affidavit before a Commissioner for taking affidavits for any of such Counties or the Union of which they may be members, the Treasurer of such Junior County shall pay the amount of such accounts out of the like moneys as are hereinafter provided with respect to the payment of similar accounts by the Treasurers of other Counties, and such payments shall in like manner be allowed in the accounts of such Treasurer. 15 20

How such ju-
rors' rolls are
to be divided

XXXV. Such Jurors' Rolls shall be each divided into Townships, Wards and Villages, or other like sub-divisions answering to the local divisions of the Counties, and of Cities and Towns embraced within the limits thereof, and such sub-divisions, and also the names within each sub-division respectively, shall be arranged alphabetically, and all the names in each of such Rolls thus arranged, shall be numbered with a series of current numbers from one forward. 25 30

How the rolls
are to be cer-
tified.

XXXVI. To each of such Rolls in the Jurors' Book shall be subjoined a certificate from the Clerk of the Peace, who prepared the same, that he has carefully compared such Roll with the Reports made by the several Selectors of Jurors for the different Townships, Wards and Villages and other local divisions of the County or Union of Counties, and the Cities and Towns embraced within the limits of the same for the year, as such Reports remained on file in his office on the Fifteenth day of September in such year, and that such Roll contains a true and correct transcript of the names and additions of all persons so selected and reported to serve as Jurors as aforesaid. 35 40

V.—SELECTING JURY LISTS FROM JURORS' ROLLS.

Clerks of the
Peace to pre-

XXXVII. The Clerk of the Peace for each respective County shall on the first day of the Court of General Quarter Sessions of 45

the Peace for the County, held next after the Thirty-first day of October in each year, bring into Court and publicly deliver to the Chairman of such Court *sedente curiâ*, the Jurors' Book so prepared by him as aforesaid for the then next year, together with the Jurors' Books for such and so many of the then next preceding years as may be required for proceeding with the selecting of the Jury Lists as hereinafter directed, and shall thereupon make oath in open Court.

pare ballots, and how.

Jurors' book to be brought into Q. S. (sitting the Court) yearly after 1st Oct.

1. That he has carefully compared the Jurors' Rolls in such first mentioned Jurors' Book with the Reports made by the several Selectors of Jurors for the several Townships, Villages and Urban Wards within the County as the same remained on file in his office on the Fifteenth day of September preceding, and that to the best of his knowledge and belief the said Jurors' Rolls contain a true and correct transcript of the names and additions of all persons so selected and reported by such Selectors of Jurors as aforesaid ;

That he has compared jurors' rolls.

2. That the Jurors' Books secondly above mentioned are those remaining on file in his office for the years to which they purport respectively to belong, and that all entries in such last mentioned Books were truly and faithfully made therein, without fraud or collusion of any kind, and according to the very truth.

That the jurors' books are those remaining on file.

XXXVIII. If such Clerk of the Peace has not been in office during all the time that such Jurors' Books have been on file in the office of the Clerk of the Peace for the County or Union of Counties, then, that all entries in such Books made during the time that he has been in office, have been truly and faithfully made therein, without fraud or collusion of any kind, and according to the very truth, and that he hath no reason but to believe, and doth therefore verily believe that all other entries made therein prior to his appointment, were in like manner truly and faithfully made therein as aforesaid.

If the Clerk has been changed, the oath modified.

XXXIX. On the first occasion of bringing into Court a Jurors' Book for any County or Union of Counties, or for any City, there being no Jurors' Book for any preceding year for such County, Union of Counties or City, the oath to be made by the Clerk of the Peace or Clerk of the Recorder's Court respectively, shall be modified so as to be adapted to such circumstances.

The oath to be modified also when the books are brought in for the first time.

XL. If any Clerk of the Peace or Clerk of the Recorder's Court is unable to make the oath required by the thirty-seventh section of this Act, as to the Entries made in any of such Jurors' Books previous to the time of such Book coming into his custody, or has reason to suspect that any original entries in any of such Books have after their original completion been erased, mutilated or altered, he shall in lieu of that part of the

If the Clerk for the time being suspects previous errors or fraud, he is to state the same.

said oath, make oath that, as to such entries, he is unable to speak, but that from circumstances which have come to his knowledge, or of which he has been informed, he has reason to doubt the correctness thereof, or of some parts thereof, or has reason to suspect that some of the original entries in some of such Books have been erased, mutilated or altered, as the case may be. 5

The Quarter Sessions shall inquire into the matter.

XLII. In every case in which the Clerk of the Peace has made an affidavit in the terms of the fortieth section of this Act the Court of Quarter Sessions shall immediately after the selection has been completed, either on the same or some subsequent day, examine and enquire by the oath of such persons as may be informed thereof into such supposed incorrect entries, erasure, mutilations or alterations, their nature and extent, and by whom, when and for what purpose they were made, and shall punish the parties who are found to have made such incorrect entries, erasures, mutilations or alterations, by fine or imprisonment in their discretion, and shall cause such incorrect entries, erasures, mutilations or alterations to be rectified, and such Books restored to their original state as nearly as may be according to the best information they have been able to obtain of or concerning the same. 10 15 20

The receipt of the books, &c., to be certified by the Chairman.

XLIII. The Chairman of such Court shall thereupon certify under his hand and seal in such Books respectively, the receipt of such Books and the oath or affirmation upon which the same have been received, and a remembrance of the same shall by the proper officer be also made in the minutes of such Court. 25

The Court shall determine the number of Jurors to be selected List.

XLIV. The Court shall then proceed to consider and resolve with reference to the probable amount of judicial business to be disposed of through the instrumentality of the Jurors to be selected on that occasion and the whole number of Jurors from whom the selection is to be had, whether it is most expedient upon such occasion to select a full Jury List, a two-third Jury List or a half Jury List, and a remembrance of the resolution shall by the proper officer be duly entered upon the minutes of such Court. 30 35

Names of Justices present to be recorded.

XLV. On all such occasions the names of the different members of the said Court who are present and vote upon any such resolution, shall be entered on the Minutes of the Court, and in the event of the votes of the members present being equal, the Chairman of the Court for the time being shall have a double or casting vote. 40

How a full jury list to be balloted.

XLVI. In the event of the resolution affirming the expediency of selecting a full Jury List, the numbers to be selected from the said Rolls according to the provisions of the fifty-first section of this Act, shall be: 1. From the Roll of Jurors to serve as Grand Jurors in the Superior Courts, Forty-eight; 45

2. From the Roll of those to serve as Grand Jurors in the Inferior Courts, Ninety-six ; 3. From the Roll of those to serve as Petit Jurors in the Superior Courts, One Hundred and Forty-four ; and 4. From the Roll of those to serve as Petit Jurors in the Inferior Courts, Two Hundred and Eighty-eight.

XLVI. In the event of the resolution affirming the expediency of selecting a two-third Jury List, the numbers to be selected shall be : 1. From said first named of such Rolls, Thirty-eight ; 2. From the second, Sixty-four ; 3. From the third, Ninety-six ; and 4. From the fourth, Two Hundred and Sixteen.

Or a two-third list.

XLVII. In the event of the resolution affirming the expediency of selecting a half Jury List, the numbers to be selected shall be : 1. From the first named of such Rolls, Twenty-four ; 2. From the second, Forty-eight ; 3. From the third, Seventy-two ; and 4. From the fourth, One Hundred and Forty-four.

Or a half list.

XLVIII. As respects the County of York, or any Union of which that County is for the time being the Senior County, the numbers to be selected from the first and third of such Jurors' Rolls shall be as follows: When a full Jury List is to be selected, then from the first of such Rolls, ninety-six, and from the third, two hundred and eighty-eight ; when a two-third Jury-List is to be selected, then from the first of such Rolls, seventy-two, and from the third, two hundred and sixteen ; and when a half Jury List is to be selected, then from the first of such Rolls, forty-eight, and from the third, one hundred and forty-four.

The County of York specially provided for.

SELECTORS OF JURORS FROM THE JURORS ROLLS.

XLIX. The Chairman of the Court of Quarter Sessions—the Clerk of the Peace—the Warden—the County Attorney (if he is not Clerk of the Peace, and if he is Clerk of the Peaces then the Treasurer), and the Sheriff of the County or Union of Counties, or any three of them, shall be *ex officio* Selector of Jurors from the Jurors Rolls within their respective Counties.

Who shall be Selectors of Jurors.

LXII. Immediately after a resolution has been so adopted affirming the expediency of selecting a full or a two third or a half Jury-List as aforesaid, or if it is the unanimous opinion of all the Justices then present that the selecting should be proceeded with at an adjourned sitting of such Court, then on the day to which such selecting may be adjourned ; Such Selectors shall attend and shall, before entering upon the performance of their duties, severally make and subscribe an oath or affirmation in the form following :

How the selection shall be conducted.

Selectors to be sworn.

“ I, A. B., do swear or affirm (*as the case may be*), that I will truly, faithfully and impartially, without fear, favor or affection, and to the best of my knowledge and ability, perform

The oath.

“ the duty of a Selector of Jurors, and will select from the
 “ proper lists the requisite number of the most fit and proper
 “ persons to serve as Jurors for the year of Our Lord one
 “ thousand eight hundred and . So help me God.”

“ Sworn (or affirmed) before me at the 5
 “ day of 18 .”

(Signed) C. D. J. P. (Signed) A. B.

How adminis- To which any Justice of the Peace may (within his jurisdic- 10
 tered and re- tion) administer and shall cause an entry thereof to be forth-
 corded. with made in the minutes of the Court of Quarter Sessions
 in the presence of the Chairman presiding at such Court : and
 Silence com- the Selectors having been duly sworn, the said Court shall cause 15
 manded. proclamation to be made, *firstly* for all persons to keep silence
 while the names of the persons to serve as Jurors for the next
 And notice given that ob- the selectors why the name of any person which may be called 20
 jections to Jurors will be heard. upon such selection should not be inserted in the Jury List for
 which it may be called he is to come forth and he will be
 heard.

Selectors to proceed to the selection. LIII. The last mentioned Selectors of Jurors shall then pro- 25
 ceed to select the names of the requisite number of persons
 from the Jurors' Rolls to serve as Jurors for such year, who
 in their opinion or a majority of them are from the integrity of
 ther characters the soundness of their Judgments and the ex-
 tent of their information the most discret and competent for the 30
 performance of the duties of Jurors, and which selection shall
 be conducted in the following manner, that is to say :

Clerk of the Peace to call over the names on the several Rolls. 1. The Clerk of the Peace shall then openly and audibly call 35
 aloud the name and place of residence of the person first
 named on the Roll of Grand Jurors for the Superior Courts,
 and so on through such Roll, and each successive Roll of Grand
 and Petit Jurors for the Courts in which they are respectively
 required to serve ;

If exempt by reason of former service, what to be done. 2. And if by reference to the Jurors' Book of preceding 40
 years, or any of them, and regard being had to the number of
 names on such Roll, it appears that such person is exempt
 from having his name inserted in such Jury List, on the ground
 of its having been inserted in some one of the Jury Lists,
 for some former year sufficiently recent to entitle him to such
 exemption, and of his having duly served on some Panel 45
 returned from such last mentioned Jury List under a general

precept, Chairman of such Court, shall publicly announced the same and that such person is on that account exempted from serving for the next year accordingly ;

3. And the Clerk of the Peace shall thereupon note in the
5 Roll for such next year opposite the name of the person, that he was exempted from serving as having served on one of the Grand or Petit Jury Lists for such a year, stating the List and the year ;

Exemption to be noted.

4. But if such person is found not entitled to such exemption,
10 then the name and addition of such person shall be again openly called aloud by the Clerk of the Peace as being proposed to be selected to serve as a Grand Juror for the Superior Courts ; and the Chairman shall thereupon put the question to the other Selectors present : " Shall this name be selected for the Grand
15 Jury of the Superior Courts?" and if determined in the affirmative by the whole or a majority of the Selectors present, the said Chairman shall thereupon make enquiry whether any one can inform the Selectors why the name of such person should not be inserted in the Jury List for which he has been so
20 selected as aforesaid ;

If not exempt on that ground.
Question to be put as to each name, and objection heard.

5. Whereupon, if the party himself in person or by his
Counsel, or his Attorney in the absence of Counsel, by his own oath or by the testimony of witnesses, or if any other
25 person by his own oath or by the testimony of witnesses, satisfies the Court that the person whose name has been so selected, is either exempt or disqualified from serving as a Grand Juror for which he has been so called, such person's name shall not be inserted in such Jury List for such next year ;

If exempt on other ground to be noted accordingly.

6. And the cause with the name of the person so objecting, and
30 the names of the witnesses upon whose testimony such name is set aside, shall by the Clerk of the Peace be stated in the Minute Book of such Court, and a short note of the cause of rejection be made on the proper Juror's Roll opposite the name of such person ;

And the grounds of exemption.

35 8. But if no such objection is made or established to the satisfaction of the Selectors, and they or a majority of them shall think fit, the names and additions at length, of such person shall by the said Clerk of the Peace be forthwith inserted in the Minute Book of the Court ;

If not privileged, name to be minuted.

40 9. Which being done, the said Selectors shall in like manner proceed to select and set aside, or pass, another name, and so on till they have transferred the required number of names from such Roll ;

And so on to ties quoties.

10. After which the names so selected, with the places of re-
45 sidence and additions of the parties alphabetically arranged, shall Clerk of the peace to enter

names in the book and lists of grand juries for Superior Courts. by such Clerk of the Peace be copied into the Juror's Book with the title of "The Grand Jury List for the Superior Courts," and such List shall have a series of current numbers from one forward as is hereinbefore provided with respect to the Juror's Rolls, and also a reference to the number of each name on the Roll of Grand Jurors for the Superior Courts; 5

And refer to the number in the roll of jurors, &c. 10. And each of such names shall by the said Clerk of the Peace, be thereupon marked on such last mentioned Roll as transferred to such Jury List, by a reference to the number belonging to such name on that List; 10

List so made to be the Grand Jury List for Superior Courts. 11. And such List so selected and transferred, shall be the Grand Jury List for the Superior Courts for the year next after the same has been so selected.

