

*The Provincial Statutes of Lower-Canada, Being the second session of the fourteenth Provincial Parliament of Lower-Canada.* Quebec: P. E. Desbarats, Printer to the King's Most Excellent Majesty, 1832.

2 William IV – Chapter 22

**An Act to regulate the qualification and summoning of Jurors in Civil and Criminal matters. (25th February, 1832.)**

Whereas it is necessary to regulate with precision the mode of selecting and summoning Jurors in Civil as well as in Criminal matters: Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Lower-Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great-Britain, intituled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign, intituled, 'An Act for making more effectual provision for the Government of the Province of Québec in North America,' and to make further provision for the Government of the said Province;" And it is hereby enacted by the authority of the same, that each and every inhabitant of this Province between twenty-one years of age, and sixty years of age, who shall be qualified in the manner hereinafter mentioned, (those exempted by this Act excepted,) shall have a right and shall be liable to serve as Grand Juror, and as a Petty Juror, in all the Courts of this Province, as well for Civil as for Criminal matters.

II. And be it further enacted, that from and after the passing of this Act, the Sheriffs of the several Districts of this Province, shall prepare by themselves or their respective Deputies two lists of all persons residing within the limits of their respective Districts, and qualified to serve, as Grand Jurors; the first of which lists shall contain the names of the Grand Jurors to serve as such in the Superior Courts in criminal matters, and Oyer and Terminer, and General Gaol Delivery, and the second, the names of those to serve as such at the Courts, of Quarter Sessions of the Peace.

III. And be it further enacted, that the Sheriffs of the said Districts respectively, shall make the lists of Grand Jurors in the manner hereinafter prescribed, for making the General Lists of Jurors for civil matters, and for Petit Jurors in criminal matters, shall deposit them in the same manner in the offices of the Clerks of the Courts for which they shall have been made, and shall follow the same order of rotation in summoning them.

IV. And be further enacted, that the Sheriffs shall not insert in the lists of Grand Jurors for the Superior Courts in criminal matters and Oyer and Terminer, the name of any person not being a proprietor of real property to the yearly value of twenty-five pounds currency, over and above all ground rents and incumbrances to which such real property may be liable, or unless such person shall then occupy as tenant, a house, in one of the Cities of Québec or Montreal, for which he shall bona fide pay a yearly rent of sixty pounds currency or upwards, or in the Town of Three Rivers [Trois-Rivières] at the rate of forty pounds currency or

upwards, and unless, such, person, shall have resided in the said Cities or Town during one year before the time at which the said lists shall be made, and that the Sheriffs shall not insert in the lists of Grand Jurors for the Courts of General Quarter Sessions of the Peace, the name of any person not proprietor of real property or estate to yearly value of fifteen pounds currency, over and above all ground rents or incumbrances, or unless such person shall occupy as tenant a house in one of the said Cities or Towns of Québec and Montreal, for which he shall bona fide pay a yearly rent of forty pounds currency or upwards, or in the said Town of Three Rivers at the rate of twenty pounds currency or upwards, and shall have resided therein for the length of time herein above mentioned. Provided always, that in the Inferior District of Gaspé every inhabitant who shall bona fide have been in public and peaceable possession as proprietor by himself or by the person from or through whom he derives his title during the period of five years consecutively of any immoveable property or hereditaments the yearly value of which would qualify him to serve on Grand Juries or Petty Juries as herein after established, shall be considered in all respects to be proprietors for the purposes of this Act: Provided nevertheless, that this Act shall not extend or be construed to extend to give such inhabitants a stronger title to such property than they would otherwise have had, nor to affect the rights of His Majesty, nor those of any other person, body politic or corporate whatever.

