

Laws of Her Majesty's Province of Newfoundland, passed in the year 1856.

19 Victoria – Chapter 13

An Act to Determine the Qualification of Jurors to serve in the Several Courts of this Island, and to Regulate the Empannelling of Jurors therein. (Passed 12th May, 1856.)

Whereas it is expedient to determine the Qualification of Jurors to serve in the several Courts of this Island, and to Regulate the Empannelling of Jurors:—

Be it therefore enacted, by the Governor, Legislative Council and Assembly of this Island, in Legislative Session convened, as follows:—

I. Such Rules and Orders of the Supreme and Circuit Courts of this Island, and such parts of the Act of the Imperial Parliament passed in the Fifth Year of the Reign of His late Majesty, King George the Fourth, intituled “An Act for the better Administration of Justice in Newfoundland, and for other purposes,” as relate to the Qualification, Empannelling, Summoning, Drawing or Striking of Jurors in the said Courts, be and the same are hereby Repealed.

II. From and after the passing of this Act, every person not hereinafter exempted, or who may not otherwise by Law be exempted, residing within Five Miles from the Court House in St. John's, and being a Merchant, or the chief accredited Agent of any Mercantile Establishment, in the absence of his Principal from the Island, or a Gentleman, or being worth, or possessed of Property of any description, within the said limits, clear of all incumbrances, of the value of Five Hundred Pounds of the current money of this Island: or any Person owning or occupying a House, Land or Tenement, within the said limits, of the annual Rent or Value of Sixty Pounds of the current money of this Island, shall respectively be qualified and liable to serve as Grand Jurors in any Court within the Central District of this Island.

III. Every Person not hereinafter exempted, or who may not otherwise by Law be exempted, residing within the limits mentioned in the foregoing Section, and possessing Real Property, in his own right, to any amount, or occupying or possessing a House, Land or Tenement, within, the limits aforesaid, of the annual Bent or Value of Ten Pounds Currency, shall be qualified and liable to serve on Petty Juries within the said District.

IV. Provided always, that no person shall be qualified or liable to serve as a Grand or Petty Juror who shall not have resided Twelve Months in this Island.

V. Every person not hereinafter exempted, or that may not otherwise by Law be exempted, residing within at least seven miles from any place where the Circuit or other Court shall be holden in the Northern or Southern District of this Island, and being a Merchant, or the chief accredited Agent of any mercantile establishment, in the absence of his Principal from this Island, or a Gentleman, or being possessed of Property within the said limits, clear of all incumbrances, of the value of Two Hundred Pounds of the current money of this Island, or owning or occupying a House, Land, or Tenement, if at Harbor Grace, of the annual rent or value of Twenty Five Pounds currency, or if in any other place, of

the annual rent or value of Twelve Pounds currency, shall be qualified and liable to serve as a Grand Juror within the said limits, in the said several Districts.

VI. Every person not hereinafter exempted, or who may not otherwise by Law be exempted, residing within the limits mentioned in the foregoing section, and possessing Real Property to any amount within the said limits, or occupying or possessing a House, Land or Tenement, within the said limits, of the annual rent or value of Four Pounds currency, shall be qualified and liable to serve, on Petty Juries within the said limits in the said several districts.

VII. All persons qualified to serve as Grand or Petty Jurors, shall also be qualified and liable to serve as Special Jurors.

VIII. After the passing of this Act, the Stipendiary Magistrates, or any other Magistrate who may be appointed; by the Governor for the purpose where there is, no Stipendiary Magistrate, resident in any of the places, where any Court may be held, shall superintend and direct the making out of separate lists of all persons qualified to serve on Grand and Petty Juries respectively, in such districts or places, and shall forthwith make returns of the same to the Sheriffs of the several districts, and the Sheriff of each district shall arrange the same in the respective, panels in alphabetical order, with the addition and the place of abode of each person stilted; and the said Magistrates shall also, on the last Tuesday in January in every year, after the present year, revise the said lists, and furnish returns as aforesaid of all persons who shall have ceased to be qualified, and of all others who shall have become qualified to be placed on the respective lists: Provided always, that for every such return there shall be paid from the Public Treasury to the Stipendiary Magistrate, the sum of Thirty Shillings, one-half thereof to be paid the officers employed by them, for every one hundred names so returned.

IX. The said lists, shall be open to the inspection of the public, in the respective offices of the said Sheriffs and Magistrates and in case the name of any person qualified to serve as a Grand or Petty Juror, shall not appear on any of the said lists, or the name of any person not qualified shall appear thereon; it shall be lawful for the Magistrate having charge of such list, to Correct any such error, or to supply any such omissions, by inserting or omitting the name, as the case may be; or for any of the said Superior Courts, or Courts of Quarter Sessions held within the limits aforesaid, to direct the Sheriff to cause the same to be done.