Grand Jurors List for Inferior Courts to be made in like manner. LIV. After the said Grand Jury List for the Superior Courts has been so selected and transferred as aforesaid, the said Selectors shall in like manner proceed to select and transfer from the Roll of Jurors to serve as Grand Jurors in the said Inferior Courts, to a similar List in the same Book, to be called "The Grand Jury List for the Inferior Courts" for such next year, the required number of names from such Roll, which last mentioned List so selected and transferred, shall be the Grand Jury List for the Inferior Courts for the year next after the same has been so selected as aforesaid; 15 20

And then Lists of Petit Jurors for Superior and Inferior Courts. LV. After which the Selectors shall in like manner proceed to select and transfer from the Roll of Jurors to serve as Petit Jurors in the said Superior Courts, the Petit Jury List for the Superior Courts for such year, and lastly from the Roll of Jurors to serve as Petit Jurors in the said Inferior Courts, the Petit Jury List for the Inferior Courts for such year. 25

The Chairman and Clerk of the Peace to certify books. LVI. So soon as the four Jury Lists have been so selected, and transferred, the Chairman and Clerk of the Peace shall certify under their hands in the said book, immediately after each of such Jury Lists, that the same was on such a day duly selected and transferred from the proper Roll in open Court as the Law directs; whereupon such Juror's Book, with the Jury Lists so certified, shall be deposited with the said Clerk of the Peace to be kept on file in his office. 30 35

If Chairman absent, another Justice to preside. LVII. All the duties by this Act required of the Chairman of the Quarter Sessions of the Peace, shall and may in his absence be performed by the presiding member of such Court for the time being. 40

If the Jury Lists are not so made at the time hereby appointed, LVIII. In case from any cause such lists or either of them are not selected pursuant to the provisions of this Act, in any County or City, the Governor may by warrant under his privy Seal, of which a copy shall be published in the Official. 45

Gazette of the Province, and also (if there be such) in one public newspaper published in such County or City, as the case may be, fix a day not sooner than fourteen days from the publication of the warrant in the Gazette, and also a place in
 5 such County or City for holding a Special Sittings or Sessions of the Court of Quarter Sessions of the Peace or Recorder's Court as the case requires, for the purpose of selecting such Jury lists as hereinbefore directed; and the several provisions and clauses of this Act, relating to the Sittings or
 10 Sessions of such Court, in presence of which the selecting of such Jury lists are hereinbefore directed to be done, shall extend and apply to and be in force with respect to any such Special Sittings or Sessions.

the Governor may appoint another day for the purpose.

VI.—JURY PROCESS.

LIX. The Judges, Justices and others to whom the holding of
 15 any Sittings or Sessions of Assize and *Nisi Prius*, Oyer and Terminer, Gaol Delivery, Sessions of the Peace, or County Court, by law belongs, or some one or more of such Judges, Justices or others, shall for that purpose issue Precepts to the Sheriff or other proper Officer or Minister for the return of a
 20 competent number of Grand Jurors, for cases criminal for such sittings or Sessions, and of a competent number of Petit Jurors for the trial of such issues or other matters of fact, in cases criminal and civil, as it may be competent to such Petit Juries to try at such Sittings or Sessions according to law.

General Precepts may be issued to Sheriffs.

LX. The several precepts for the return of Panels of Grand
 25 and Petit Jurors for any Sittings or Sessions of Assize and *Nisi Prius*, Oyer and Terminer, Gaol Delivery, Sessions of the Peace, or County Court, shall be issued to the Sheriff or other Officer or Minister to whom the return of such precepts belongs
 30 as soon as conveniently may be after the Commission, or other day is known upon which the Jurors to be returned upon such precepts, are to be summoned to attend, and where such day is fixed by law, then as soon as conveniently may be after the close of the last preceding Sittings or Sessions of the
 35 like Court: but the Sheriff may return the same panels to the precepts, for the return of panels of Petit Jurors for the Sittings or Sessions of the Peace and for the Sittings or Sessions of the County Court, in all cases where the same day is appointed for holding such respective Sittings or Sessions.

At what period to issue.

LXI. The number of the Petit Jurors to be returned on any
 40 General Precept for the return of Petit Jurors for any sittings or Sessions of Assize and *Nisi Prius*, Oyer and Terminer, Gaol Delivery, Sessions of the Peace or County Court, shall not in any case be less than forty-eight nor more than seventy-two, un-
 45 less by the direction of the Judges appointed to hold such Sittings or Sessions of Assize and *Nisi Prius*, Oyer and Terminer, Gaol Delivery, Sessions of the Peace, or County Court, or one

Number to be summoned.

of them, who are hereby empowered, by order under hand and seal, to direct that a greater or less number shall be the number to be returned.

According to the precept.

LXII. In any County in which any Justice of Assize think fit so to direct the Sheriff to whom the return of the precept 5 for the trial of causes at *Nisi Prius* for such County belongs, shall :

Within certain limits as to numbers.

1. Summon and impanel such number of Petit Jurors not exceeding one hundred and forty-four in any County, except the County of York or any Union of which that County for the 10 time being is the Senior County, (and in the said County or Union of Counties last mentioned, not exceeding two hundred and eighty-eight,) as such Justices may think fit to direct, to serve indiscriminately on the criminal and civil side ; and

Where two sets of jurors may be summoned.

2. Where such Justice so directs, the Sheriff shall divide 15 such Jurors equally into two sets, the first of which sets shall consist, except as hereinafter provided, of the necessary number of those first drawn upon such Panel, and the Jurors of the first set shall attend and serve for so many days at the beginning of each Assize as such Justice, within a reasonable time before 20 the commencement of such Assize directs, and the Jurors of the second set shall consist, except as before excepted, of the residue of such Jurors, and such Jurors shall attend and serve for the residue of such Assize ; but

Names therein to be designated.

3. The Sheriff shall in the summons to each Juror, in each 25 of such sets, specify whether the Juror named therein, is in the first or second set, and at what time the attendance of such Juror will be required ; and

Attendance of first set and second set.

4. During the attendance and service of the first of such 30 sets, the Juries on the civil side shall be drawn from the names of the persons in that set, and during the attendance and service of the second of such sets, from the names of the persons in such second set ; and

If a view has been granted.

5. In case a Rule for a view has been obtained, in a cause to be tried by a Jury taken from such Panel, the Judge 35 before whom such case is to be tried, shall, on the application of the party obtaining the Rule, appoint that in case the names of any one of the viewers stands in the Panel among the first half of the names therein the names of all the viewers shall by such Sheriff be placed in the first of such 40 sets, and that the case shall be tried during the attendance and service of that set of Jurors.

The Courts may issue Writs and

LXIII. Her Majesty's two Superior Courts of Common Law at Toronto, and all Courts of Oyer and Terminer, and Gaol Delivery in Upper Canada, shall respectively have the same 45

powers and authority as heretofore in issuing any writ or precept, or in making any award or order orally or otherwise for the return of a Jury for the trial of any issue before any of such Courts respectively, or for the amending or enlarging the
 5 Panel of Jurors returned for the trial of any such issue; and the return to any such writ, precept, award or order shall be made in the manner heretofore used and accustomed in such Courts save and except that the Jurors shall be returned from the body of the County, and not from any township or from any
 10 particular venue within the County, and shall be qualified according to this Act.

Precepts as heretofore.

LXIV. In case the Court of Chancery issues a precept or order, directed to the Sheriff of any County, requiring him to strike or summon a Jury for the trial of any issue or issues,
 15 such Jury shall be struck and summoned (as nearly as may be) in the same manner as is herein provided for striking and summoning Petit Jurors for the Superior Courts of Common Law.

The Court of Chancery may issue precepts.

LXV. The several directions in this Act contained, respecting the issue of precepts for the return of a Panel of Grand
 20 Jurors for the sittings or Sessions of Oyer and Terminer, and Gaol Delivery, as well as for the execution and return of such precepts, with all things touching the same, shall in all particulars, be observed and followed, with respect to the Sittings or Sessions of the General Quarter Sessions of the Peace, and
 25 with respect to the Sittings or Sessions of the Recorder's Courts of the Cities in which such Courts are established.

The directions for precepts, &c., at the Assizes to apply also to Quarter Sessions, &c.

LXVI. The several directions in this Act contained respecting the issue of precepts for the return of a General Panel of Petit Jurors for the Sittings or Sessions of Assize and *Nisi Prius*, as well as for the execution and return of such precepts with all things touching the same, except only those contained in the
 30 section of this Act, shall be observed and followed in all particulars with respect to the Sittings or Sessions of the several Quarter Sessions and County Courts and
 35 of the several Recorder's Courts of the Cities in which such Courts are established.

And County Courts.

LXVII. The Judges of the County Courts respectively, if required by either Plaintiff or Defendant in a suit where the Sheriff is the opposing party, shall issue a precept to a Coroner of their respective Counties, at least fourteen days before the week in which the General Quarter Sessions of the Peace are to be holden, requiring him to summon, and he is hereby directed thereupon to summon, the number of Jurors expressed in such precept, to be and appear at the time and place when and where the General
 40 Quarter Sessions are to be holden, on the same day on which such Sessions are generally holden, from whom a jury shall be taken for the trial of the issue or the assessment of damages, in like manner as practised in cases at *Nisi Prius*.

If the Sheriff is a party, the County Courts to issue a precept to the Coroner.

Writs of *Venire Facias Juratores* to direct the return of 12 jurors.

LXVIII. When necessary, every Writ of *venire facias juratores*, for the trial of any issue, civil or criminal, or on any penal Statute, in any of the Courts hereinbefore mentioned, shall direct the Sheriff or other Officer or Minister to whom the same is directed, "to return twelve good and lawful men of the body of his County, qualified according to law," and the rest of the Writ shall proceed in the accustomed form. 5

What precepts shall express.

LXIX. Every precept issued for the return of Jurors for Sittings or Sessions of Assize and *Nisi Prius*, Oyer and Terminer, Gaol Delivery, Sessions of the Peace, or County Court, shall in like manner direct the Sheriff or other Officer or Minister to whom the same is directed, "to return a competent number of good and lawful men of the body of his County, qualified according to law," and shall not require the same to be returned from any Township, or from any particular *venue* within the County. 10 15

Teste, &c., of Writs for the summoning of jurors in special instances.

LXX. Except in trials at Bar, the Writ of *venire facias juratores*, where by Law necessary, may be tested on the day on which the same issues and be made returnable on any day in Term or vacation, and except in trials at Bar, the Writ of *distringas juratores* and *habeas corpora* may be tested either on the return day of the *venire* or on any subsequent day in Term or vacation and as well after as before or on the Commission day of the Assizes at which the cause in which the same may be sued out is intended to be tried, and any such process may be sued out of the office of the Deputy Clerk of the Crown and Pleas in the County, as well as out of the principal office at Toronto. 20 25

Contents of Writs of *Habeas Corpus Juratores*, &c.

LXXI. In any Writ of *habeas corpora juratorum* or *distringas* subsequent to and founded upon any Writ of *venire facias juratores*, it shall not be requisite to insert the names of all the Jurors contained in the panel, but it shall be sufficient to insert in the mandatory part of such Writs respectively—"the bodies of the several persons in the panel to this Writ annexed, named," or words of the like import, and to annex to such Writs respectively, panels containing the same names as were returned on the panel to such *venire facias*, with their places of abode and additions. 30 35

Writs of *Venire Facias Juratores*, &c., not necessary at the Assizes, &c.

LXXII. For the trial of issues in cases whether criminal or civil which come on in course for trial at any Sittings or Sessions of Assize and *Nisi Prius*, Oyer and Terminer, Goal Delivery, Sessions of the Peace, or County Court, it shall not be necessary to sue out any Writ of *venire facias juratores* or other Jury process, but the award of such process by the Court and the entry of such award where necessary on the Roll, together with the return of a panel of Jurors upon the general precept issued for such Sittings or Sessions, and the trial of such issues respectively by a Jury taken from such general 40 45

Panel in the manner hereinafter provided, shall be sufficient and shall be as valid and effectual in law as if such *venire facias juratores*, or other process, had been actually and regularly sued out in each case, and the names of the Jurors had been regularly returned upon such Jury process.

1. But nothing in this section contained shall extend to any issue, to be tried at Bar, or by order of the Court of Chancery, or by a Special Jury, or by a Jury *de medietate linguæ*, or *de ventre inspiciendo*, or in a case in which a view has been granted.

Trials at Bar not to be affected.

2. Every Jury of which some of the Jurors have been regularly taken from such general Panel, shall, notwithstanding its being completed by the award of a *tales de circumstantibus*, be deemed to have been taken from such general Panel for the purposes of this section.

Talesmen to be deemed taken from the general panel.

3. To every *venire facias* directed to a Sheriff in a case in which a view has been granted, and which *venire facias* is not endorsed for the return of a Special Jury thereon, such Sheriff shall return the same Jurors as those whose names are inserted in the panel returned upon the general precept for the Sittings or Sessions at which such cause is to be tried.

When view granted, what Sheriff shall do on the *Venire Facias Juratores*.

LXXIII. If when the cause is at issue, any Plaintiff or Demandant or any Defendant in *Quare impedit* or *Replevin* has sued out a Writ of *Venire Facias* upon which a Writ of *Habeas Corpora* or *distringas* with a *Nisi Prius* has issued in order to the trial of the said issue at the Assizes or Sessions of *Nisi Prius*, and does not proceed to trial at the first Assizes or Sessions of *Nisi Prius* after the teste of such Writ of *Habeas Corpora* or *distringas*, then, (except when a view by Jurors is directed) such Plaintiff, Demandant or Defendant, whenever he intends to try the issue at any other Assizes or Sessions of *Nisi Prius*, shall sue forth a new Writ of *Venire Facias*, commanding the Sheriff or other Minister to return anew, twelve good and lawful men of the body of the County qualified according to Law, and the rest of the Writ shall proceed in the accustomed manner; which Writ being duly returned, a Writ of *Habeas Corpora* or *distringas* with a *Nisi Prius* shall issue thereupon, upon which such Plaintiff, Demandant or Defendant, may proceed to trial, as effectually to all intents and purposes, as if no former Writ of *Venire Facias* had been prosecuted in that cause, and so *toties quoties* as the case may require.

What to be done if cause not tried at the first Court in which a *Venire Facias Juratores* is returnable.

LXXIV. Nothing in this Act contained shall alter, abridge or affect any power or authority, which any Court or Judge now hath, or any practice or form, in regard to trials by Jury, Jury Process, Juries or Jurors, except in those cases only where any such power or authority, practice or form, is repealed

Former powers of Courts and Judges in trials by jury not abridged, unless by ex-

press provisions.

or altered, or is inconsistent with any of the provisions hereof, or shall change or alter any privilege of Parliament.

VII.—DRAFTING PANELS FROM JURY LISTS.

How Sheriffs to draft panels of jurors.

LXXV. Every Sheriff or other Officer to whom any Writ of Venire Facias or precept for the return of Jurors is directed, shall to such Writ or precept return a panel of the names of the Jurors contained in the proper Jury List for the year, whose names shall be drafted from such List in the manner hereinafter mentioned. 5

If no jurors' book for the year.

LXXVI. If there is no Jurors' Book, or certified copy thereof, in existence for the year, the Sheriff may return to any such Writ or precept, a panel of Jurors selected in like manner from the proper Jury List in the Jurors' Book of the nearest preceding year, for which there is a Jurors' Book or certified copy thereof in existence. 10

If not a sufficient number in such lists.

LXXVII. If there are no Jurors, or not a sufficient number of such Jurors upon any Jury List from which a panel is so required to be drafted, liable to be drafted and to serve upon such panel, the Sheriff may return to the Writ or precept, a panel of Jurors selected in like manner, or the residue of whom respectively have been selected in like manner, from the proper Jury List in the Jurors' Book of the nearest preceding year for which there is a Jurors' Book or certified copy thereof in existence. 15 20

What notice Sheriffs shall give.

LXXVIII. Upon any Sheriff or other officer being called upon to return a Panel of Jurors, whether Grand or Petit, he shall give public written notice in his office and also on the door of the Court House of the County, or if there be no Court House, then in some other public place, of the day and hour at which he will attend at the office of the Clerk of the Peace to draft such panel of Jurors from the Jury List, and at such time and place he shall proceed publicly to draft the panel by ballot from the Jury List in the presence of the Clerk of the Peace and any two Justices of the Peace of the County; who, upon reasonable notice from such Sheriff are hereby required to attend, and in the presence of any other person or persons who may desire to be present. 30 35

To be eight days if time admits.