V. And whereas by reason of the great extent of the several Districts of this Province, the unequal distribution of the population therein, and the difficulties of communication in many places and other obstacles of the same nature, the summoning of Petit Jurors in criminal matters, and of Jurors for the trial of civil causes from all parts of the said Districts respectively, would be accompanied by difficulties which are for the present insurmountable: Be it therefore further enacted, that for the formation of the lists of Petty Jurors in Criminal matters, the Sheriffs of the several Districts in this Province, shall within six months after the passing of this Act, make out a list of all persons residing within ten leagues around the place of holding the Court, in the several Districts of this Province respectively, in every Parish, Seigniorie [seigneurie] or Township or place reputed such, who are proprietors of any real property, the annual value of which shall be equal to ten pounds currency, over and above any ground rent (rente foncière) or incumbrance to which such property shall be subject; and after the surname of every Juror shall add his Christian name, his profession and his residence, shall also indicate every Juror who is proprietor of real property or hereditaments of annual value of not less than fifteen pounds, nor exceeding twenty-five pounds currency, the whole over and above any ground rent or incumbrance with which such real property or hereditaments may be charged: Provided always that in the District of Montreal, besides the Parishes within the extent of ten leagues aforesaid, it shall be the duty of the Sheriffs to take the Jurors from all and every the Parishes or places lying on the banks of the Saint Lawrence or Ottawa Rivers, the distance whereof shall not be more than fifteen leagues from the City of Montreal, and for the lists of Jurors in Civil causes the Sheriffs shall make similar lists of persons residing within one league of the place of holding the Courts as aforesaid.

VI. And be it further enacted, that the Sheriffs of the Districts of Québec, Montreal and Three Rivers, respectively, shall also inscribe in the said lists, the names of every person resident in the said Cities or Towns of Québec or Montreal, occupying any house as tenant and paying for the same a yearly rent of or above twenty-five pounds currency, and in the Town of Three Rivers at least fifteen pounds currency per annum.

VII. And be it further enacted, that in making the said list of Jurors in each Parish, Seigniorship and Township, or place known as such, or reputed to be such, the said Sheriffs shall have a right to require the officiating Church Wardens, Officers of Militia and Senior Notary or any of them, to assist in making out and preparing the list of all persons liable and qualified according to the provisions of this Act to serve as Jurors and resident within the limits of every such Parish, Seigniorship or Township, or any division thereof for which they shall respectively have been appointed or wherein they shall respectively reside.

VIII. And be it further enacted, that every officiating Church Warden, Officer of Militia or Senior Notary, who shall refuse or neglect to comply with the requirements of this Act, respecting the formation of the said lists, shall incur a penalty not exceeding five pounds currency, for the first offence, nor ten pounds currency, for every subsequent offence.

IX. And be it further enacted, that each and every acting Church Warden, Officer of Militia or Senior Notary, who shall have so assisted in the original making of the said lists, shall be entitled to receive for each day he shall have been so employed a sum of money not exceeding five shillings currency, to be paid to him by the said Sheriffs respectively, and the amount thereof so paid by the said Sheriffs shall be reimbursed by an order or orders under the hand of the Governor, Lieutenant Governor or person administering the Government, out of any unappropriated monies in the hands of the Receiver General of this Province, and shall be accounted for to the Legislature within the first fifteen days of the Session next after the time at which such lists shall have been made; Provided always that the persons who shall at any subsequent time, assist in revising the said lists, shall be entitled to no fees or emoluments whatsoever.

X. And be it further enacted, that all the lists of Jurors to be made under the provisions of this Act, shall be made in duplicate and signed by the said Sheriff's respectively, who shall keep a duplicate deposited in their offices respectively; and the other duplicates of the said lists shall be deposited as follows: that is to say in the country parts the lists made for each Parish, Seigniorship or Township shall be deposited and shall remain in the keeping of the Road Surveyor of the place, and those for the Cities or Towns of Québec, Montreal and Three Rivers in the office of the Prothonotaries or Clerks of the Superior Courts of original jurisdiction or the Provincial Courts respectively; the general list of Jurors prepared in the manner hereinafter provided, the lists of the Grand Jurors for the Superior Courts in criminal matters or of Oyer and Terminer, the list of Jurors for the trial of issues in civil cases according to law, and as Petty Jurors in the Superior Courts in criminal matters and of Oyer and Terminer; and the lists of Special Jurors under the provisions of this Act, in the offices of the Prothonotaries or Clerks of the Superior Courts of original jurisdiction or of the Provincial

Courts respectively and lastly, the respective lists of Grand Jurors and of Petty Jurors to serve at the Courts of General Quarter Sessions of the Peace, with the Clerks of the Peace respectively; and all persons shall have free access to all the lists so deposited, including those which shall be deposited in the Sheriffs office, between the hours of nine in the morning and four in the afternoon of every day, without becoming thereby liable to the payment of fee or charge whatsoever.

