

At the General Assembly of the Province of Nova Scotia, begun and holden at Halifax, on Monday the 2nd day of October, 1758, in the 32nd year of His Majesty's Reign, and there continued by Prorogation until Wednesday the first day of August 1759, in the 33rd Year of His Majesty's Reign.

33 George II – Chapter 5 (Session 1)

An Act for regulating Petit Juries, and declaring the Qualification of Jurors.

Be it enacted by His Excellency the Governor, Council, and Assembly, and by the authority of the same it is hereby enacted, that from and after the first day of October next, no person shall be qualified to serve as a Petit Juror, unless he hath a freehold estate of the value of twenty shillings a year, or is possessed of ten pounds personal estate.

And be it further enacted, That the Provost Marshal or his deputy shall, as soon as conveniently may be, make out a list of all persons qualified as aforesaid, who have dwelt and resided within the town and county of Halifax, for three months preceding, and return the same into the clerks office of the inferior court of common pleas for said county, who shall thereupon make out a number of ballots of an equal size, one for each person, inscribing thereon the persons name; which ballots shall be safely kept in a box, to be locked up by him, and shall be opened ten days before the sitting of said court in the presence of the first justice, and twenty four ballots for the juries of the inferior court, and the court of general quarter sessions of the peace, shall be drawn from thence and delivered to the Provost-Marshal or his deputy, who shall summon the persons so balloted, to attend at the next sitting court, and they shall be accordingly entered on the venires and returned to serve as jurors at the said court; and then the said box shall be delivered to the clerk of the supream court [supreme court], and thirty six ballots shall be drawn, in manner aforesaid, by the clerk of said court in the presence of the chief justice, ten days before the sitting of said court, and the persons so drawn, shall be summoned, entered on the venire issuing from that court, and returned as aforesaid; and so from court to court till the whole number of freeholders and other persons qualified as aforesaid, shall have served as jurors.

Provided, that if upon the return of the venires into the supream court, inferior court, or general quarter sessions, it shall appear to any of said courts, that the persons so balloted for, and summoned by the Provost-Marshal, cannot attend by reason of some unavoidable accident, that then and in such cases, the chief justice at the supream court, or the first justice at the inferior court or general quarter sessions, shall order their respective clerks in open court, to draw out as many ballots out of said box, as will amount to the number that cannot attend, who shall be immediately summoned by the provost-marshal to attend as jurors, and ballots for the names of those that are unable to attend, to be returned into the box, and a list of all persons qualified as aforesaid within the said town and county, shall be taken by the said provost-marshal or his deputy from year to year, and returned as aforesaid, or as often as the said lists shall be fully drawn.

And be it further enacted, that every person summoned and returned as aforesaid to serve as a juror, who (without sufficient reason to be judged of by the court) shall refuse or neglect to give his attendance at the court whereunto he is notified and summoned to appear, shall forfeit the sum of five pounds, to be paid into the hands of the said clerk, and on his neglecting to pay the said fine, before the end of the term, it shall be levied by warrant of distress, to be issued from the said court; and for any willful absence or non attendance on his duty during the sitting of the said court, he shall forfeit for every day's neglect, the sum of ten shillings, to be paid or levied in manner aforesaid; and the fines so collected by the clerks aforesaid, shall be paid by them to the treasurer of the province for his Majesty's use.

Provided always, that if by reason of challenge or otherwise, there shall not appear a sufficient number of good and lawfull men to make up a petit jury or juries, then and in such case, the said jury or juries shall be filled up *de talibus circumstantibus*, to be nominated and returned by the provost-marshal or his deputy; and where the provost-marshal or his deputy is concerned, or related to either of the parties in any case, then the jurors shall be nominated and returned by the coroner.

Provided also, that no persons balloted for as jurors for any court shall at the same court, be returned to serve as grand jurors.

Provided also, that the members of his Majesty's council, the members of the assembly, the treasurer of the province, register of deeds, chief surveyor of the crown lands, secretaries, ministers, officers of his majesty's customs, naval officer, and his deputy, attorneys at law, officers of his majesty's courts, commissary of the ordnance stores, and surgeons, shall be excused from serving as jurors.