LXXIX. If the Sheriff or other officer has sufficient time, he shall give every such notice at least eight days before the drafting of the panel, and if there is not sufficient time for that purpose, he shall give such notice as soon after his receipt of the preceptor writ as conveniently may be. 40

The drafting if not completed may be resumed.

LXXX. If the drafting or completing of the panel, at the time appointed, is prevented by unavoidable accident, the same may be had or completed at any other time in the presence of

the Clerk of the Peace, and two Justices of the Peace, upon a similar notice being first given of such time.

LXXXI. In proceeding to draft a panel of Jurors from the Jury List, the Sheriff or other officer to whom the return of the panel belongs, shall in the first place prepare a proper title or heading for the panel of Jurors to be returned, to which he shall fix an appropriate number according as such panel by the Juror's Book appears to be the first, second, third or subsequent panel drafted from such Jury List, and the title or heading shall set forth the number of Jurors to be returned in words at length, or (where such Sheriff has a discretion as to such number,) the number that in the exercise of such discretion, he has determined to return, and the number when discretionary, shall not be altered after the same has been so inserted in such title or heading.

How Sheriffs to prepare a panel.

LXXXII. In the second place, the Sheriff or other officer shall append to such title or heading, a list of numbers from one forward to the number required, and shall prepare a set of Ballots or pieces of Parchment, Card or Paper of uniform and convenient size, such set containing the same number of ballots as there are numbers on the Jury List from which the panel is to be drafted, allowing one number to each Ballot printed or written on the same, and shall then proceed to draft the panel of Jurors in the manner hereinafter mentioned.

Same subject.

LXXXIII. The manner of drafting the panel shall be as follows, that is to say :

How panel of jurors to be drafted.

1. The Sheriff, or other officer to whom the return of the panel belongs, shall place the Ballots promiscuously in a Box or Urn to be procured by him for that purpose, and shall cause such Box or Urn to be shaken so as sufficiently to mix the ballots, and he shall then openly draw from the said Box or Urn indiscriminately, one of the said ballots, and declare openly the number of such ballot, whereupon the Clerk of the Peace, or one of the Justices of the Peace present as aforesaid at such drawing, shall immediately declare aloud the name to which such number is appended in the Jury List from which the Panel is drafted ;

2. And thereupon, if such person is exempt from being drafted or serving upon such panel, under the seventh section of this Act, or if upon the face of such Jury List it appears that the person whose number has been so drafted had previously been drafted to serve on a panel drafted from such Jury List in obedience to a precept for the return of a general panel for any sessions or sittings of Assize and *Nisi Prius*, Oyer and Terminer, Gaol Delivery, General Quarter Sessions of the Peace, or County Court, and that such person had actually attended and served upon such panel, and if a sufficient number

Same subject.

of names to complete the panel then in course of being drafted, remain on such Jury List without taking any of those who had been previously drafted from the same list upon any former panel, the sheriff shall publicly announce the same, and that the name of the person so drafted is on such account, not inserted in the panel ; 5

Same subject. 3. But if upon examination of such Jury List, no such cause appears for omitting the name of such person from the panel then being drafted, the name and addition of the person whose name has been so drafted, shall be thereupon written down on a sheet of paper provided for that purpose, and such name shall, by the said Sheriff or other Officer, be thereupon marked on the said Jury List, with a reference to the number which will belongs to such panel in the Jurors' Book ; 15

Same subject. 4. Which being done, the Sheriff shall proceed in like manner to draft and dispose of other numbers from the said Box or Urn, until the necessary number for the panel to be so drafted has been completed ;

5. After which, the names so drafted, with the places of residence and additions of the parties, arranged alphabetically, shall, by such Sheriff or other officer, be transcribed on another sheet of paper, with a reference to the number of such name on the Jury List, and such name shall, by the said Sheriff or other Officer, or his Deputy, be thereupon marked in the said Jury List, with a reference to the number which will belong to such panel in the Jurors' Book ; 25

Same subject. 6. Whereupon, such panel so alphabetically arranged and numbered, with a short statement of the Writ or Precept in obedience to which it has been drafted, the date and place of such drafting, and the names of the Sheriff or other officer or Minister, or his Deputy, and of the Clerk of the Peace and Justices of the Peace, present at such drafting, or at least of two of them, shall be fairly entered in the said Jurors' Book, and attested by the signatures of such Sheriff or other Officer or Minister, or his Deputy, and of the said Clerk of the Peace and the said Justices, or at least two of them. 35

The panel to be annexed to the Writ or precept and a copy sent to the Clerk of the Queen's Bench.

LXXXIV. The said Sheriff shall, upon his return of the Writ of *venire facias*, or Precept under authority of which such panel has been drafted, annex a panel to the said Writ, or Precept containing the names, together with the places of abode and additions of the persons so drafted upon such panel, and shall transmit one copy thereof to the office of the Clerk of the Peace of the proper County, and another to the Clerk of the Crown and Pleas of Her Majesty's Court of Queen's Bench at Toronto, or Deputy Clerk of the Crown, as the case may be. 45

LXXXV. Each of such copies, as well as the Jurors' Book, shall at all reasonable times be open to inspection by litigants or their professional Agents, without fee or reward.

Jury books, &c. to be open to inspection.

JURORS, WHEN SUMMONED BY CORONERS, ELISORS, &C.

LXXXVI. The manner of drafting or striking, returning and summoning Jurors by the Sheriff upon writs of *venire facias juratores* as prescribed by this Act, shall be observed and followed by all Coroners, Elisors, and other Officers and Ministers having the return of Jury process, and they shall for such purpose have free access at all reasonable times to the Jurors' Book in the Office of the Clerk of the Peace of the proper County; and every such Coroner, Elisor, and other Officer and Minister shall possess all the powers and perform all the duties, in any way connected with the drafting, striking, returning and summoning such Jurors, as in and by this Act are prescribed to or vested in the Sheriffs of the different Counties, with respect to Jurors returned by them upon similar process.

How jurors to be summoned by Coroners and Elisors.

VIII.—SUMMONING JURORS.

LXXXVII. The proper Officer shall summon every man bound to serve on Grand Juries or on Petit Juries, not being Special Juries, in any of the Courts aforesaid, eight days at least before the day on which the Juror is to attend, by delivering to him, or in case of his absence from the usual place of his abode, by leaving with some grown person there inhabiting, a note in writing under the hand of the Sheriff or other proper Officer, containing the substance of such summons.

Jurors to be summoned; eight days.

LXXXVIII. The proper officer shall summons every man to serve on Special Juries in any of the Courts aforesaid, in the like manner as aforesaid, three days at the least before the day on which the Special Juror is to attend; which last mentioned day may be upon, or any day after the first day of the Assizes at which the cause is to be tried.

Special jurors to be summoned three days.

LXXXIX. The Judges of the different Courts may, by any general rules to be made by them for that purpose, make such regulations as they deem expedient for regulating the time and manner of bringing on such Special Jury trials at *Nisi Prius*.

The Judges may make order as to calling on special jury cases for trial.

XC. The proper officer notwithstanding any thing in this Act contained shall summon in the manner heretofore used and accustomed, every person required to serve upon any Inquest or Inquiry before any Coroner, or before any Commissioners appointed under the Great Seal of this Province or under the Seal of either of Her Majesty's Superior Courts of Common Law at Toronto, or to serve as a talesman upon any Jury either for the trial of an issue, or assessment of

The proper officer to summon jurors whenever required.

damages, in any of the Courts aforesaid, or any matron to serve on a Jury *de ventre inspiciendo*.

Sheriff indemnified for returning unqualified persons if in the rolls of jurors.

XCI. Every Sheriff and other Officer or Minister to whom the return of Jurors belongs, is hereby indemnified for empannelling and returning any man as a Grand or Petit Juror 5 named in and taken from the Grand or Petit Jurors' Rolls for the year in which he has been summoned, although he may not have been qualified or liable to serve as such Juror for such year.

IMPANNELING GRAND JURY.

How grand jurors to be empannelled if a sufficient number do not appear.

XCII. When there do not appear as many as twelve of the 10 Grand Jurors summoned upon a Panel returned upon any Precept to any Court of Criminal Jurisdiction, every such Court, upon request made for the Queen by Her Attorney or Solicitor General, or any of Her Counsel Learned in the Law, or in their absence, by the County Attorney or by any one thereto au- 15 thorized or assigned by such Court, shall command the Sheriff or other Officer or Minister to whom the making of the return belongs, to name and appoint, so many of such other able men of the County or City, as the case may be, then present, as will make up a Grand Inquest of twelve, and the Sheriff or other 20 Officer or Minister aforesaid, shall at such command of the Court, return such duly qualified men as are present or can be found, to serve on such Grand Inquests, and shall add and annex their names to the Panel returned upon such Precept; and the Court shall proceed with those Grand Jurors who were before empan- 25 nelled, together with the Talesmen so newly added and annexed, as if all the said Jurors had been originally returned upon such precept.

XI.—DRAWING JURY AT TRIAL.

Impanelling jury at the trial.

XCIII. The name of each man summoned and empanelled as a Petit Juror upon the general precept for any sittings 30 or Sessions of Assize and *Nisi Prius*, Oyer and Terminer, Gaol Delivery, Sessions of the Peace or County Court, with his place of abode and addition, shall by the Sheriff be written distinctly on a piece of Parchment, Card, or Paper, as nearly as may be of the form and size following, viz :

35

<p>DAVID BOOTHE, of Lot No. 11, in the 7 Con. of Albion, MERCHANT.</p>
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and such names so written shall by the direction and care of such Sheriff be put together in a Box or Urn to be by him provided for that purpose, and shall be by him delivered to the Clerk of Assize, or other Clerk of such Court.

5 XCIV. When any issue is brought on to be tried, or damages to be assessed such Clerk of Assize or other Clerk shall : How the Clerk is to proceed.

1. In open Court, cause such Box or Urn to be shaken so as sufficiently to mix the names, and then draw out twelve of the Parchments, Cards or Papers one after another, Drawing names from the Box, &c.
 10 (causing the Box or Urn to be shaken after the drawing of each name) and if any of the Jurors whose names are so drawn do not appear or are challenged and set aside, then such further number until twelve Jurors are drawn, who do appear, and who after all just causes of challenge allowed, remain as fair
 15 and indifferent, and the first twelve Jurors so drawn appearing and approved as indifferent, their names being noted in the minute Book of the Clerk of Assize, or other Clerk of the Court, shall be sworn or affirmed (as the case may be), and shall be the Jury to try the issue, or assess the damages, and

20 2. The names of the men so drawn and sworn shall be kept apart by themselves until the Jury have given in their verdict, and the same has been recorded, or until such Jury have been by consent of the parties, or by leave of the Court, discharged, and then the same names shall be returned to the Box or Urn, there
 25 to be kept with the other names remaining at that time undrawn, and so *toties quoties* as long as any issue remains to be tried, or damages to be assessed. Men drawn to be kept apart, &c.

XCIV. If any issue is brought on to be tried or damages to be assessed at any of the said Sittings or Sessions before the Jury If another Jury is required before the last drawn have brought in their verdict.
 30 in any other cause have brought in their verdict, or been discharged, the Court may order twelve of the residue of the said Parchments, Cards or Papers (not containing the names of any of the Jurors who have not brought in their verdict or been discharged,) to be drawn in the manner last aforesaid, for the trial
 35 of the issue so brought on to be tried or for the assessment of damages as the case may be.

XCVI. Notwithstanding the two last preceding Sections, Several causes may be tried in succession by the same jury.
 where no objection is made on the part of the Queen, or any other party, the Court may try any issue or assess damages with
 40 the Jury previously drawn to try any other issue, or to assess damages without their names being returned to the box or urn, and redrawn, or may order to retire any of such Jurors whom both parties consent to withdraw, or who may be justly challenged or be excused by the Court, and may cause another
 45 name or other names to be drawn from the box or urn, and shall try the issue or assess the damages with the residue of the original Jury and such new Jurors who appear and are approved

as indifferent, and so *toties quoties* as long as any issue remains to be tried.

If a full jury do not appear a tales may be granted.

XCVII. When a full Jury does not appear before any Court of Assize and *Nisi Prius*, or before any sittings of any County Court for the trial of issues or assessment of damages as at *Nisi Prius* or before any Court of a City when engaged in the trial of a civil suit, or where after the appearance of a full Jury, by challenge of any of the parties, the Jury is likely to remain untaken for default of Jurors, every such Court, upon request made for the Queen by any one thereto authorized or assigned by the Courts, or on request made by the parties Plaintiff, Demandant, Defendant or Tenant, or their respective Attornies, in any action or suit whether shall command the Sheriff or other Officer or Minister to whom the making of the return belongs, to name and appoint as often as need requires so many of such other able men, of the County or City, as the case may be, then present, as will make up a full Jury, and the Sheriff or other Officer or Minister aforesaid, shall, at such command of the Court, return such duly qualified men as may be present, or can be found, to serve on such Jury and shall add and annex their names to any Panel that has been returned upon any Precept or *venire facias*, in such cause.

X.—CHALLENGES.

The want of qualification a good ground of challenge.

XCVIII. If any man not duly qualified is returned as a Juror for the trial of any issue in any cause civil or criminal, or on any Penal Statute, the want of such qualification shall be a good cause of challenge, and he shall be discharged upon such challenge, if the Court is satisfied of the fact; But the want of a sufficient property qualification shall not, at the trial of any such case, be a good cause of challenge, either by the Crown or by the party, nor a cause for discharging the Juror upon his own application. And nothing herein contained shall extend in any wise to any Special Juror.

Not the want of freehold.

Peremptory challenges limited to twenty in felony.

XCIX. No person arraigned for murder or other felony shall be admitted to any peremptory challenge above the number of twenty.

In misdemeanors limited to two.

C. A defendant arraigned for a misdemeanor, or if there be more than one, such of them as are tried together and unite in their challenges, may challenge peremptorily without assigning any cause for the same, any three of the Jurors called upon to serve on such trial.

When the Crown bound to shew cause of challenge.

CI. In all inquests to be taken before any of the Courts wherein the Queen is a party, howsoever it be, notwithstanding it be alleged by them that sue for the Queen, that the Jurors of those inquests or some of them, be

not indifferent for the Queen, yet such inquests shall not remain untaken for that cause ; but if they that sue for the Queen will challenge any of those Jurors, they shall assign of their challenge a cause certain, and the truth of the same challenge shall be inquired of according to the custom of the Court ; and it shall be proceeded to the taking of the same inquisitions as it shall be found if the challenges be true or not, after the discretion of the Court ; But nothing herein contained shall affect or be construed to affect the power of any Court in Upper Canada, to order any Juror to stand by until the panel is gone through, at the prayer of them that prosecute for the Queen, as has been heretofore accustomed.

CII. In any civil case, and any case upon Penal Statute, each party, the plaintiff or plaintiffs, demandant or demandants, on one side, and the defendant or defendants, tenant or tenants, on the other, may on each side except in the case of special Jurors, challenge peremptorily without assigning any cause for the same, any three of the Jurors drawn to serve on the trial of the cause.

In civil cases each party may challenge two.