XI. And be it further enacted, that when the lists for the several Parishes, Seigniories or Townships shall have been made, every Sheriff shall, within his District, make a general list of all the Jurors whose names are inserted in the said list including the Christian names and other additions herein before prescribed, which general list so made, shall be the list of the Jurors in all matters civil and criminal, for each District, respectively.

XII. And be it further enacted, that in making out the said general lists of Jurors, the Sheriff shall successively insert therein, one after the other, the first name in every list made for the said Parishes, Seigniories and Townships, respectively; and if any such list should contain double the number of names in another list, then the said Sheriff shall take two names from the most numerous list for every name taken from the list containing half as many, and a greater number in the same proportion and successively from every other list, and shall insert the same in the general list in the order herein before directed, until the said lists shall have been gone through.

XIII. And be it further enacted, that the said general list of Jurors prepared in the manner herein before directed, shall be written in Registers in which the names of the Jurors shall be entered one after another without interruption, and when the said lists shall have been once made and deposited, as by this Act directed, they shall not be changed nor altered in any manner whatsoever, except at the time and in the manner hereinafter directed.

XIV. And be it further enacted, that after the general list shall have been so made and completed, the Sheriffs shall respectively make from the said general list according to the order of the same, two other lists, which shall together include all the names contained in the general list, inserting in the one list the names of all the Jurors who are to serve as such at the Superior Courts of original jurisdiction in civil matters, and at the Superior Courts in criminal matters and at Courts of Oyer and Terminer, and in the other the names of all those who are to serve as such at the Court of Quarter Sessions of the Peace.

XV. And be it further enacted, that the said list of Jurors shall be renewed and made in the manner herein before directed, in the month of July in each and every year after such list shall have been first made, and shall be in like manner renewed and made in the month of July in every year.

XVI. And be it further enacted, that the new lists shall be made by leaving out the names of all persons deceased or absent, or who shall, during the preceding year, have ceased to be qualified, and by adding the names of all new comers who shall be qualified at the time such

list shall be renewed, and without otherwise changing the order in which the first list shall have been made.

XVII. Provided always, and be it further enacted, that nothing contained in the preceding Sections of this Act, shall be construed to prevent any such list from being altered or changed by order of the Judges of the Courts of original jurisdiction in civil matters sitting in Superior Term, whenever complaint shall have been made before them by any person, that the said Sheriffs have used partiality in making the said lists, or that they have inserted therein the names of persons who were not qualified to serve as Jurors, or that they have omitted to insert therein the names of persons fit and qualified to serve as such, or that the said lists have not been made in the manner herein directed; in all which cases such Court may, on proof being made in a summary manner of the truth of such allegations, order the names of all unqualified persons to be struck out of such lists, or the names of the persons duly qualified to serve as Jurors to be inserted therein, in the manner herein directed, as the case may be, and as to Law and Justice may appertain.

XVIII. Provided always, and be it further enacted, that the said Justices sitting in the Circuit Court, may hear all remonstrances and complaints made before them with respect to the local lists herein before mentioned by any person within the Circuit in which they shall be so sitting, in order that the whole matter may be brought before the Court of original jurisdiction in civil matters, at the then next Superior Term thereof, and such further proceedings had with respect to the said remonstrances or complaints, as are directed by the preceding Section of this Act, and as to Law and Justice shall appertain.

XIX. Provided always, and be it further enacted, that nothing herein contained, shall be construed to deprive any party to any cause of the right of challenging any Juror who shall not be qualified in the manner herein required, or for any other lawful cause of challenge, nor to prevent the Judge or Judges, from proceeding to determine the validity of such challenge, in the manner and according to the form prescribed by Law.

XX. And be it further enacted, that all Grand and Petty Jurors who shall hereafter be summoned to serve at any Court of Criminal Jurisdiction, shall be taken, in turn by following uninterruptedly and successively the order of the list beginning at the name next after the names of those last summoned, and so on successively, until the number residing within the limits for which the lists shall have been made shall be entirely gone through: and the names of the Petty Jurors so summoned shall be written upon tickets of the same size and form made of parchment or pasteboard, and put into an urn or box and on every trial in which the said Jurors shall be called upon to give a verdict the Clerk of the Court shall draw out the said tickets indiscriminately and one after another, and shall read them aloud, and the first twelve Jurors whose names shall be so read, and who shall be present in Court, and shall not be lawfully challenged shall be sworn for such trial; and the said Clerk shall on every trial, begin by replacing in the box the tickets which shall have been drawn out of it: Provided always, that at every term of the Superior Courts of Criminal Jurisdiction or at any Court of Oyer and Terminer no more than sixty Petty Jurors shall be summoned nor more than thirty-six at every General Quarter Session of the Peace.