X. All the names of persons qualified to serve as Grand Jurors, together with their additions and the names of their respective places of abode, shall be written or printed on separate Cards, and fourteen days before the commencement of each term to be holden at Saint John's, six days before the first day of each term to be holden at Harbor Grace, and at least one clear day before such Grand Jurors shall be required to attend Court in any other place in this island, the respective Sheriffs shall attend with the said Cards before the respective Clerks of the said Courts or their respective Deputies, who shall compare the same with the lists of Grand Jurors furnished aforesaid; and the said Cards, containing the names of the whole of the said Jurors, shall be put into a box, in presence of the said respective Clerks, and the first twenty-three persons whose names shall be first drawn by the Sheriff shall be summoned at least four days before the commencement of each term of the said Courts to be holden at Saint John's and Harbor Grace, and at least the day before they shall be required to attend any Court tribe

holden in any other place in this Island, and serve as Grand Jurors for and during the entire of such term.

XI. All the names of persons qualified to serve as Petty Jurors, together with, their additions and respective places of abode, shall be written or printed on separate Cards; and fourteen days before the commencement of each term to be holden at St John's, and at least one clear day before they shall be required to attend Court elsewhere, the Sheriff of each District, or his Deputy, shall attend with the said Cards before the Clerk of each of the said respective Courts; or his Deputy, who shall compare the same with the lists furnished as aforesaid; and the Said Cards containing the names of the whole of the said Jurors shall be put into a hoi in the presence of the said Clerk, and the first Forty Persons whose names shall be first drawn by the Sheriff, shall be summoned, at least four days before the commencement of each term of the said Court to be holden at St. John's, and at least the day before they shall be required to attend Court in any other place, to be and serve as Petty Jurors for and during the first ten days of the said term, if in any Superior Court in St. John's, or if any other Court or place, then for and during the term; and the next forty persons whose names shall be next drawn there from, shall be summoned at least four days before the tenth day of the said term, if in St, John's; and the said persons so summoned, shall, in like manner; attend and serve as Petty Jurors for the next ten days of the said term; and toties quoties for the remainder of the said term; Provided that the said respective Courts shall have power and authority to prolong the attendance of any of the said Jurors, if necessary, beyond the time, hereinbefore limited for their attendance; and that no Grand or Petty Juror shall be drawn oftener than one term in any year unless in case of deficiency in the number of Jurors, when the names of such as have been summoned on previous Juries shall be returned to the box to be drawn in like mannner: provided that no person drawn, as a Grand or Petty Juror, shall be again drawn as such until all the undrawn names upon the list containing the name of such Juror shall be exhausted.

XII. The same course shall be pursued as nearly as may be, in drawing and summoning Petty Jurors for any other Courts or in any, other of the said Districts; but it shall not be necessary to summon more than twenty-four Petty Jurors to attend any other Courts at any one time in any other district during any one term or sittings of such; Courts therein, except at Harbor Grace, where there shall be two panels of twenty four Jurors each, summoned to attend, one for the first ten days, and the other for the subsequent ten days of each term, according to the order and manner prescribed in the eleventh section, and subject to the conditions therein contained, and except when any criminal causes are to be tried, when thirty-five Jurors shall be summoned.

XIII. The Plaintiff or Defendant, in any civil cause, information or indictment for misdemeanor, pending in any of the said Courts, may take a rule for a Special Jury, as of course, twenty four hours from the time of filing the Record for trial with the Clerk of such Court, upon filing a motion paper with him; or any of the said Courts may grant a Rule for a Special Jury, if they should see fit, after the expiration of such time; that a copy of such Rule shall be served on the opposite party, or his Attorney, on the day of issuing the same, with an appointment from the Sheriff, or his Deputy, to draw the Jury on the following lawful day, at an hour to be therein named, when the Sheriff shaft, in presence of the parties or their attorneys, or such of them as attend, draw Twenty names from the box containing the names of the Grand Jurors, and a like number from the box containing the names of the Petty Jurors, setting aside such as are then summoned to attend as Grand or Petty Jurors, except in cases where a

deficiency would thereby arise and make a list of them as they are drawn; the Plaintiff and Defendant shall then alternately strike off a name until each has stricken off Ten, and the remaining Twenty shall form the Special Panel, to be summoned by the Sheriff at least the day before their attendance shall be required, for the trial of the cause.