THAT JURORS AFFIRM, NO CAUSE OF CHALLENGE.

CIII. It shall not be a good ground of challenge against any person, called upon to serve as a Juror, that he belongs to any Religious persuasion or denomination allowed by Law to affirm instead of taking an Oath, but every such person shall be as eligible and liable to serve on all Juries and inquests on his being affirmed, as if he had been sworn in the usual way.

What a juror affirm, no cause of challenge.

ENTRY AND CERTIFICATE OF SERVICE OF JURORS.

CIV. Immediately after the Sittings or Sessions of any Court of Assize and *Nisi Prius*, Oyer and Terminer, Gaol Delivery, Sessions of the Peace, or County Court, the Sheriff shall, on the Jury List from which the Panel of Grand Jurors (if any) returned to such Sittings or Sessions was drafted, and on the Jury List from which the Panel of Petit Jurors returned upon the General Precept to such Sittings or Sessions was drafted, opposite the names of the Jurors respectively, note the non-attendance or default of all such of the Jurors in such Panels as have not duly attended and served upon such Panels until discharged by the Court.

The Sheriff to keep a record of jurors who serve.

CV. Every Juror who has attended and served upon any such Panel as last aforesaid, shall (upon application by him made to the Sheriff or Deputy Sheriff, before he departs from the place of trial), receive a certificate testifying his attendance and service, which certificate the Sheriff or Deputy Sheriff shall give upon payment of One Shilling.

And grant a certificate thereof if demanded.

The High Bailiff to perform similar duties in Recorder's Courts.

CVI. Immediately after every Session of the Recorder's Court for any City, the High Bailiff of such City shall, on the Jury List from which the Panel of Grand Jurors returned to such Session was drafted, and on the Jury List from which the Panel of Petit Jurors returned upon the General Precept to such Session was drafted, opposite the names of the Jurors respectively, note the non-attendance or default of all such of the Jurors in such Panels respectively as have not duly attended and served upon such Panels until discharged by the Court. 5

Same subject. CVII. Every Juror who has so attended and served upon any such Panel as last aforesaid, shall (upon application by him made to such High Bailiff or his Deputy before he departs from the place of trial) receive a certificate testifying his attendance and service, which certificate the High Bailiff or his Deputy shall give upon payment of one shilling. 15

XI.—SPECIAL JURIES.

Either party may strike a special jury.

CVIII. Her Majesty, or any prosecutor, Relator, Plaintiff, or Demandant, and any Defendant or Tenant in any case whatever, whether civil or criminal, or on any Penal Statute, excepting only on Indictments for Treason or Felony, may have the issue joined in any such case and triable by a Jury, tried by a Special Jury upon suing out the necessary Jury Process for that purpose, and procuring such Special Jury to be struck and duly summoned for the day on which the trial of such case is to be had, and every Jury so struck shall be the Jury returned for the Trial of such issue. 25

New trial in special jury cases.

CIX. In the event of a new Trial being ordered in any case after the verdict of a special Jury, the *venire facias juratores* shall set forth the names of the Jurors who sat on the first trial of such cause, or in the event of more trials than one having been previously had, the names of all Jurors who sat upon any of such trials, and none of the Jurors who so sat on any such former trial shall be returned or sit as Jurors upon any subsequent trial of the same cause. 30

The party requiring a special jury may sue out a Writ of *Venire Facias Juratores*.

CX. In every case, the party desiring a Special Jury to be struck, whether an actor in the cause or not, shall have a right in person, or by his Attorney or Agent, to sue out a Writ of *venire facias juratores* for that purpose, and every such Writ before being delivered to the Sheriff or other Officer or Minister to whom it is directed, shall be indorsed with a direction to such Sheriff or other Officer or Minister requiring him to return a Special Jury on the same, and every such Sheriff or other Officer or Minister upon receipt thereof shall, by a Memorandum in writing upon such Writ, appoint some convenient day and hour for striking such Special Jury, the day and hour so fixed being sufficiently distant to enable the party suing 35 40

out the said *venire* to give the necessary notice to the opposite party.

CXI. In any such case the party, his Attorney or Agent suing out the *venire facias*, shall give notice in writing to the opposite party, his Attorney or Agent, that he has sued out a *venire facias* in the cause for the purpose of having a Special Jury struck therein, and of the day and hour appointed by the Sheriff or other Officer or Minister for striking the same, and such notice shall be served on the opposite party, his Attorney or Agent, four full days before the day so appointed, and an Affidavit or Affirmation of such service, or an admission in writing under the hand of the Attorney or Agent on whom it has been served, shall be produced to the Sheriff or other Officer or Minister at the time appointed for striking such Special Jury, and in default thereof the Sheriff or other Officer or Minister shall not proceed to strike the Special Jury upon such appointment.

Such party to give notice to the opposite party.

CXII. Every Special Jury to be struck under the authority of the *one hundred and* of this Act, shall, except as hereinafter provided, consist solely of persons whose names appear on either the Roll of Grand Jurors for the Superior Courts or on the Roll of Grand Jurors for the Inferior Courts for the year in which the Writ of *venire facias* is returnable, and the same shall be struck in the manner hereinafter provided.

Qualification of special juries to be struck under the section.

CXIII. Every such Special Jury shall be struck in the following manner, that is to say :

How a special jury is to be struck.

1. The Sheriff shall provide a set of Ballots or pieces of parchment, card or paper, of as uniform and convenient a size as reasonably may be, and containing the same number of Ballots as there are numbers on the respective Grand Jurors' Rolls from which the Special Jury is to be struck, upon which ballots shall be printed or written, the whole of the numbers of such Grand Jurors' Rolls allowing one number to each Ballot, and distinguishing each number by the letters S. C. or I. C. according as it belongs to the Roll of Grand Jurors for the Superior Courts, or to the Roll of Grand Jurors for the Inferior Courts ;

Ballots to be prepared.

2. And at the office of the Clerk of the Peace, at the time appointed for such purpose in the presence of all the parties in the case and of their Attorneys and Agents (if they respectively choose to attend, or if none of the said parties, their Attorneys or Agents, attend, then upon such proof as is hereinbefore provided of the service of the notice of striking such Special Jury) the Sheriff shall put all the said Ballots in the box or urn, and after having caused the said box or urn to be shaken so as sufficiently to mix the said Ballots, he shall draw out of the said box or urn forty of the said numbers, one after another, and shall, as each

Drawing Juries.

number is drawn, refer to the corresponding number in the Grand Jurors' Roll to which such Ballot may belong, and read aloud the name to which such number is appended in the said Roll ;

Objection to
Jurors drawn.

3. And if at the time of so reading any such name, either party, or his Attorney or Agent, objects that the man whose name has been so drawn is in any manner incapacitated from serving on the said Jury, and also then and there proves the same to the satisfaction of such Sheriff, the name shall be set aside, and the said Sheriff shall instead thereof draw out of the said box or urn another number, and shall in like manner refer to the corresponding number in the Grand Jurors' Roll, to which such Ballot may belong and read aloud the name to which such number is appended in the said Roll, and such name may be in like manner set aside, and other numbers and names be drawn according to the mode of proceeding hereinbefore described, for the purpose of supplying names in the places of those set aside, until the whole number of forty names not liable to be set aside is completed ;

If forty names
cannot be ob-
tained.

4. And if in any case it happens that the whole number of forty names cannot be obtained from the said Grand Jurors' Rolls, the Sheriff shall in like manner from the Grand Jurors' Rolls in the Jurors' Book of the nearest year for which there is a Jurors' Book or certified copy thereof, in the office of the Clerk of the Peace, ballot, in addition to those already taken from the first mentioned Grand Jurors' Rolls, the number of names required to make up the full number of forty names ;

Sheriff to
make List.
Striking out.

5. And the said Sheriff shall thereupon make out a List of the forty names, together with their respective places of abode and additions, from which List, after a reasonable time allowed in the discretion of such Sheriff for enquiry and consideration respecting the same, each party, his Attorney or Agent shall strike out twelve names, such names being so struck out by the parties one by one alternately, the party suing out the *venire facias* commencing ;

Sixteen
Jurors at
least to be
summoned.

6. And the Sheriff shall return upon such *venire facias*, and summon thereon the sixteen persons whose names remain on such List, to appear on the day appointed for the trial of such cause ;

Special Jurors
how formed.

7. And from such sixteen persons, or so many of them as appear in obedience to the summons, shall be taken by Ballot in the manner hereinbefore by the *seventieth* section of this Act prescribed for the drawing of Petit Jurors from the General Panel therein mentioned, a Special Jury for the trial of the cause.

How to pro-
ceed if either

CXIV. If any of the parties in the cause neglect to attend in person or by Attorney or Agent at the striking of the

Special Jury, the Sheriff, upon production of the affidavit, affirmation or admission of service of the notice as aforesaid, and party fails to attend. after waiting at least half an hour for such absent party, shall, if requested by the other party, his Attorney or Agent, proceed 5 to strike the Special Jury, and in case of the continued absence of such first mentioned party, the Sheriff shall, on his behalf, strike out of the said List the twelve names to be by such party struck out of the List as aforesaid.

CXV. In case the Court of Chancery directs any issue or 10 issues to be tried by a Special Jury, such Special Jury shall be struck and summoned in (as nearly as may be) the same manner as for the Superior Courts of Common Law. How if the Court of Chancery direct a trial by special jury.

JURIES OF MERCHANTS, &c.

CXVI. In suits between :

1. Merchant and Merchant ; or
- 15 2. Trader and Trader ; or
3. Merchant and Trader, involving one or more questions of mercantile consideration ; and
4. In suits between Manufacturer and Manufacturer ; or
5. Mechanic and Mechanic ; or
- 20 6. Manufacturer and Mechanic, involving one or more questions of Mechanical or scientific consideration ; and
7. In suits between any of the former and any of the latter involving one or more of any of such questions ; and
8. In suits between any other persons involving one or more 25 questions of scientific consideration ;

In what cases Juries of Merchants may be had.

Either of Her Majesty's Superior Courts of Common Law at Toronto, in Term time, or any Judge thereof, in Vacation, without consent of parties in all but the last mentioned case, and with consent of parties in the eighth or last mentioned case, 30 may order and direct any such cause to be tried by a Special Jury of men belonging to the appropriate kind or kinds of business as aforesaid, or of scientific men respectively, as the case may be ; but any such Rule not made with the consent of parties, shall be made only upon a rule to shew cause or summons upon 35 which the adverse party has had the usual opportunity of being heard as in other cases. When only upon summons and order.

CXVII. In every Rule for striking any such Special Jury, it shall be ordered that such Special Jury shall be struck, and the 3 Contents of the order for such jury.

To be struck by Elisors. names of such Special Jury be certified to the Sheriff by three Elisors to be appointed in writing by endorsement upon such Rule, one by the Plaintiff in the cause his Attorney or Agent, another by the Defendant his Attorney or Agent, and the third by the Clerk or Deputy Clerk of the Crown and Pleas of the Court in which the cause is pending, or in case of such Elisors disagreeing, then by the majority of such Elisors all three being present. 5

The Sheriff to summon. CXVIII. The Sheriff shall return and summon upon the *venire facias* in such cause, the persons whom such Elisors or the majority of them certify to him to have been struck as Special Jurors for the trial of the same. 10

How Writ of Ven. Fa. to be indorsed. CXIX. The indorsement to return a Special Jury on the *venire facias* in every such cause, shall direct the Sheriff to return a Special Jury of men of the appropriate kind of business as aforesaid, or of scientific men, as the case may be, pursuant to such certificate as he may receive from the Elisors (naming them,) or a majority of them in that behalf appointed by such Rule. 15

How such special juries are to be struck. CXX. Every such Special Jury shall be struck in the following manner, that is to say : 20

1. The three Elisors or a majority of them, upon the delivery to them of a copy of the Rule for such Special Jury and of the *venire facias* for the return of such Jury, shall, at the request of either of the parties in such cause, make an appointment in writing of a day, hour and place for striking such Special Jury as by the *one hundred and ninth* section of this Act is provided with respect to other Special Juries ; 25

2. And upon notice of such appointment being served upon the opposite party, and such service being proved as in the same section is provided with respect to other Special Juries, the said Elisors shall, at the time and place so appointed and after waiting the time prescribed by the *one hundred and twelfth* section, proceed to make a list of the names and additions of all the persons whose names appear on any of the Jurors' Rolls for the year in which such *venire facias* is returnable, and who in their judgment come within the description of persons required to be struck on such Jury according to the exigency of the Rule ; 30 35

3. And if there are not forty of such persons to be found upon such Rolls, and if the said Elisors, or the majority of them, know of a sufficient number of persons answering the description within the County, whether such persons are otherwise qualified and liable to serve, or exempt from serving as Jurors or not, provided they be not persons disqualified from any of the causes set forth in the *twelfth* section of this Act, the said Elisors, or a majority of them, shall add to the list the names 40 45

and additions of a sufficient number of such persons to complete the same to forty names ;

4. And if there are the names of more than forty of such persons on such Rolls, the said Elisors, or the majority of them, 5 from the names of all persons on such Rolls who answer such description, shall, in the manner prescribed by the *one hundred and eleventh* section of this Act for the striking other Special Juries, select forty of such names ;

5. And the List of such forty names being thus completed 10 the same shall be reduced in the same manner as hereinbefore by the said *one hundred and eleventh* section provided with respect to other Special Juries ;

6. And the said Elisors shall thereupon give a certificate to each of the parties to the suit, their Attorney or Agent, certi- 15 fying the names and additions of the sixteen persons whose names remain upon the List ;

7. And every person so struck on any such Special Jury shall be liable to serve on the same although exempted from serving upon Juries by the general provisions of the *seventh*, 20 *eighth* and *ninth* sections of this Act.

8. And the Sheriff or other Officer to whom the *venire facias* is directed, shall, upon receipt of either of such certificates, return and summon such sixteen persons accordingly ;

25 9. And from these sixteen persons so returned, shall be selected the Jury to try such cause, in the same way and under and subject to the like restrictions as by the *one hundred and eleventh* section of this Act is enacted with respect to other Special Juries ;

30 CXXI. In case a Special Jury has been struck for the trial of any issue, the talesmen if any are required, shall be selected from the Jurors empannelled upon the Common Jury Panel to serve at the same Court if a sufficient number of such men can be found, and the Queen by any one duly author zed or assigned, 35 and every party, may in every such case, have their respective challenges to the talesmen so added, and the Court shall proceed to the trial of every such issue with those Jurors who were before empannelled together with the talesmen so newly added and annexed, as if all the said Jurors had been 40 returned upon the writ or precept awarded to try the issue.

In special jury cases, talesmen to be taken from the general panel.

CXXII. Nothing herein contained shall prevent the same Special Jury, however nominated, from being summoned and returned, to try any number of causes, provided the parties in every such cause or their Attornies have signified in writing to 45 the Sheriff or other Officer to whom the return of Juries in such

The same special jury may try several such cases—when.

cases belongs, their assent to the nomination and return of such special Jury for the trial of their respective cases: But if such Juror has served upon one or more Special Juries at the same Assizes or Session of *Nisi Prius*, the Court may upon his application discharge him from serving upon any other Special Jury during the same Assizes or Session of *Nisi Prius*. 5

The party who sues out the Writ, to pay fees of striking, &c.

