

*At the General Assembly of the Province of Nova Scotia, begun and holden at Halifax, on the Twentieth day of March, 1793, and continued by several Prorogations to the Third Day of March, Anno Domini 1796, in the Thirty-Sixth Year of the Reign of Our Sovereign Lord George The Third of Great-Britain, France, and Ireland, being the Fourth Session of the Seventh General Assembly convened in the said Province. From Richard John Uniacke, The Statutes at Large passed in the General Assembly held in His Majesty's Province of Nova Scotia: A complete index and abridgement of the whole. John Howe and Son, 1805.*

36 George III – Chapter 2

### **An Act to regulate Juries.**

Be it enacted by the Lieutenant-Governor, Council and Assembly, that, from and after the publication of this act, every person not herein after exempted, having an estate of freehold in the county for which he shall be summoned, of the clear yearly value of ten pounds, and having been resident therein for the space of three months, or a personal one of one hundred pounds, with like residence; or, in like manner, a freehold of twenty shillings, or personality to the amount of ten pounds, shall be respectively qualified and liable, to serve upon grand and petit juries within this province. Provided always, that the members of His Majesty's council, the members of the assembly, the treasurer and secretary of the province, the officers of His Majesty's courts, the officers composing the staff of the army, the clerks belonging to the several departments of the army, the officers and clerks belonging to, and labourers actually employed in, the naval yard, the officers and clerks belonging to, and labourers actually employed in, the civil departments of His Majesty's ordnance, the officers of His Majesty's customs, register of deeds, chief surveyor of the crown lands, naval officer, and his deputies, ministers, attornies, physicians, surgeons, engine men, and persons above seventy years of age, are hereby exempted from such service.

II. And be it further enacted, that the different sheriffs shall, once every year, viz on or before the 10th day of April, return to the prothonotaries, or clerks, of the several courts in which juries are required to serve, lists of all the persons so qualified, and not exempted as aforesaid, who shall thereupon cause the names of such persons to be written on distinct and similar pieces of paper, and the same to be severally rolled up, and put together in a box, to be kept by them respectively, under lock and key, for that purpose. And for the better enabling the sheriff of the county of Halifax to make out such lists as have been accustomed to be by him returned for the service of the several courts in that county, and in order to assist the other sheriffs, throughout the province, to complete their respective lists, he, or any of them, shall, upon request made by him, or any of them, respectively, to any person in that part of the county of Halifax, comprehended within the town and peninsula, or in any other county, who shall have in his custody any rates or assessments for the payment of taxes, have liberty to inspect the same, and take from them the names of all such persons liable to serve on juries, as they shall be found to contain.

III. And be it further enacted, that the grand juries for the several counties shall be drawn from the said box, in the supreme court, or in the court of quarter sessions, for those counties to which the supreme court does not go, by the proper officer thereof, in the course of the last term or sessions in every year: and being afterwards summoned and sworn, at the first ensuing term or sessions in the following year, shall serve as such during the whole of the same. And the prothonotary, or clerk, of the supreme court, inferior court, and court of quarter sessions, in every county, is hereby also directed, on or before the last day of each term or sessions, to draw in like manner the names of a sufficient number, to serve as petit jurors, for the term or sessions then next ensuing: lists of which, as also of the said grand juries, being respectively made out, by the said protonotary or clerk, and signed by the chief or first justice, presiding at the time, the said protonotary or clerk, and signed by the chief or first justice, presiding at the time, the said prothonotary, or clerk, shall, ten days before the next meeting of the court, issue writs of venire facias, for the summoning the persons contained therein accordingly. Provided always, and be it enacted, that the persons now returned, and serving on the different grand juries throughout the province, shall continue to serve for the present year, as if they had been returned under this act.

IV. And be it further enacted, that every person duly summoned as aforesaid to serve upon any jury, who, not being prevented by sickness, or other reasonable cause of absence, shall fail to appear, and serve upon the same, shall forfeit and pay for every day's default, if a grand juror, a fine not exceeding twenty shillings, and if a petit juror, a fine not exceeding ten shillings; which being levied, if necessary, by warrant of distress and sale, shall be paid to the prothonotary, or clerk, respectively, and be by them accounted for at the end of each term or sessions, to the treasurer of the respective counties, to be from time to time applied by the justices of the several courts, for the countries use.

V. And be it further enacted, that if, by reason of just excuses to be allowed of by the court, a sufficient number of persons so summoned as aforesaid, either as grand or petit jurors should not be likely to attend in any particular term, sessions or year, it shall be in the discretion of the court to return the names of the persons so excused, or of such of them as the court shall think fit, into the box, as though they had not been drawn, and to draw others in their stead, who shall be forthwith summoned by the sheriff, and be subject to all the consequences of non-attendance as before provided. And in every case where a full jury for the trial of any cause shall not appear, or appearing shall, by challenge of either of the parties, otherwise prove deficient, a tales de circumstantibus shall be awarded, and immediately returned in manner as has been heretofore practiced.

VI. And be it further enacted, that it shall and may be lawful for His Majesty's supreme court, upon motion made on behalf of any party, in any cause, civil or criminal, to order a special jury to be struck before the protonotary from the list in his office, according to the course of the common law, for which he shall be entitled to a fee of five shillings: and the jury so struck, shall be the jury to be summoned and returned for the trial of such cause.

VII. And be it further enacted, that where, in the supreme court, or in any of the inferior courts of common pleas, a view shall be allowed in any cause, six or more of the jurors to be mutually consented to by the parties or their agents, or if they cannot agree, to be named by the court, together with two persons to be in like manner appointed to shew them the matters in question, shall have the same; and the said viewers, or such of them, as appear, shall be first sworn upon the jury, to try the cause, in which it shall have been allowed: and in case a view shall either not have been had at all, or not had by the number appointed, yet the trial shall proceed, and no objection be received on either side, on account thereof.