XIV. The names of persons returned to serve on Special or Petty Juries, together with their additions and the names of their respective places of abode, being written or printed on separate cards, whenever a Jury shall be required to try a cause, whether the cause be a Petty or a Special Jury cause, the cards containing the names of the Special or Petty Jurors summoned, as the case may be. shall be put into a box in open Court, and the first twelve persons whose names shall be first drawn, and then present in Court, shall be the Jury to try the said cause, except where any of the said Jurors shall have been set aside for challenge; and in any case in which a sufficient number of Jurors shall not appear or remain unchallenged, or otherwise, to try the cause, whether the same be Civil or Criminal, then, and in such case, a tales de circumstantibus shall be awarded and immediately returned by the Sheriff from the qualified Petty Jurors, or the by-standers there present; and in any Petty Jury cause, after the first in each term, the Clerk having returned into the box the names of those Petty Jurors who have been challenged, or who have not appeared, shall proceed to draw the Jury therefrom until all the names have been drawn, when the names of such as have served on previous Juries shall be returned to the box to be drawn in like manner.

XV. On every trial of any issue, information, or indictment, for a misdemeanor, either party may, in any Petty or Special Jury cause, peremptorily challenge three Jurors or Talesmen, as they come to the book; and such challenge shall be admitted by the Court or Officer presiding; but shall not affect any other right of challenge the party challenging now has or may have, or, if such party consist of several persons, give a right to challenge more than three Jurors in any cause.

XVI. The following persons are hereby exempted from attending on Grand and Petty Juries in the said several Courts, that is to say: the Secretary, Receiver General, Surveyor General, and Financial Secretary, of this Island; the Members of the Executive and Legislative Councils, the Members of the House of Assembly while in session, the Officers of the Executive and Legislative Councils, and of the House of Assembly while in session, the Officers of the several Courts of Justice, Household Servants of the Governor, Sheriffs' Officers, the Postmaster and Officers and Servants of the Post Office, Officers of the Army and Navy in actual Service, the Clerks in the several departments of the Army, the Officers and Clerks belonging to the Civil Department of Her Majesty's Government, Clergymen, Barristers, Attorneys, Physicians, Surgeons, Apothecaries; Managers, Clerks and Cashiers of Banks; Schoolmasters; Pilots licensed under any Act of the Legislature; organized Enginemen and Firemen; and persons under twenty-one and over sixty years of age; Electric-Telegraph operators; and no Grand Juror shall be liable to serve on a Petty Jury.

XVII. In every case, the Summons for every Grand, Special, or Petty Juror, shall be served upon him personally, or left at his usual place of business or abode for him.

XVIII. Every person duly summoned to attend upon a Grand or Special Jury in the said respective Courts, and who, not being prevented by sickness or other reasonable cause, shall fail to appear and

serve upon the same, shall forfeit mid pay, for every day's default, a sum not exceeding Five Pounds, nor less than One Pound,, unto Her Majesty; and every person so summoned to attend upon a Petty Jury, and who without like reasonable cause of absence, shall fail to appear and serve upon such Petty Jury, shall in like manner forfeit and pay to Her Majesty, a sum not exceeding Twenty Shillings, nor less than Five Shillings, for every day's default; which respective penalties having been recovered, if necessary, by distress and sale of the offender's Goods and Chattels, shall be paid to the Clerk of the Court, and by him handed over to the Receiver General of the Colony, at the end of the term wherein the same shall have been enforced, to be appropriated to the use of the Colony: that all persons liable to serve, on the said respective Juries in the said Courts, except Justices of the Peace, shall be also liable to attend and serve as such Jurors as aforesaid in the several Courts of Sessions in this Island, when duly drawn and summoned in the manner hereinafter prescribed, as far as the same can be made applicable: Provided, that no Jurors residing further than two miles from Harbor Grace, or an equal distance from Carbonear, shall be summoned to attend at the Court of Sessions held in either of the said respective places.

XIX. All persons liable to serve on the said respective Juries, shall be liable to serve as such Jurors, as aforesaid, under Special Commission, at every other period than the usual term of the Courts, that may be stated in such Commission, or at such time as any of the Judges of the Supreme or Circuit Courts, or Justices of the Quarter Sessions, may direct in any precept to be issued by any of them.

XX. When a View shall be considered necessary by the Court, the Jury sworn to try the cause shall make the view under charge of the Sheriff, and, if necessary, of Showers to be appointed by the Court; the trial may be postponed to any other day during the sitting of the same Court, and in the meantime other causes may be disposed of The writ of view is hereby abolished.

XXI. This Act shall not come into operation until the first day of July next.