CXXIII. The party who sues out a *venire facias* for a Special Jury in any cause, shall pay the fees for striking such Special Jury, the fees of the Jurors, and all the expenses occasioned by the trial of the cause by such Special Jury, and shall not have any further or other allowance for the same upon taxation of costs than if the cause had been tried by a common Jury, unless the Judge who tried the case certifies under his hand, in open Court, immediately after the verdict, or afterwards upon a Summons at Chambers, that the same was a cause proper to be tried by a Special Jury. 10 15

X.—VIEWS, JURIES DE MEDIETATE LINGUÆ AND INQUESTS.

When a view may be granted.

CXXIV. When in any case either Civil or Criminal, or on any Penal Statute depending in either of Her Majesty's Superior Courts of Common Law at Toronto, it appears to such Court or to any Judge thereof in vacation, that it will be proper and necessary that some of the Jurors who are to try the issues in such case, should have view of the place in question, in order to their better understanding the evidence that may be given upon the trial of such issues, such Court, or Judge in vacation, may order a Rule to be drawn up containing the usual terms, and if such Court or Judge thinks fit, also requiring the party applying for the view, to deposit in the hands of the Sheriff a sum of money to be named in the Rule for payment of the expenses of the view. 20 25 30

Writ therefor.

CXXV. Such Rule shall also command Special Writs of *venire facias* and *distringas* to issue, to the Sheriff or other Officer, to whom the said Writs are to be directed, commanding him to have six or more of the Jurors named in such Writs or in the Panels thereunto annexed, (who are mutually consented to by the parties, or if they cannot agree, are drawn by ballot from such Panels,) at the place in question, some convenient time before the trial. 35

Locus in quo to be shewn to the viewers.

CXXVI. The Viewers shall, then and there have the place in question shewn to them by two persons in the said writs named to be appointed by the Court or Judge; and the said Sheriff or officer who is to execute such writ, shall, by a Special return thereto, certify that the view hath been had according to the command of the same, and shall specify the names of the viewers. 40 45

CXXVII. When the parties in any such case do not agree as to the Jurors to be nominated to take the view, the viewers shall, by the Sheriff or other Officer to whom the *venire facias juratores* in such case is directed, be drawn by ballot from the Panel returned upon such *venire facias*, at some time and place to be appointed by the Sheriff or other Officer for that purpose, in the like manner as by the *ninetieth* and *ninety-first* sections of this Act is provided for drawing Juries from the General Panel at *Nisi Prius* : But no such Sheriff or other Officer shall proceed to draw such viewers from such Panel without having first given at least forty-eight hours' notice in writing to the respective parties in the suit, of the day, hour and place of such drawing.

How the viewers to be decided upon.

CXXVIII. When a view has been allowed in any case, those men who have had the view, or such of them as appear upon the Jury to try the issue, shall be first sworn, and so many only shall be added to the viewers who appear, as after all defaults and challenges allowed, make up a full Jury of twelve.

The viewers to be the first sworn on the jury.

CXXIX. Nothing herein contained shall extend to any Jury of matrons, or to any Writ *de ventre inspiciendo*, or to deprive any alien not naturalized who has been indicted or impeached of any felony or misdemeanor, of the right of being tried by a Jury *de medietate linguæ*, but on the prayer of every such alien so indicted or impeached, the Sheriff shall by command of the Court return for one half of the Jury a competent number of aliens if so many there be in the Town or place where the trial is had, and if not, then so many aliens if any, as are found in the same town or place, and no such alien Juror shall be liable to be challenged for want of any qualification required by this Act, but every such alien may be challenged for any cause of disqualification in like manner as if he were otherwise qualified by this Act.

As to juries of matrons, &c.

CXXX. No man shall be liable to be summoned or impanelled to serve as a Juror in any County, City or Town upon any inquest or inquiry to be taken or made by or before any Commissioners appointed under the Great Seal of the Province, or the Seal of any Court in Upper Canada having general jurisdiction throughout the same, or having general jurisdiction throughout any County of the same or throughout any City, or Town within the same, unless the name of such person appears upon one or other of the Jurors' Rolls for the year in which such person is called upon to serve on such inquest or inquiry.

No person to be summoned on juries where name is not on the roll of jurors.

CXXXI. But nothing herein contained shall extend to any inquest to be taken by or before the Coroner of any County, Union of Counties, City or Town by virtue of his office, or to any inquest or inquiry to be taken or made by or before any Sheriff, High Bailiff, or Coroner, of any County, City or Town, but the Coroners, Sheriffs

Except on Coroner juries, &c.

and High Bailiffs aforesaid, in all such Counties, Cities and Towns respectively, shall respectively take and make all inquests and inquiries by Jurors of the same description as they have been used and accustomed to do before the passing of this Act.

XIII.—APPLICATION OF CERTAIN PROVISIONS TO CITIES, AND RECORDER'S COURTS.

Provisions applicable to Recorder's Courts.

CXXXII. In every City in which there is a Recorder's Court, 5 or any other Court either Civil or Criminal or both having local jurisdiction within such City, and in which Court or any Sittings or Sessions thereof, Jurors are required for the trial of issues of fact joined therein according to the course of common Law.

The Clerk of Recorder's Court to perform the same duties as the Clerk of the Peace, &c.

1. The Clerk of the Recorder's Court of every such City 10 shall, annually within the same period as is hereinbefore provided for the performance of a similar duty by the Clerks of the Peace and in a similar manner, prepare from such Reports of the Selectors of Jurors of the County within the limits of which the City is embraced, as have been returned for 15 Wards or other local divisions lying within such City, a Jurors' Book for such City, inserting in the respective Jurors' Rolls in such Book, the names of the persons resident within such City, who, upon such Reports or upon such of them as have then come in as aforesaid, are returned as qualified and liable to serve as 20 Grand or Petit Jurors respectively, either in the Superior or Inferior Courts ;

But only two rolls required.

2. Except only that there shall, in every such case, be but two Rolls, one of Grand Jurors consisting of all such persons as have been so selected and reported for Grand Jurors in either 25 the Superior or Inferior Courts, and the other of all such persons as have been in like manner selected and reported for Petit Jurors in either the Superior or Inferior Courts, and the heads of such Rolls in such Jurors' Books shall be adapted to the same accordingly ;

The Recorder to preside, &c.

3. And such Recorder's Court, the Recorder of such City, or the 30 Chairman or other presiding Member thereof, the Mayor, and the Clerk of such Court for the time being, shall respectively perform the like duties in respect of such Books, and the preparing and selecting of the Jury Lists from the Jurors' Rolls, as 35 are hereinbefore prescribed to the Selectors of Jurors from the Jurors Rolls for the respective Counties ; and

High Bailiff to execute the duties required of Sheriff, &c.

4. All other duties which are by this Act prescribed to the Sheriffs of Counties, in respect of Jurors, whether Grand or Petit, within their respective Counties, shall, as respects 40 Grand or Petit Juries for the Courts of any such Cities, be performed by and required of such High Bailiff or other officer, as aforesaid ; and

5. The manner of drafting, striking, returning and summoning Juries by the Sheriff, upon writs of *venire facias juratores*, as prescribed by this Act, shall be observed and followed by the High Bailiff, Coroners, Elisors and other Officers having the return of Jury process within every such City, which Coroners, Elisors and other Officers and Ministers shall for such purpose have free access, at all reasonable times, to the Jurors' Book, in the office of the Recorder's Court or other similar office of such City; and
- 10 6. Such High Bailiffs, Coroners, Elisors, and other officers and ministers of every such City shall possess all the powers and perform all the duties in any way connected with the drafting, striking, returning and summoning such Juries by this Act prescribed to or vested in the Sheriffs of Counties with respect to Juries returned by them upon similar process.

In drafting
jurors, &c.

Same subject.

CXXXIII. In every case in which a Proclamation issues erecting any Town into a City upon, from and after the first day of January of the following year, a Jurors' Book shall be prepared, and Jury Lists selected for such City for such following year as above directed with respect to Junior Counties.

Juror's book
when a Town
becomes a
City.

CXXXIV. In every such case, the preparing the Books, the selecting of the Jury Lists and the performing of all other acts and things required by this Act to be done for such newly proclaimed City, shall be done and performed by the Selectors of Juries from the Jurors' Roll for the County within the limits of which such Town lies in the like manner as according to the provisions hereof would in the case of other Cities be done and performed by the Clerk of the Recorder's Court of such Cities, the Recorder and Recorder's Court and the Officers of such Court respectively.

Clerk of the
peace to per-
form the
duties *pro tem*
of the Clerk of
Recorder's
Court.

CXXXV. In every such case, the Clerk of the Peace, shall on demand deliver over to the Clerk of the Recorder's Court of the City erected as aforesaid, the Jurors' Book for such newly erected City as soon as may be after the same has been completed and the copies thereof made and deposited in the proper office, and the Clerk of the Recorder's Court shall thereupon give him a receipt for such Book.

Clerk of the
peace to hand
over jurors'
book to Clerk
of Recorder's
Court.

CXXXVI. Upon such receipt being filed with the Chamberlain of such City, and the accounts of the said Selectors for the services thus performed for such City verified by affidavit before any Commissioner for taking affidavits for such County, the Chamberlain of such City shall pay the amount of such accounts out of the like moneys as are hereinafter provided with respect to the payment of similar accounts by the Chamberlains of other Cities, and such payment shall in like manner be allowed in the accounts of such Chamberlain.

Who to pay
the expenses
thereof.

Powers of Justices conferred upon Aldermen.

CXXXVII. All the powers conferred and the duties imposed by this Act upon Justices of the Peace, with respect to Counties, are hereby conferred and imposed upon the Aldermen of Cities in which a Recorder's Court is established.

The duties of Sheriffs and High Bailiffs may be performed personally or by Deputy.

CXXXVIII. The duties by this Act required of the Sheriffs of the different Counties and of the High Bailiffs, or other similar Officers of Cities, and those also required of the Clerks of the Peace, and Clerks of the Recorder's Courts of Cities as aforesaid, may be performed either by the principal Officer himself, or by his Under-Sheriff or Deputy. 5 10

XIV. OMISSIONS NOT TO VITIATE VERDICTS.

Omissions to observe the directions of this Act, not to vitiate the verdict, &c.

CXXXIX. No omission to observe the directions in this Act contained, or any of them, as respects the qualification, selection and distribution of Jurors, the preparation of the Jurors' Book, the selecting Jury Lists from the Jurors' Rolls, the drafting panels from the Jury Lists or the striking of Special Juries, shall be a ground of impeaching the verdict in any cause, or be allowed for error upon any writ of error or appeal to be brought upon any judgment hereafter rendered in any case, criminal or civil, by any Court in Upper Canada. 15

XV. PAYMENT OF JURORS.

1. GRAND JURORS.

County Councils to provide funds for paying jurors.

CXL. The several County Councils may from time to time by By-law, in their discretion, provide for the payment to Grand Jurors, either at the Courts of Oyer and Terminer and General Gaol Delivery, or at the General Quarter Sessions, out of the County funds, such sum per diem as they deem reasonable. 20

2. PETIT JURORS.

Allowance to petit jurors attending certain Courts.

CXLI. Every Petit Juryman actually attending any of the Courts of Assize and Nisi Prius, Oyer and Terminer, General Gaol Delivery, General Quarter Sessions of the Peace, or County Courts in Upper Canada, shall be entitled to receive in the manner hereinafter provided, the sum of Five Shillings per day, for every day he attends such Court, and the sum of Six Pence per mile for every mile he necessarily travels from his place of residence to the said Court, or such other sums as the County Council by By-law from time to time fixes and determines, and the distance travelled shall be ascertained by the declaration of the Sheriff's Bailiff who summoned such Juror, or by the declaration of the Juror himself: But every Juror who makes a false declaration respecting such distance, shall forfeit his right to receive any payment for travelling to or attending such Court as a Juror. 25 30 35

CXLII. No Petit Juror shall be entitled to any fee or allowance other than is provided by or under this Act.

To what fees only jurors are to be entitled.

CXLIII. Every Sheriff shall make a pay list for the Petit Jurors summoned to attend any of the aforesaid Courts in the form set forth in the Schedule to this Act marked C, and shall attend or cause some Officer to attend at the opening of the Court, on the morning of every day on which such Court sits for the trial of causes by Jury, and upon the Petit Jurors being called over, shall check and mark the word "present," or "absent," *as the case may be*, in the proper column of such list opposite the name of every such Juror, and on the last day of the sitting of such Court shall certify and return the said pay list to the Treasurer of the County.

Sheriff to make a pay list for petit jurors.

CXLIV. The said pay list, checked and certified as aforesaid, shall be a sufficient authority for the Treasurer to pay to each Petit Juror the sum to which he appears entitled, as certified by such list, and the Treasurer shall forthwith pay every such Juror the sum so appearing due to him on such list.

Treasurer to pay the jurors.

CXLV. Every Sheriff shall be entitled to receive from the Treasurer of the County of which he is Sheriff, such sum for each pay list and such sum per diem for checking the same every day at the opening of the Court, and for certifying and returning the same to the Treasurer, as the County Council by By law determines; and the Courts of Oyer and Terminer and General Gaol Delivery and of Assize and Nisi Prius, when holden at the same time and under the same precept and panel of Jurors, shall be one Court; and the County Court and General Quarter Sessions shall be one Court for the purposes of payment of Jurors, and the duty of calling over Jurors at the opening of the Court daily shall be performed by the Clerk of whichever of the said Courts respectively is first opened.

Allowances to Sheriffs.

CXLVI. The Marshal or Clerk of Assize, the Clerk of the County Court or Clerk of the Peace, *as the case may be*, shall, at the opening of the Court, and before any other business is proceeded with, call over the names of the Petit Jurors, that the Sheriff or his Officer may check who are present or absent.

List of jurors to be called over daily when Court opens.

CXLVII. A Petit Juror not appearing when so called shall not be entitled to any pay for the day on which he makes default, and shall for every default he makes during the day, be liable to such a fine as to the Court seems meet.

Jurors not attending to be fined.

FUND FOR PAYMENT OF JURORS.

FEEs ON ENTRY OF NISI PRIUS RECORDS.

CXLVIII. To the Clerk of Assize for every County there shall be paid, with every record entered for trial or assessment, the

Sums to be paid with re-

cord when entered for trial. sum of Fifteen Shillings, and to the Clerks of the several County Courts the sum of Seven Shillings and Six Pence, which sums shall forthwith be paid over to the Treasurer, and shall form part of the fund from which Petit Jurors are to be paid.

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Record not to be entered unless sum is paid. CXLIX. No Record shall be entered for trial or assessment unless the sums before mentioned are paid.

FEES IN CRIMINAL CASES.

The like in criminal cases where either party is liable to pay costs. CL. In all criminal cases in which by law the party prosecuting or the party prosecuted is liable to pay the costs of the prosecution, the Officer of the Court shall charge against and receive from the party so liable the sum of Fifteen Shillings, over and above the sum to which he is otherwise liable, and such sum of fifteen shillings shall form part of the fund for the payment of Petit Jurors, and shall forthwith be paid over by the Officer receiving it to the Treasurer of the County in which the prosecution has been carried on.