XXI. And be it further enacted, that the Jurors for Criminal matters, shall in every case be summoned at least ten days before the day on which they shall be enjoined to attend.

XXII. And be it further enacted, that from and after the passing of this Act, those who shall sue or prosecute in the King's name in any Criminal Cause, shall not in any case challenge any Juror, except for cause, and the ground of such, challenge shall not be declared sufficient by the Court, unless legal proof shall be made of the truth of the fact alleged as forming the same, and that no person arraigned for murder or felony shall be admitted to any peremptory challenge above the number of twenty.

XXIII. And be it further enacted, that the Members of the Clergy, School-masters, not exorcising any profession, Advocates and Attornies practising in the Courts, the Prothonotaries or Clerks of the Courts of King's Bench, or of the Quarter Sessions of the Peace, or of the Provincial Courts respectively, the Coroners, Gaolers, Keepers of Houses of Correction, Physicians and Apothecaries, and Pilots licenced by the Trinity House, Military Officers on full pay, persons employed in the Public Offices, Officers of the Customs, Sheriffs Officers, Constables or Bailiffs of the said Courts, are declared exempt from service as Jurors, and their names shall not be inscribed on the said lists, nor those of all persons already exempted by Law.

XXIV. And be it further enacted, that all aliens shall only be Jurors in cases in which a Jury de medietate Lingua, may be prayed for and obtained.

XXV. And be it further enacted, that no person convicted of Treason or Felony, or who shall have been condemned to any infamous punishment, shall be inscribed on the Jury list, nor shall serve and act as a Juror.

XXVI. And be it further enacted, that whenever it shall be required that a Jury be summoned to serve in a civil case either from the general list of Jurors for civil causes and Petty Jurors in criminal matters, or from among the special Jurors hereinafter mentioned, the Clerk of the Court shall take the thirty Jurors whose names are first on the list and shall continue to call them in that order until the lists be gone through; and that it shall then be lawful for each party, Plaintiff and Defendant or their Attornies respectively, to strike out of the said list the names of six of the said Jurors, and that the eighteen Jurors remaining after such striking out, shall be the Jurors to be summoned by the Sheriff, and from and among whom shall be taken in their original order the twelve Jurors who shall be sworn to hear and determine the matter at issue between the said parties.

XXVII. And whereas it is expedient to grant to the parties the benefit of Special Juries in Civil matters in certain cases, be it further enacted, that each and every person who shall be party to any suit wherein a trial by Jury may according to Law be had, may, if he shall deem it expedient, demand that the issue or issues of the said suit be tried by a Special Jury taken

from among those qualified as herein after mentioned, and in the manner herein after provided.

XXVIII. And be it further enacted, that the Sheriffs of the said Districts respectively, shall make lists of the Special Jurors qualified as under this Act, in taking from the general lists, and in the order in which they occur therein, the names of all the persons residing as aforesaid within one league of the place of holding the Court, qualified to serve as Grand Jurors in the Superior Courts in criminal matters or Oyer and Terminer, and at the Sessions of the Peace, and the name of every Notary inserted in the general list of Jurors.

XXIX. And be it further enacted, that in all civil causes to be tried by a Jury, whenever the capacity assigned to or assured by either of the parties of the suit, shall, be put in issue, the Court shall hear and determine the issue so raised, before the issues raised upon the merits shall be submitted to the Jury for their verdict.

XXX. And be it further enacted, that in all suits between Merchant and Merchant, and Trader and Trader, in commercial matters, the Court upon the demand of either party, may order that one half of the persons to be summoned on that Jury be Merchants or Traders, and taken according to the order in which they may be found in the list, and that one half of the Jurors sworn, be also Merchants or Traders.

XXXI. And be it further enacted, that in suits between Trader and Trader, and Merchant and Merchant, respecting commercial matters, the Court by consent of all the parties, may order that the said list of Jurors be composed of Traders and Merchants whose names are inscribed in the general lists, and in the order in which they are inscribed in the lists.

