

Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1850. Fredericton, NB: John Simpson, Printer to the Queen's Most Excellent Majesty, 1850.

13 Victoria – Chapter 43

An Act to amend the Laws relating to Juries. Passed 26th April 1850.

I. Be it enacted by the Lieutenant Governor, Legislative Council and Assembly, That every person who may be duly summoned to attend as a Petit Juror at any Court of General Sessions of the Peace or Inferior Court of Common Pleas in and for any County or City in this Province, and who shall not appear when called upon the trial of any criminal or civil cause in any such Court, shall on due proof being made by oath or affidavit of the summoning officer that such person hath been lawfully summoned, forfeit and pay for every such default the sum of five shillings, unless some sufficient cause of his absence be assigned and produced to the satisfaction of such Court; provided always, that the amount of such fines to be levied on each such Jurymen for the several defaults at any one term shall not exceed the sum of three pounds, such fines so imposed as aforesaid to be levied and collected in the same manner as is directed and provided in respect of fines on Jurors in and by an Act passed in the twelfth year of the Reign of Her present Majesty, intituled *An Act to amend the Laws relating to Juries*.

II. And be it enacted, That the Sheriff of each County and City and County, shall between the first day of January and the fourteenth day of February in each year, make out a list and cause the same to be fairly entered in a book to be by him provided for that purpose, of all persons qualified to serve upon Juries, who have resided within the said County or City and County for three months preceding, with their titles and additions, between the age of twenty one years and the age of sixty years, and shall return the same book into the Office of the Clerk of the Peace of the said County or City and County, to be by him kept among the Records of the Sessions of the said County or City and County, and it shall not be necessary for the said Clerk to have the said list entered in any other book; and no Sheriff shall empanel 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 such list.

III. And be it enacted, That upon motion made in the Supreme Court on behalf of Her Majesty, or on motion of any prosecutor or defendant on 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 Courts, the Justices are required to order a Special Jury to be struck before the Clerk of the Peace of the County or City and County in which the venire is laid, and the party obtaining such order shall get an appointment from the said Clerk of the time and place of the selection of forty eight persons from the Jury list entered in his office, and shall serve a copy of said order and appointment on the opposite party or his attorney, at which time and place the said Clerk or his deputy shall attend with the said Jury list, and shall then and there in the presence of the parties, or their counsel or attorneys, or such of them as shall attend, select from the said Jury list 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; and the said Clerk or his deputy shall thereupon make, out a list of the names of the said forty eight persons so selected, and shall certify the same to be the list from which such special Jury shall be struck, and shall deliver the same to the party who obtained the order for such special Jury, his attorney or agent, and such party shall thereupon get an appointment from the said Clerk of the time and place for striking the said Jury, and shall serve a copy thereof, together with a copy of the said list of forty eight names, on the opposite party or his attorney, at which time and place the said Clerk of the Peace or his deputy shall attend, and shall then and there in the presence of the parties, or their counsel or attorneys, or such of them as shall be present, proceed to strike a Jury in the manner following:—First, The party on whose application such special Jury was ordered, or his attorney or agent, shall first strike out one of the said names, and the opposite party, or his attorney or agent, shall strike out another of such names, and so alternately until each party shall have struck out twelve names; Second, 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; Third, The Clerk or his deputy shall thereupon make out a list of the names of twenty four persons not struck out and shall 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 City and County, Coroner, or Returning Officer, as the case may require, who shall proceed to summon the said Jurors pursuant to the directions of the said recited Act, without any writ of *distringas* or other process whatever.

IV. And be it enacted, That the sixth and seventh sections of the said recited Act be and the same are hereby repealed.

V. And be it enacted, That the number of persons to serve as Petit Jurors to attend at and for the Courts of Nisi Prius, Sittings after Term, *Oyer* and *Terminer* and General Gaol Delivery, shall in future be thirty instead of twenty four as provided in and by the fourth, fifth and fifteenth sections of the said recited Act.