Certain fines to go towards payment of jurors. CLI. All fines and penalties imposed upon and levied in the several Counties in Upper Canada, not payable to the Receiver General or to any Municipal Corporation, and all fines upon Jurors for non-attendance levied therein, shall be paid to the Treasurers of each of the said Counties respectively, and shall form part of the fund for the payment of Petit Jurors under this Act.

COUNTY COUNCILS TO SUPPLY DEFICIENCY.

County Councils to provide funds for paying jurors. CLII. In case the sums appropriated by this Act are not sufficient to pay the said Jurors, the several County Councils may raise and appropriate such sums of money as in their judgment are sufficient to pay the Petit Jurors according to the terms of this Act.

Act not to apply to Counties not providing such fund. CLIII. The thirteen last preceding clauses of this Act being sections numbered from *one hundred and thirty- and forty-*, both included, shall not be in force in or apply to any County after the present year, until the County Council desirous of availing themselves of the provisions thereof, appropriate such a sum of money as in their judgment, with the moneys applicable under the said last preceding thirteen clauses, form a fund sufficient to pay the Petit Jurors under the provisions therein contained, nor to any County in which the County Council do not appropriate a sum of money for payment of any deficiency that may occur in the Petit Jury fund of such County. And until such appropriation is made as aforesaid, every Petit Juror shall be allowed the sum of one shilling and three pence in every cause in which he is sworn as a Juror in any civil case in the Superior Courts or at the Assizes, and the sum of seven

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pence half penny in cases in the County Courts, such fee to be paid by the plaintiff or his Attorney, and to be accounted for in costs by the party charged with the payment thereof.

CLIV. In every County in which a Petit Jury fund is provided, the Treasurer of such County shall give notice to the Sheriff of the County, who shall thereupon perform the duties imposed upon him under this Act.

County Treasurer to notify Sheriff when funds are provided.

CLV. The Municipal Corporation of any County in Upper Canada of which a City forms part for judicial purposes, may demand and recover from the Municipal Corporation of such City a portion of the expenses incurred by such County, in any year, for the payment of Jurors, which portion shall be determined as follows :

Cities bound to contribute.

1. From the total sum expended in the County in any year, for the payment of Jurors and other fees and disbursements under this Act, and the sections numbered from *one hundred and thirty-seven to one hundred and forty-nine inclusive*, there shall be deducted the sums paid to Jurors for attendance at the Courts of Quarter Sessions, and the sum actually received by the County in such year for fees and penalties, which under the said clauses are appropriated towards the payment of Jurors ;

Deduction to be made from total sum expended.

2. Of the sum remaining after such deduction, the portion to be finally borne by the City and by the County respectively, shall be in proportion to the assessed value of all the rateable property in each, and the sum to be finally borne by the City shall be the sum to be repaid by the Municipal Corporation thereof to that of the County ;

Portion to be finally borne by the City, &c.

3. In comparing the value of the rateable property in any City and County for the purposes of this Act, the assessed annual value shall be held to be ten per cent of the actual value.

Assessed annual value, &c.

CLVI. The actual or annual value of rateable property in a City or County for the purposes of this Act, shall be that shewn by the Assessment Rolls of each, for the year in which the expenses to be divided between them have been incurred, and the portion of such expenses to be finally borne by the City shall be payable to the County immediately after the close of each year.

Annual value of rateable property to be that shewn by assessment rolls.

CLVII. The Common Council of any City shall raise by assessment the sum of money required by such City for the purposes of this Act, or shall pay such sum out of any moneys belonging to the City and applicable to municipal purposes generally.

The Council of Cities to raise the necessary funds by Assessment, &c.

XVI. FEES TO OFFICERS.

1. TO SELECTORS.

Allowance to
selectors, and
how payable.

CLVIII. The Selectors of Jurors under the *thirteenth* section of this Act, for every selection and distribution of Jurors, and the Report thereof made by them under this Act, shall be entitled to such sum of money as is authorized to be awarded them by the Council of the Municipality of which they are respectively Officers ; and such sum of money shall be paid to them respectively by the Treasurers (or Chamberlains, *as the case may be,*) of their respective Townships, Villages, Towns and Cities, in such manner as such Municipal Councils may severally direct ; and the Selectors of Jurors under the *forty-ninth* section of this Act shall be entitled to the sum of _____ each for each days attendance for the purpose of selecting such Jurors, and such moneys shall be paid by such Treasurers (or Chamberlains) to every such Selector of Jurors upon receipt of a Certificate from the Clerk of the Peace for the County or Union of _____ Counties, that the duties required of such Selectors have been duly performed by them.

2. TO CLERKS OF THE PEACE, AND OF RECORDER'S COURTS.

Fees to Clerks
of Peace and
of Recorder's
Courts.

CLIX. The Clerk of the Peace of every County and the Clerks of the Recorder's Courts in every City in which a Recorder's Court is established, shall be entitled to the following sums of money for the respective services performed by them under this Act, that is to say :

1. For receiving and examining the Reports of Selectors for each City, Town, Village and Township, causing any deficiency which may be found therein to be supplied, and filing the same in his office, three shillings and nine pence ;

2. For giving certificates to Selectors of Jurors, of duties having been performed, two shillings and six pence ;

3. For preparing in proper form each Juror's book and superintending the making up of the same (besides actual disbursements for stationer's charges), thirty shillings ;

4. For arranging alphabetically and in order the names contained in Selector's Report, per one hundred names, fifteen shillings ;

5. For making up Juror's books, entering all the names and numbers, and all other matters required to be entered therein, per one hundred names, fifteen shillings ;

6. For each copy of the Juror's book required by this Act, per one hundred names, fifteen shillings ;

7. For each certificate required to be entered on the Juror's book to verify same, five shillings ;
8. For selecting and entering each jury list, per one hundred names, thirty shillings ;
- 5 9. For copy of Jury list required to be entered, per one hundred names, fifteen shillings ;
10. For each panel of Jurors drafted from the Jury list, per one hundred names on such Jury list, twenty shillings ;
11. For entering each panel in the Juror's book, with the 10 numbers corresponding to the Jury list, ten shillings ;
12. For making up aggregate return in detail of Jurors, forty shillings ;
13. For copy thereof and transmitting same to Provincial Secretary when required, and for office copy of the same, each, 15 twenty shillings ;

3. TO SHERIFFS, &C.

CLX. The Sheriff, High Bailiff or other officer of every such County, or City shall, exclusive of such fees as he may be entitled to from the parties in any suit, be entitled to the following sums of money for the respective services performed 20 by him under this Act, that is to say :

Fees to Sheriffs, High Bailiffs, &c.

1. For each panel of Jurors whether Grand or Petit returned and summoned by him in obedience to any general precept for the Return of Grand or Petit Jurors for any sittings or sessions of Assize and *Nisi Prius*, Oyer and Terminer, Gaol Delivery, 25 Sessions of the Peace or County or Recorder's Court respectively, under this Act, twenty-five shillings ;
2. For copies of such panel to be returned to the offices of the Superior Courts of Common Law at Toronto, each, five shillings ;
- 30 3. For every summons served upon the Jurors on such panel, the sum of two shillings and six pence ;
4. And in the case of Sheriffs of Counties, the further sum of six pence for every mile that the Sheriff or his Deputy or Bailiffs necessarily and actually travelled from the County Town 35 for the purpose of serving such summonses ;
5. And for every certificate given to any of such Jurors of his having served, to evidence his exemption from serving again until his time for doing so returns in its course, the sum of one shilling ;

4. TO CRIERS.

Fees to Criers CLXI. And the Crier of every such Court of Quarter Sessions, or Recorder's Court, shall, for making the Proclamations, calling the names of all those drawn in the course of selecting such Jury Lists, and performing all other duties required of him under this Act, be entitled to the sum of Fifteen Shillings, for every one hundred names so drawn. 5

If there are more than one hundred names. CLXII. In all the foregoing cases, when there are more than one hundred, or more than an even number of hundreds of such names, if the broken number beyond such hundred or hundreds falls short of fifty names, the same shall not be reckoned, 10 and if such broken number amounts to fifty names or upwards, the same shall be reckoned as a full hundred, but in all cases of there being altogether less than a single hundred, the same shall be reckoned as a full hundred.

How the said fees shall be paid. CLXIII. Upon proof by affidavit made before a Commissioner for taking affidavits in one of Her Majesty's Superior Courts of Common Law, of such several services having been executed, or of such travel having been necessarily performed in the service of such summonses, the Treasurer of the County or the Chamberlain of the City, *as the case may be*, shall pay such fees to such officers respectively, out of any money in his hands belonging to such County or City respectively, not otherwise specially appropriated by Act of Parliament: and for all such moneys so paid, every such Treasurer and Chamberlain shall be allowed in his accounts with the County, or City, as if the same had been paid under the special authority and direction of the Municipal Council of such County, or City respectively. 20 25

XVII.—PENALTIES.

Attaints of jurors abolished. CLXIV. The Queen shall not, nor shall any one on her behalf, nor shall any party or parties in any case whatsoever, commence or prosecute any writ of attaint against any Jury or Jurors for the verdict by them given, or against the party or parties who have Judgment upon such verdict, and no inquests shall be taken to inquire of the concealments of other inquests but all such attaints and inquests have been and are abolished. 30

Embracery punishable as heretofore. CLXV. Notwithstanding any thing herein contained, every person who is guilty of the offence of embracery, and every Juror who wilfully or corruptly consents thereto, shall be respectively proceeded against by indictment or information and be punished by fine and imprisonment, in like manner as such person and Juror might have been before the passing of this Act. 35 40

On jurors for non-attendance. CLXVI. If any person having been duly summoned to attend on any kind of Jury, in any of the Courts hereinbefore

mentioned, does not attend in pursuance of such Summons, or being there called does not answer to his name; or if any such Juror or any talesman after having been called is present, but does not appear, or after his appearance wilfully withdraws himself from the presence of the Court, the Court shall set such fine upon every such Juror or talesman, (unless some reasonable excuse is proved by oath, affidavit or affirmation,) as the Court thinks meet.

CLXVII. Where any viewer having been duly summoned to attend on a Jury makes default, as in the last preceding section is set forth, the Court at which he has been summoned to attend for the trial of such cause, shall set upon such viewer, (unless some reasonable excuse is proved as aforesaid,) a fine in the discretion of the Court to the amount of five pounds at the least.

On viewers for non-attendance.

CLXVIII. If any person having been duly summoned and returned to serve as a Juror in any County, City or Town upon any inquest or inquiry, before any *Sheriff* or Coroner, or before any of the Commissioners aforesaid, does not after being openly called three times, appear and serve as such Juror, every such *Sheriff*, Coroner and Commissioners respectively, shall (unless some reasonable excuse is proved on oath, affidavit, or affirmation) impose such fine upon the person so making default, as they respectively think fit, not exceeding Five Pounds.

On jurors upon inquests and inquiries, &c.

CLXIX. Every such *Sheriff*, Coroner and Commissioners respectively, shall make out and sign a certificate containing the christian and surname, the residence and addition of every man so making default, together with the amount of the fine imposed and the cause of such fine, and transmit such certificate to the Clerk of the Peace for the County or Clerk of the Recorder's Court of the City in which such defaulter resides, on or before the first day of the General Quarter Sessions of the Peace, or Sessions of the Recorder's Court next ensuing.

Sheriff to certify defaults and transmit copies.

CLXX. And every such Clerk shall copy the fines so certified on the Roll on which all fines and forfeitures imposed at such Quarter Sessions, or Sitings, or Sessions of such Recorder's Court, are copied, and the same shall be estreated, levied and *applied* in like manner, and subject to the like powers, provisions and penalties in all respects as if they had been part of the fines imposed at such Quarter Sessions or Sitings respectively.

Fines to be estreated.

CLXXI. If any *Sheriff* or other Officer or Minister as aforesaid wilfully impanels and returns any person to serve on a Jury in any of the Courts aforesaid, whose name has not been duly drawn upon such Panel, in the manner in this Act prescribed, — or if any Clerk of Assize, Clerk of the Peace, Clerk of the Recorder's Court or other Officer of any of the Courts aforesaid, wilfully records the appearance of any man

On Sheriff, &c., for default to perform duties assigned to them.

so summoned and returned who has not really appeared in every such case, the Court shall, upon examination in a summary way, set such fine upon such Sheriff, Officer or other Minister, Clerk of Assize, Clerk of the Peace, Clerk of the Recorder's Court or other Officer offending, as the Court thinks meet. 5

On Sheriffs, &c., taking money as a bribe.

CLXXII. No Sheriff, Deputy-Sheriff, Coroner, Elisor, Bailiff or other Officer, or person whatsoever, shall directly or indirectly, take or receive any money or other reward or promise of money or reward, to excuse any man from serving or being summoned to serve on Juries, or under any such colour or pretence; and no Bailiff or other officer, appointed by any Sheriff, under-Sheriff, Coroner, or Elisor to summon Jurors, shall summon or pretend to summon any man to serve thereon other than those whose names are specified in a Warrant or Mandate signed by such Sheriff, under-Sheriff, Coroner or Elisor, and directed to such Bailiff, or other officer; and if any Sheriff, Deputy-Sheriff, Coroner, Elisor, Bailiff, or other officer, wilfully transgresses in any of the cases aforesaid, or summons any of the Jurors, not being a Special Juror, less than eight days before the day on which he is required to attend, or summons any Special Juror less than three days before the day on which he is to attend, except in the cases hereinbefore excepted, the Court of Assize and *Nisi Prius*, Oyer and Terminer, Gaol Delivery, Sessions of the Peace, County and Recorder's Court respectively, within whose jurisdiction the offence has been committed, shall, on examination and proof of such offence in a summary way, set such fine upon every person so offending, as the Court thinks meet. 10 15 20 25

On Sheriffs, &c., making any unauthorized alteration in any juror's book, or neglecting to return the same, &c.

CLXXIII. 1. If any Sheriff or Deputy Sheriff of any County or any High Bailiff or other Officer of any City, makes or causes to be made any alteration whatever in any of the Rolls, Lists or Panels in any Jurors' Book, or in the certified copies thereof in their official custody respectively, except in compliance with the directions in this Act contained, or neglects or refuses to prepare the Jurors' Book, the Ballots necessary for drafting the Panels, striking Special Juries, and drawing Juries at the trial, or neglects or omits to return such Juror's Book, and the ballots for drafting such Jury Lists, to the Court to which by this Act he is required to return the same, or neglects or omits to perform any other duty required of him by this Act, or wilfully does any thing inconsistent with the provisions of this Act. 30 35 40

On Deputy Clerks of the Crown and Pleas, altering Lists, &c.