XXXII. And whereas the reasons which have led to the enactment, that all Merchants or Traders of lawful age, and also all persons of lawful age, being householders, or occupying lodgings of the value of fifteen pounds per annum rent, shall be held and considered qualified as Jurors, and to serve on Petit Juries, are no longer applicable to the present circumstances of the country: Be it therefore further enacted, that these provisions of the fifteenth Section of the Provincial Ordinance of the twenty-fifth year of the Reign of His late Majesty King George the Third, intituled, "An Ordinance to regulate the proceedings in the Courts of Civil Judicature and to establish trials by Juries in actions of a commercial nature, and personal wrongs to be compensated in damages in the Province of Québec," shall be, and the same are hereby repealed.

XXXIII. And whereas by means of this Act and the provisions thereof, the provisions contained in the sixteenth, seventeenth, eighteenth, nineteenth and twenty first Sections of the Ordinance herein before cited, of the twenty-fifth year of the Reign of His late Majesty King George the Third, are become useless, or cannot be carried into effect: Be it therefore further enacted, that the said-sixteenth, seventeenth, eighteenth, nineteenth and twenty-first Sections of the Ordinance herein before cited, shall be and the same are hereby repealed.

XXXIV. And be it further enacted, that so much of the twentieth Section of the said Ordinance of the twenty-fifth of the Reign of His late Majesty King George the Third, intituled "An Ordinance to regulate the proceedings in the Courts of Civil Judicature, and to establish Trials by Juries in actions of a commercial nature and personal wrongs, to be compensated in damages in the Province of Québec," as enacts, that Jurors serving on Special Juries as aforesaid, and struck from the first list or Jury Book, shall have and receive two shillings and six pence each, for every verdict to be made and delivered, and before returned into Court, and Jurors struck from the second list or Jury Book, one shilling each for every verdict in manner as aforesaid, shall be and the same is hereby repealed, and that from and alter the passing of this Act each and every Juror summoned to give his verdict in any civil matter shall have and receive the sum of two shillings and six pence currency before giving such verdict in Court.

XXXV. And be it further enacted, that every Sheriff who shall wilfully or negligently offend against any of the provisions of this Act, shall for the first offence incur the forfeiture of a penalty not exceeding fifteen pounds currency, nor less than ten pounds currency, and not exceeding twenty pounds currency, nor less than fifteen pounds currency, for the second offence, nor exceeding thirty pounds currency, nor less than twenty pounds currency, for the third offence, or any subsequent offence.

XXXVI. And be it further enacted, that every person summoned to serve as a Juror under the authority of this Act, who shall refuse or neglect to serve as such without assigning some lawful cause or excuse therefor, shall incur a penalty not exceeding five pounds currency.

XXXVII. And be it further enacted, that every person who shall refuse to furnish to the persons employed to make the lists of Jurors required by this Act, the information necessary for making the same, shall incur a penalty of not less than five shillings nor exceeding twenty shillings currency, to be recovered with cost's in a summary manner by complaint before one Justice of the Peace, and one moiety thereof shall go to His Majesty and the other moiety to the informer.

XXXVIII. And be it further enacted, that the penalties hereby imposed shall be sued for within six months next after the offence committed, and not afterwards, and be recovered with costs by suit in any of His Majesty's Courts of competent jurisdiction in the Districts within which the offence shall have been committed, and that every such penalty shall be levied with costs in the ordinary course of law Provided always, that if any action against the Sheriff shall be declared by the judgment unfounded and vexatious, the Sheriff who shall be discharged therefrom shall be intituled to and shall recover double costs.

XXXIX. And be it further enacted, that one moiety of the penalties hereby imposed, shall belong to His Majesty, and be paid into the hands; of the Receiver General, for the public uses of the Province, subject to the future disposition of the Provincial Parliament, and that the other moiety shall belong and be paid to the informer.



XL. And be it further enacted, that the due application of all monies raised or affected under and by virtue of this Act, shall be accounted for to His Majesty, His Heirs and Successors, through the Lords Commissioners of His Majesty's Treasury for the time being, in such manner and form as His Majesty, His Heirs and Successors shall direct.

XLI. And be it further enacted by the authority aforesaid, that this Act shall continue in force until the first day of May, in the year one thousand eight hundred and thirty five, and no longer.