

*Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1848.* Fredericton, NB: John Simpson, Printer to the Queen's Most Excellent Majesty, 1848.

11 Victoria – Chapter 15

**An Act in addition to the Law relating to Juries. Passed 30th March 1848.**

Whereas in and by an Act made and passed in the thirty first year of the Reign of His Majesty King George the Third, intituled *An Act in addition to an Act, intituled 'An Act for regulating Juries and declaring the qualification of Jurors,'* it is among other things provided, that no Sheriff shall empannel or return any person or persons to try any issue joined in any Court of Record in this Province, that shall not be named and mentioned in the List of Jurors referred to in and by the said recited Act: And whereas doubts have arisen whether the neglect to return such List, or enter the same in a Book as provided for in and by the said recited Act, or the omission or insertion of the name of any person qualified or not qualified by Law to serve as a Juror, may not be a ground of challenge or excuse for non-appearance, by reason whereof a failure of Justice may frequently happen, and it is therefore considered proper to amend the Law in this respect;

I. Be it therefore enacted by the Lieutenant Governor, Legislative Council and Assembly, That the neglect of any Sheriff to return such List pursuant to the directions of the said recited Act, or of this Act, or of the Clerk of the Peace to enter such List in a Book, or the omission or insertion in such List who may be qualified or not qualified to serve as a Juror, or any error in the description of such Juror, or any other defect in the same, shall not be deemed or allowed as any ground of excuse or objection to any person (otherwise qualified) being summoned, sworn or serving as a Juror for the trial of any issue joined in any Court of Record in this Province, or of any ground of challenge either to the array or to the poll, any thing in the said recited Act to the contrary in any wise notwithstanding.

II. And be it enacted, That from and after the first day of January, one thousand eight hundred and forty nine, the time for returning such List by the Sheriff shall be between the first day of January and the fourteenth day of February in each year, instead of the time mentioned in the said recited Act.

III. And whereas it is considered desirable to allow either party to challenge peremptorily a limited number of Jurors, without assigning any cause; Be it therefore enacted, That when any Jury, other than a special Jury, may be empannelled for the trial of any issue joined or any inquisition to be taken in any action or prosecution in any Court of Record, in this Province, except in cases where by Law a peremptory challenge is now allowed, the party plaintiff or plaintiffs, prosecutor or prosecutors, defendant or defendants, prisoner or prisoners, may as the Jurors come to the Book to be sworn, peremptorily challenge not exceeding three of the Jurors, which challenge shall be allowed by the Court or Judge or Officer presiding before whom such issue or inquisition may be tried or taken; provided that this Act shall not be construed to authorize either party to challenge peremptorily more than three Jurors, notwithstanding such party may consist

of several persons; and provided also, that nothing herein contained shall be construed to impair or abridge the right to any challenge for cause, as heretofore practised.

IV. And whereas it is necessary to make provision for the more convenient striking of Special Jurors; Be it enacted, That upon motion made in the Supreme Court on behalf of Her Majesty, or on motion of any prosecutor or defendant in an indictment or information for any misdemeanor, or information in the nature of a *quo warranto*, or on motion of any plaintiff or defendant in any cause depending in the said Court, the Justices are required to order a Jury to be struck before the Clerk of the Peace of the County in which the venue is laid; and the party obtaining such order shall get an appointment from the said Clerk of the time and place for striking said Jury, and shall serve a copy of the said order and appointment on the opposite party or his Attorney, at which time and place the said Clerk of the Peace, or his Deputy, shall attend with the Jury List returned in the office of such Clerk, and shall then and there, in the presence of the parties, or their Counsel or Attornies, proceed to strike a Jury in the manner following:—

First.—He shall select from said Jury List entered in his Office the names of forty eight persons whom he shall deem most indifferent between the parties and best qualified to try such cause, and whose attendance is likely to be procured, and if no such list shall be entered for the current year, the selection shall be made from the list of the preceding year.

Second.—The party on whose application such special Jury was ordered, or his Attorney or Counsel, shall then first strike out one of the said names, and the opposite party, or his Attorney or Counsel, shall strike out another of such names, and so alternately, until each party shall have stricken out twelve names.

Third.—If either party shall fail to attend for striking such Jury, or shall neglect to strike out any names according to the foregoing provisions, the Clerk, or his Deputy, shall strike for such party.

Fourth.—The Clerk or his Deputy shall thereupon make out a list of the names of the twenty four persons not stricken out, and certify the same to be the persons drawn to serve as Jurors, pursuant to the order of the Court, and shall deliver such list, so certified, to the Sheriff of the County, or Coroner, as the case may require, who shall proceed to summon the said Jurors in the usual manner.

V. And be it further enacted, That if it shall be made to appear to the said Court that the said Clerk is interested in the cause, related to either of the parties, or not indifferent between them, the said Court shall nominate and appoint two fit and proper persons to strike said Jury, who shall have the same power, and shall conduct the striking of the said Jury in the same manner as is herein pointed out for the said Clerk.

VI. And be it enacted, That so much of the sixth section of an Act made and passed in the twenty sixth year of the Reign of His Majesty King George the Third, intituled *An Act for regulating Juries and declaring the qualification of Jurors, as relates to the manner of striking Special Jurors*, shall be and is hereby repealed.