2. Or if any Deputy or Clerk of the Crown and Pleas, makes or causes to be made any alteration whatever in the Rolls, Lists or Panels in any Jurors' Book, or in any copy thereof, deposited in his office, or wilfully certifies as true any copy of any Jurors' Book, or any Roll, List or Panel therein, which is not a true copy thereof. 45

3. Or if any Assessor of any Township, Village or Ward in Upper Canada, neglects or omits to make out and complete his Assessment Roll for such Township, Village or Ward, and to return the same to the office of the Clerk of such Township or Village, or of the City or Town in which any such Ward is situated, or other office or place of deposit for such Roll, on or before the first day of September of the year for which he is such Assessor.
4. Or if any City, Town, Village or Township Clerk, or any Assessor or other officer or person who, at the time of the annual meeting of the Selectors of Jurors for any City, Town, Village or Township, has the actual charge or custody of the Assessment Rolls or Assessment Roll of such City, Town, Village or Township for such year, neglects or omits to perform the duties required of him by the *sixteenth* section of this Act, as regards the production of such Roll or Rolls at the annual meeting of such Selectors, or the permitting such Selectors to have the necessary access to the same for the purposes of their duty.
5. Or if any Selector of Jurors for any Township Village or Ward in Upper Canada, wilfully selects and reports, as qualified and liable to serve as a Grand or Petit Juror, any person who, according to the provisions of this Act, ought not to be so selected or reported, or takes any money or other reward for so selecting or reporting or omitting to select or report any person whomsoever, or wilfully inserts in any such Report a wrong description of the name, place of abode, or addition of any one so selected and reported, or neglects or omits to complete his selection and Report and to deposit the same in the proper office on or before the fifteenth day of September of the year for which he acts as such Selector of Jurors.
6. Or if any Clerk of the Peace, or Clerk of any Recorder's Court of any City, or his Deputy, when acting in performance of the duties required of him by the sections of this Act numbered *thirty-seven to fifty-three*, both included, neglects or omits to perform any duty required of him by those sections in the manner therein prescribed, or wilfully does any thing inconsistent with the provisions of the same.
7. In all such cases every such person so offending, shall for such offence, forfeit the sum of Fifty pounds, one moiety thereof to the use of Her Majesty; to be paid over to the Treasurer and applied as provided by the section forty-ninth of this Act, and the other moiety thereof, with full costs, to any person who sues for the same; in any Court of competent jurisdiction by action of debt or information; provided that nothing herein contained shall be construed to relieve any Assessor from the obligation of returning the Assessment Roll at an earlier period of the year, or from any penalty he may incur by not returning the same accordingly.

On assessors not making and returning the assessment roll in proper time.

On municipal officer not producing assessment roll as required.

On selectors of jurors for wilful dereliction of duty.

On clerks of Peace for wilful dereliction of duty.

Amount of penalty and how to be applied.

How pecuniary penalties shall be levied and applied.

CLXXIV. Except as otherwise provided by the *one hundred and forty-eight section* of this Act, all fines imposed under this Act by either of Her Majesty's Superior Courts of Common Law at Toronto, or by any Court of Assize and *Nisi Prius*, Oyer and Terminer, Gaol Delivery, Sessions of the Peace, County Court, or Recorder's Court, shall be levied and applied in the same manner as any other fines imposed by the said Courts respectively. 5

Mitigation of penalty where no application is directed.

CLXXV. All other penalties under this Act for which no other remedy is given may be recovered by summary proceeding before any Justice of the Peace having jurisdiction over the offence, which Justice may on any complaint hear and examine witnesses on oath or affirmation and determine the same, and if he sees fit, may mitigate the penalty to the extent of a moiety thereof. 10 15

Committal for non-payment.

CLXXVI. Unless the penalty be forthwith paid upon conviction such Justice shall by warrant under his hand and seal, levy the same, by distress and sale of the offenders goods and chattels, and for want of sufficient distress, the offender shall be committed by warrant, under the hand and seal of such Justice, to the Common Gaol or House of Correction, for such term not exceeding six calendar months, as such Justice thinks proper, unless such penalty be sooner paid; and all penalties, shall be paid to the Treasurer as hereinbefore provided. 20

XVIII.—MISCELLANEOUS PROVISIONS.

CLXXVII. The year for the purposes of this Act shall be the 25 calendar year.

Affirmations instead of oaths.

CLXXVIII. Nothing herein contained shall be construed to affect or alter any Statute or Law whereby the affirmation of any person belonging to certain religious societies, classes or descriptions of persons is allowed, or directed to be in all cases received and taken from such person in lieu of an oath. 30

Certain allegations not necessary in setting out legal proceedings.

CLXXIX. Whenever any legal proceeding in which a Jury was impaneled is required to be set out, it shall not be necessary to specify that any particular person or persons who acted as Jurors made affirmation instead of oath, but it may be stated that they served as Jurymen, in the same manner as if no Act had passed for enabling persons to serve as Jurymen without oath. 35

Short titles by which the said Act and others relative to jurors in Upper Canada may be referred to.

CLXXX. In pleading, citing or otherwise referring to this Act, and any other Acts that may be hereafter passed touching or concerning or in any wise relating to Jurors, Juries or Inquests generally, it shall, be sufficient to use the expression, *The Upper Canada Jurors' Act of 1858*, or words of equivalent import. 40

CLXXXI. This Act shall extend and apply to Upper Canada limited to U. C.

SCHEDULE A.

REPORT of the selection and distribution of Jurors for the Township of Albion (or for the Ward of St. James, in the City of Toronto), in the County of York, for the year 1859, made at the Town (or City) Hall of the said Township (or City) by A. B. Townreeve (or Mayor), C. D. Town (or City) Clerk, and E. F., G. H. and I. J. Assessors of the said Township (or Ward), on the _____ day of _____ in the year 1850, pursuant to the directions of the Upper Canada Jurors Act of 1853.

FIRST DIVISION

For the Roll of Grand Jurors to serve in Her Majesty's Superior Courts of Criminal Jurisdiction.

NAMES.	No. of Lot or House, where known to the Selectors.	Concession of Street, or Unincorporated Village or Hamlet, where known to the Selectors.	ADDITIONS.
John Anderson.....	16	2	Esquire.
Peter Cameron.....	4	6	Yeoman.
William O'Leary.....	—	Catlands	Gentleman.
Allred Piper.....	17	1	Esquire.
&c			

SECOND DIVISION

For the Roll of Grand Jurors to serve in Her Majesty's Inferior Courts of Criminal Jurisdiction.

NAMES.	No. of Lot or House, where known to the Selectors.	Concession of Street, or Unincorporated Village or Hamlet, where known to the Selectors.	ADDITIONS.
William Adams.....	9	4	Gentleman.
Richard House.....	7	5	Yeoman.
Jacob Wyee.....	2	1	Tailor.
Allan Thomas.....	21	5	Esqu re.
&c.			

THIRD DIVISION

For the Roll of Petit Jurors to serve in Her Majesty's Superior Courts of Criminal Jurisdiction.

NAMES.	No. of Lot or House, where known to the Selectors.	Concession or Street, or Unincorporated Village or Hamlet, where known to the Selectors.	ADDITIONS.
David Boothe.....	11	7	Merchant.
George Sullivan.....	3	4	Esquire.
Nathan Lowe.....	6	1	Shoemaker.
Henry Grace.....	24	7	Yeoman.
&c.			

FOURTH DIVISION

For the Roll of Petit Jurors to serve in Her Majesty's Inferior Courts of Criminal Jurisdiction.

NAMES.	No. of Lot or House, where known to the Selectors.	Concession or Street, or Unincorporated Village or Hamlet, where known to the Selectors.	ADDITIONS.
George Gule.....	7	8	Tailor.
Samuel Jones.....	15	3	Yeoman.
William Carpenter.....	7	2	Esquire.
Thomas Hoole Rogers.....	11	1	Gentleman.
&c.			

We, the above-named Selectors of Jurors for the Township of Albion (or as the case may be) (2) do hereby solemnly declare, each severally for himself, that we have made the Selection and Distribution of Jurors in this Report from the Assessment Roll of the said Township for the present year to the best of our judgment and information, pursuant to the directions of the Upper Canada Act of 1858 and that we have so made the same without fear, favour or affection of; to or for any person or persons whomsoever, gain, reward or hope thereof, other than the fees to which we are entitled under the provisions of the said Act.

Witness our Hands and Seals, the day and year last above written.

A. B. [L. S.] *Townreeve.*

C. D. [L. S.] *Town Clerk.*

E. F. [L. S.] *Assessor.*

G. H. [L. S.] *Assessor.*

I. J. [L. S.] *Assessor.*

SCHEDULE B.

The JURORS' BOOK for the County of York, for the year 1858.

1.—ROLL OF GRAND JURORS

To serve in Her Majesty's Superior Courts (2) of Criminal Jurisdiction.

No. on Roll.	NAMES.	No. of Lot or House as in Report of Selectors.	Concession or Street, or Unincorporated Village or Hamlet, as in Report of Selectors.	Additions.	No. on List.	Remarks.
1 ALBION, (Township.)						
1	Anderson John.....	16	2	Esquire,		Exempted, having served on G. J. List, S. C. 1820.
2	Aylof Graham.....	9	4	Gentleman,		
3	Bosworth David.....	11	7	Merchant,		
4	Cameron Peter.....	4	6	Yeoman,		
20	Young David..... (<i>&c., to, say</i>)	7	8	Tailor,	3	
2 BROCK, (Township.)						
21	Allan Simon.....	21	7	Yeoman,		2
22	Bolland George..... (<i>&c., to, say</i>)	5	12	Gentleman,		
31	Wilkinson James....	13	4	Esquire,		
32	Yates Edward.....	1	5	Yeoman,	144	
3 YORKVILLE, (Village.)						
4 ST. JAMES WARD, (City of Toronto.) (<i>&c., to, say</i>)						
26 YORK, (Township.)						
503	Arthur Thomas.....	3	2 From Bay.	Yeoman,	1	
504	Bull Peter.....	14	1 E. Yonge St.	Yeoman,		

These are to certify that I have carefully compared the above Grand Jurors's Roll with the Reports made by the several Selectors of Jurors for the different Townships, Villages and Wards in the County of York, including the City of Toronto, as embraced within the same for certain judicial purposes, for the year one thousand eight hundred and fifty-eight as such Reports remained with me as Clerk of the Peace on the fifteenth day of September in that year, and that such Grand Jurors' Roll contains a true and correct transcript of the names, descriptions and additions of all persons so selected and reported as competent, qualified and liable to serve as Grand Jurors in Her Majesty's Superior Courts of Criminal Jurisdiction for such County.

Witness my hand, this
eight hundred and fifty-

day of one thousand

E. F., Clerk of the Peace.

2.—THE GRAND JURY LIST

For the Superior Courts, (2) as selected in open Court, at a General Quarter Session of the Peace for the County, on the _____ day of _____ 1858, being the first day of the first General Quarter Sessions of the Peace for the County, held next after the first day of October in that year, by C. D. Chairman of the said Court, and the undersigned selectors, pursuant to the directions of the Act of Parliament ()

No. on List.	NAMES.	No. of Lot or House, as in Jurors' Roll.	Concession or Street, or Unincorporated Village or Hamlet, as in Jurors' Roll.	Township, Villages or Ward.	Additions.	No. of Roll.	No. of Panel.	Remarks.
1	Arthur Thomas.	3	2 From Bay,	York	Yeoman	503	1	Served accordingly. Omitted to attend altogether.
2	Bollaids George.	5	12	Brock	Gentleman	22	1	
5	Young David. (&c. 10)	7	8	Albion	Tailor	20		
14	Yates Edward.	1	5	Brock	Yeoman	32	1	Served accordingly.

These are to certify that on _____ the _____ day of _____ instant, being the first day of the first General Quarter Sessions of the Peace for the County of York, next after the first day of October in this year (6) the foregoing Grand Jury List for the Superior Courts for this County for the year one thousand eight hundred and fifty-nine, was in open Court duly selected, canvassed and transferred from the Roll of Grand Jurors to serve in Her Majesty's Superior Courts of Criminal Jurisdiction for the same year, pursuant to the directions of the Act of Parliament of (3)

Witness our hands, this _____ day of _____ one thousand eight hundred and fifty-

C. D. Chairman.
E. F. Clerk of the Peace.
G. H. Warden.

3.—GRAND JURY PANELS FOR THE SUPERIOR COURTS. (2)

(a) No. 1.

PANEL of Grand Jurors returned upon a precept from the Honorable G. H., the Honorable I. J., [&c.] Her Majesty's Justices in that behalf, tested the _____ day of _____ 185____, for the return of twenty four of such Jurors for the Sessions of *Oyer and Terminer* and Gaol Delivery, to be held for this County on the _____ day of _____ one thousand eight hundred and fifty-nine, as drafted on _____ the _____ day of _____ one thousand eight hundred and fifty-eight, at the Office of the Clerk of the Peace in Toronto, by A. B., Esquire, Sheriff, in the presence of K. L. and M. N., Esquires, Justices of the Peace for the said County, pursuant to the directions of the Act of Parliament of (3)

No. of Panel.	NAMES.	No of Lot or House, as in Jury List.	Concession of Street, or Unincorporated Village or Hamlet, as in Jury List.	Township, Village or Ward	Additions.	No on List.	Remarks.
1	Arthur Thomas.....	3	2 From Bay,	York	Yeoman	1	
2	Bolland George.....	5	12	Brock	Gentleman	2	
	(&c. to)						
24	Yates Edward.....	1	5	Brock	Yeoman	141	

Witness our hands the day and year last above written.

A. B. Sheriff.

K. L. J. P.

M. N. J. P.

(b) No. 2. (5) &c.

4.—ROLL OF GRAND JURORS

To serve in Her Majesty's Inferior Courts (2) of Criminal Jurisdiction. (4)

No. on Roll	NAMES.	No of Lot or House as in Report of Selectors.	Concession or Street, or Unincorporated Village or Hamlet, as in Report of Selectors	Additions.	No. on List	Remarks.
	1 ALBION, (Township)					
1	Acland White.....	16	2	Esquire,		Exempted, having served on G. J. List, S. C. 1850.
2	Adams William.....	9	4	Gentleman,		
3	Eswald David.....	11	7	Merchant,		
4	Hamilton Peter.....	4	6	Yeoman,		
	(<i>See, to, say</i>)					
20	Large George.....	7	8	Tailor,	3	
	2 BRUCE, (Township)					
21	Ash Simon.....	21	7	Yeoman,		2
22	Borland George.....	5	12	Gentleman,		
	(<i>See, to, say</i>)					
31	Wilkins James.....	13	4	Esquire,		
32	Waters Edward.....	1	5	Yeoman,	144	
	3 OSHAWA, (Village)					
	4 ST. JAMES WARD. (City of Toronto) [<i>See, to, say</i>]					
	26 YORK, (Township)					
503	Astor Thomas.....	3	2 From Bay,	Yeoman,	1	
504	Peel Peter.....	14	1 E. Yonge St.	Yeoman,		

These are to certify that I have carefully compared the above Grand Jurors' Roll with the Reports made by the several Selectors of Jurors for the different Townships, Villages and Wards in the County of York, including the City of Toronto, as embraced within the same for certain judicial purposes for the year one thousand eight hundred and fifty-eight as such Reports remained with me as Clerk of the Peace on the Fifteenth day of September in that year, and that such Grand Jurors' Roll contains a true and correct transcript of the names, descriptions and additions of all persons so selected and reported as competent, qualified and liable to serve as Grand Jurors in Her Majesty's Inferior Courts of Criminal Jurisdiction for such County.

Witness my hand, this
eight hundred and fifty-

day of one thousand

E. F. Clerk of the Peace.

5.—THE GRAND JURY LIST

For the Inferior Courts, (2) as selected in open Court at a General Quarter Sessions of the Peace for the County, on the day of 1858, being the first day of the first General Quarter Sessions of the Peace for the County held next after the First day of October in that year by C. D. Chairman of the said Court, other Selectors pursuant to the directions of the Act of Parliament (3)

No. on List.	NAMES.	No. of Lot or House, as in Jurors' Roll.	Concession or Street, or Unincorporated Village or Hamlet, as in Jurors' Roll	Township, Village or Ward	Additions.	No. on Roll.	No. on Panel.	Remarks.
1	Astor Thomas...	3	2 From Bay.	York	Yeoman,	503	1	Served accordingly.
2	Borland George.	5	12	Brock	Gentleman,	22	1	Omitted to attend altogether.
3	Large George... (&c., to)	7	8	Albion	Tailor,	20		
144	Waters Edward	1	5	Brock	Yeoman,	32	1	Served accordingly.

These are to certify that on the day of instant, being the first day of the first General Quarter Sessions of the Peace for the County of York next after the First day of October in this year (6), the foregoing Grand Jury List for the Inferior Courts for this County, for the year one thousand eight hundred and fifty-nine, was in open Court duly selected, canvassed and transferred from the Roll of Grand Jurors to serve in Her Majesty's Inferior Courts of Criminal Jurisdiction for the same year, pursuant to the directions of the Act of Parliament (3)

Witness our hands, this day of one thousand eight hundred and fifty-

C. D. Chairman,
E. F. Clerk of the Peace.

6.—GRAND JURY PANELS FOR THE INFERIOR COURTS. (2)

(a) No. 1.

Panel of Grand Jurors returned upon a precept from S. B. H., and K. L. M., Esquires, two of Her Majesty's Justices of the Peace in and for the County of York, tested the day of 185 , for the return of twenty-four of such Jurors for the General Quarter Sessions of the Peace to be held for this County on the day of one thousand eight hundred and fifty-nine, as drafted on the day of one thousand eight hundred and fifty-eight, at the Office of the Clerk of the Peace in Toronto, by A. B., Esquire,

Sheriff, in the presence of K. L., and M. N., Esquires, Justices of the Peace for the said County, pursuant to the directions of the Act of Parliament of (3)

No. on Panel.	NAMES.	No. of Lot or House, as in July List.	Concession or Street, or Unincorporated Village or Hamlet as in July List.	Township, Village or Ward.	Additions.	No on List.	Remarks.
1	Astor Thomas..	3	2 From Bay.	York	Yeoman.	1	
2	Borland George (<i>See, to</i>)	5	12	Brock	Gentleman	12	
24	Waters Edward	1	5	Brock	Yeoman,	144	

Witness our hands, the day and year last above written.

A. B. Sheriff.
K. L. J. P.
M. N. J. P.

(b) No. 2. (5) &c.

7.—ROLL OF PETIT JURORS

To serve in Her Majesty's Superior Courts (2) of Criminal and Civil Jurisdiction. (4)

No. on Roll.	NAMES.	No of Lot or House, as in Report of Selectors.	Concession or Street, or Unincorporated Village or Hamlet, as in Report of Selectors.	Additions.	No on List.	Remarks.
	1 ALBION. (Township.)					
1	Parley Peter.....	16	2	Esquire,		
2	Alley Simon.....	21	7	Yeoman,	2	
3	Aikins William...	25	3	Yeoman,		
4	Ashtord Thomas...	19	5	Yeoman,	3	
5	Adams George.....	5	5	Gentleman,	1	
6	Worth David.....	11	7	Merchant,	5	
7	Bacelay John.....	9	2	Shoemaker,	4	
8	Cameron William..	4	6	Yeoman,		Excepted,
9	Daniels George....	22	11	Yeoman,	6	having
10	Small William....	7	8	Tailor,	7	served on
	(<i>&c., to say</i>)					P. J. List,
1060	Yarrold George....	14	9	Baker,	268	S. C. 1850,
	2. Brock. (Township.) &c.					

These are to certify that I have carefully compared the above Petit Jurors' Roll with the Reports made by the several Selectors of Jurors for the

different Townships, Villages and Wards in the County of York, including the City of Toronto, as embraced within the same for certain judicial purposes, for the year one thousand eight hundred and fifty-eight, as such Reports remain with me as Clerk of the Peace on the fifteenth day of September of that year, and that such Petit Jurors' Roll contains a true and correct transcript of the names, description and additions of all persons so selected and reported as competent, qualified and liable to serve as Petit Jurors in Her Majesty's Superior Courts of Criminal and Civil Jurisdiction for such County.

Witness my hand, this day of 1850.

E. F. Clerk of the Peace.

8.—THE PETIT JURY LIST.

For the Superior Courts, (2) as balloted in open Court at a General Quarter Sessions of the Peace for the County, on the day of 1858, being the first day of the first General Quarter Sessions of the Peace for the County held next after the first day of October in that year by C. D. Chairman of the said Court, other Selector, pursuant to the directions of the Act of Parliament of (3)

No. on List.	NAMES	No. of Lot or House, as in Jurors' Roll	Concession or Street, or Unincorporated Village or Hamlet, as in Jurors' Roll.	Residence.	Additions.	No. on Roll.	No. of Panel.	Remarks.
1	Adams George..	5	5	Albion	Gentleman	5		
2	Alley Simon ..	21	7	Albion	Yeoman	2		Served accordingly.
3	Ashtford Thomas.	2	19	Albion	Yeoman	4		
4	Berclay John ...	19	8	Albion	Shoemaker	7		
5	Worth David...	9	5	Albion	Merchant	6		
6	Daniel George..	11	16	Albion	Yeoman	9		
	(&c. to)							
183	Yarroid George.	14	9	Albion	Baker	1060	1	Attended, but made default.

These are to certify that on the day of instant, being the first day of the first General Quarter Sessions of the Peace for the County of York next after the first day of October in this year, (6) the foregoing Petit Jury List for the Superior Courts for this County for the year 1859, was in open Court duly balloted, canvassed and transferred from the Roll of Petit Jurors to serve in Her Majesty's Superior Courts of Criminal and Civil Jurisdiction for the same year, pursuant to the directions of the Act of Parliament of (3)

Witness our hands, this day of 1858.

C. D. Chairman.
E. F. Clerk of the Peace.
G. H. Warden

9.—PETIT JURY PANELS

FOR THE SUPERIOR COURTS (2)

(a) No. 1.

Panel of Petit Jurors returned upon a precept from the Honorable G. H., the Honorable J. J. (&c.) Her Majesty's Justices, in that behalf tested the day of one thousand eight hundred , for the return of forty-eight of such Jurors for the Sessions of Assize and *Nisi Prius*, *Oyer* and *Terminer*, and Gaol Delivery, to be held for this County, on the day of one thousand eight hundred and fifty-nine, as drafted on the day of one thousand eight hundred and fifty-eight, at the Office of the Clerk of the Peace in Toronto, by A. B. Esquire, Sheriff, in the presence of K. L. and M. N. Esquires, Justices of the Peace for the said County, pursuant to the directions of the Act of Parliament of (3)

No. on Panel.	NAMES.	No. of Lot or House, as in Juror List.	Concession or Street, or Unincorporated Village or Hamlet, as in Jury List.	Township, Village or Ward.	Additions.	No. on List.	Remarks.
1	Alley Simon..... (&c. to)	21	7	Albion	Yeoman	2	
48	Yarold George...	14	9	Albion	Baker	288	

Witness our hands, the day and year last above written.

A. B. Sheriff,
K. L. J. P.
M. N. J. P.

(b) No. 2, (5) &c.

10.—ROLL OF PETIT JURORS

To serve in Her Majesty's Inferior Courts (2) of Criminal and Civil Jurisdiction, (4)

No. on Roll.	NAMES.	No. of Lot or House as in Report of Selectors.	Concession or street, or Unincorporated Village or Hamlet as in Report of Selectors.	Additions.	No. on List.	Remarks.
	1 ALBION. (Township.)					
1	Alford Peter...	16	2	Esquire		
2	Adams Simon..	21	7	Yeoman	2	
3	Addis William.	25	3	Yeoman		
4	Ashton Thomas.	19	5	Yeoman	3	
5	Aylwin William	5	5	Gentleman	1	
6	Brooks David..	11	7	Merchant	5	
7	Burley John ...	9	2	Shoemaker	4	
8	Catty Peter....	4	6	Yeoman		
9	Davis George..	22	11	Yeoman	6	} Exempt, having served on P. J. List, S.C. 1850.
10	Gule George...	7	8	Tailor	7	
	&c. (to, say)					
1060	Yold George...	14	9	Baker.	258	
	2 BROCK. (Township.)					
	&c.					

These are to certify that I have carefully compared the above Petit Juror's Roll with the Reports made by the several Selectors of Jurors for the different Townships, Villages and Wards in the County of York, including the City of Toronto, as embraced within the same for certain judicial purposes, for the year one thousand eight hundred and fifty-eight, as such Reports remained with me as Clerk of the Peace, on the fifteenth day of September in that year, and that such Petit Jurors' Roll contains a true and correct transcript of the names, descriptions and additions of all persons so selected and reported as competent, qualified and liable to serve as Petit Jurors in Her Majesty's Inferior Courts of Criminal and Civil Jurisdiction for such County.

Witness my hand, this

day of 1850.

E. F., Clerk of the Peace.

11.—THE PETIT JURY LIST

For the Inferior Courts, (2) as balloted in open Court at a General Quarter Sessions of the Peace for the County, on the day of one thousand eight hundred and fifty-eight, being the first day of the first General Quarter Sessions of the Peace for the County held next after the First day of October in that year, by C. D., Chairman of the said Court, other Selector, pursuant to the directions of the Act of Parliament of (3)

No. on List.	NAMES.	No. of Lot or House, as in Jurors' Roll.	Concession or street, or Unincorporated Village or Hamlet, as in Jurors' Roll.	Residence.	Additions	No. on Roll.	No. of Panel.	Remarks.
1	Aylwin William	5	5	Albion,	Gentleman	5	1	Served accordingly.
2	Adams Simon	21	7	Albion,	Yeoman,	2		
3	Ashton Thomas	19	5	Albion,	Yeoman,	4		
4	Curley John	9	2	Albion,	Shoemaker	7		
5	Brooks David	11	7	Albion,	Merchant,	6		
6	Davis George	22	11	Albion,	Yeoman,	9		
298	(S ^{c.} , to) Yold George	14	9	Albion,	Baker,	106	1	Attended, but made default.

These are to certify that on the day of instant, being the first day of the first General Quarter Sessions of the Peace for the County of York, next after the First day of October in this year, (6) the foregoing Petit Jury List for the Inferior Courts for this County for the year one thousand eight hundred and fifty-nine, was in open Court duly selected, canvassed and transferred from the Roll of Petit Jurors to serve in Her Majesty's Inferior Courts of Criminal and Civil Jurisdiction for the same year, pursuant to the directions of the Act of Parliament of (3)

Witness our hands, this day of one thousand eight hundred and fifty-

C. D. Chairman,
E. F. Clerk of the Peace.
G. H. Warden.

12.—PETIT JURY PANELS FOR THE INFERIOR COURTS. (2)

(a) No. 1.

Panel of Petit Jurors returned upon a precept from S. B. H., and K. L. and M. N., Esquires, two of Her Majesty's Justices of the Peace in and for the County of York, tested the day of 185 , for the return of forty-eight of such Jurors, for the General Quarter Sessions of the Peace to be held for this County, on the day of 1859, as drafted on the day of 1859, at the Office of the Clerk of the Peace in Toronto, by A. B., Esquire, Sheriff, in the presence of K. L. and M. N., Esquires, Justices of the Peace for the said County, pursuant to the directions of the Act of Parliament of (3)

No. of Panel.	NAMES.	No. of Lot or House as in Jury List.	Concession or street, or Unincorporated Village or Hamlet, as in Jury List.	Township, Village or Ward.	Additions.	No. on List.	Remarks.
1	Adams Simon . . . (<i>&c., to</i>)	21	7	Albion,	Yeoman,	2	
48	Yold George . . .	14	9	Albion,	Baker,	283	

Witness our hands, the day and year last above written.

A. B., Sheriff,

K. L., J. P.

M. N., J. P.

(b) No. 2.

Panel of Special Jurors returned upon a Writ of *venire facias juratores*, out of the Court of Queen's Bench, in the case of N. O. Plaintiff, against P. Q. Defendant, tested (&c.,) and returnable (&c.,) as struck at the Office of the Clerk of the Peace in Toronto, on _____ the day of _____ 185____, by A. B. Esquire, Sheriff, in the presence of R. S. Attorney for the Plaintiff, and T. A. Agent for the Attorney of the Defendant, (or in the presence of R. S. Attorney for the Plaintiff, the Defendant's Attorney, though served with the appointment, not appearing) pursuant to the directions of the Act of Parliament of (3)

No. on Panel.	NAMES.	No. of Lot or House, as in Jury List.	Concession or Street, or Unincorporated Village or Hamlet, as in the Jury List	Township, Village or Ward.	Additions.	No. on Grand Jurors' Rolls.	Remarks.
1	Abbott William.	11	9	Albion,	Gentleman,	I. C. 31	From G. J.
2	Wilkins James. (&c. to)	13	4	Brock,	Esquire,		Roll for S. C.
16	Young David..	7	8	Albion,	Tailor,	S. C. 20	for year 1850 No. 10. the G. J. Roll for this year be- ing exhaust- ed.

Witness my hand, the day and year last above written.

A. B., Sheriff.

(c) No. 3. (5) &c.

NOTES TO SCHEDULE A.

- (1) Here insert the year and Chapter of this Act.
- (2) Or as the case may be.

NOTES TO SCHEDULE B.

- (2) So much of this Sub-Title as ends with this word, to be placed at the head of each page or folio of the Book appropriated to this class of entries.
- (3) Here insert the year and Chapter of this Act.
- (4) This Roll to be commenced on a new page or folio after leaving a sufficient number of leaves for the Jury List to be ballotted from the preceding Roll and the probable number of Panels that may be drafted from such List in the course of the year.
- (5) The subsequent Panels following immediately may be commenced on the same page or folio on which the preceding one is closed.
- (6) Or, if at a Special Sessions held under the authority of the _____ section of this Act, say, "Of a Special General Sessions of the Peace for the County of York, held "for that purpose under the warrant of His Excellency the Governor General," (or Lieutenant Governor, as the case may be,) the foregoing Grand or Petit Jury List, &c., was in open Court, &c.

SCHEDULE C.

PAY LIST for Petit Jurors who have attended "the Assize" or "County Court and Quarter Sessions" (as the case may be) held for the County of _____, and ended on the _____ day of _____, 1855.

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Name of Jurors.	Number of miles travelled in coming to Court.	Check of Attendance.							Amount to be paid to Juror.			Juror's signature acknowledging receipt of money.	
		1st day.	2nd day.	3rd day.	4th day.	5th day.	6th day.	7th day.	8th day.	£	s.		d.
John Just..... Charles Careless—	21	present	present	present	present	absent	present	present	present				

I, _____, Sheriff of the County of _____ do hereby certify to the Treasurer of the said County, that the above is, to the best of my knowledge, a correct return of the number of miles travelled by each Juror in coming to the said Court, a true check of the number of days of every such Juror attended the Court, and the just sum to which every Juror on the above list is entitled.

A. B., Sheriff.