

any matter cognizable by such Justice of the Peace, Mayor or Police Magistrate, not being a crime, may appeal to the next Court of General Quarter Sessions of the Peace which shall be holden not less than twelve days after the day of such conviction or decision, for the County wherein the cause or complaint shall have arisen: Provided such person shall give to the other party, or leave with the convicting Justice for him, a notice in writing of such appeal and of the cause and matter thereof within four days after such conviction or decision and eight days before such Sessions, and shall also either remain in custody until such Sessions, or enter into a recognizance with two sufficient sureties before a Justice of the Peace, conditioned to appear at the said Sessions and try such appeal and to abide the judgment of the Court thereupon and to pay such costs as shall be by the Court awarded; and upon such notice being given and such recognizance being entered into, the Justice before whom the same shall be entered into shall liberate such person if in custody, and the Court at such Sessions shall hear and determine the matter of such appeal, and shall make such order therein, with or without costs to either party, as to the Court shall seem meet, and in case of the dismissal of the appeal or the affirmance of the conviction, shall order and adjudge the offender to be punished according to the conviction and to pay such costs as shall be awarded, and shall if necessary issue process for enforcing such judgment.

Party convicted to remain in custody, or give security.

Court to hear and determine the matter

II. And be it enacted, That whenever any appeal shall be made from the decision of any Justice or Justices, Mayor or Police Magistrate, the Court of Quarter Sessions, at the request of either appellant or respondent, shall empanel a Jury to try the matter on which such decision may have been made, and to administer to such Jury the following oath:

Jury to be empanelled on the request of either party to appeal.

“ You do solemnly swear that you will well and truly try the matter of the complaint of C. D. against E. F. and a true verdict give according to the evidence: So help you God;”

and the Court on the finding of such Jury shall thereupon give such judgment as the circumstances of the case may require, not however to exceed the amount of penalty or period of imprisonment that might be imposed or awarded under any law giving cognizance to the said Justice or Justices, Mayor or Police Magistrate.

III And be it enacted, That it shall and may be lawful for any appellant to abandon the said appeal by giving the opposite party notice of such intention in writing six days before the said Sessions, and thereupon it may be lawful for the convicting Justice or Justices, Mayor or Police Magistrate to tax the respondent's additional costs if any, which shall be added to the original costs, and to proceed on the original conviction or decision in the same manner as if no appeal had been had thereon.

Appeal may be abandoned.

Proceedings in such case.

C A P. L V. *Union Act 6 Geo 4 cap 50:*

An Act for the consolidation and amendment of the Laws relative to Jurors, Juries and Inquests in that part of this Province called Upper Canada.

*Amended 14/10 Vic cap 55:*  
[ 10th August, 1850. ]

**W**HEREAS it is expedient to consolidate and amend the Laws now in force in that part of this Province called Upper Canada, relating to Juries and Inquests, and those to be summoned to serve thereon, and to introduce such a system for the selection and return of Jurors as shall better secure public confidence in the impartial administration of justice in the trial by Jury: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same,

Preamble.

*Impressible  
500-*

I.—QUALIFICATIONS, EXEMPTIONS AND DISQUALIFICATIONS OF JURORS.

Who shall be qualified as a juror.

I. That every man, except as hereinafter excepted, over the age of twenty-one years, residing in any County or in any City or the Liberties thereof, or in any other local judicial division in Upper Canada, in the possession of his natural faculties and not infirm or decrepit, who shall be assessed for local purposes according to Law, for property, real or personal, or both, belonging to him in his own right or in that of his wife, to the amount hereinafter mentioned, shall be qualified and liable to serve as a Juror both on Grand and Petit Juries in Her Majesty's Superior Courts of Common Law at Toronto, having General, Criminal or Civil Jurisdiction throughout Upper Canada, and in all Courts of Criminal or Civil Jurisdiction within the County, Union of Counties, City or other local judicial division of the County in which he shall so reside.

Parting with property after assessment, not to disqualify.

II. And be it enacted, That no person shall be disqualified or relieved from serving as such Juror in consequence of his having ceased to be seized or possessed of the property in respect of which he may have been enrolled as such Juror, between the time of enrolment and his being called upon to serve as such Juror, nor shall the same form any ground of challenge to such Juror.

Joint proprietors to be deemed equally interested.

III. And be it enacted, That whenever property shall be assessed on the assessment Roll of any Township, Village or Ward, as the property of two or more persons jointly, the Selectors of Jurors hereinafter mentioned to whom it shall belong to extract from such Roll the names of those thereon qualified and liable to serve as Jurors under this Act, may, and if they shall have the requisite information as to the names of the parties to enable them to do so, such Selectors shall, in making such extract, and for all the purposes of this Act, treat such property as if it belonged to such persons in equal proportions, and each of such persons as respects his qualification and liability to serve as such Juror shall be treated by such Selectors of Jurors in making such abstract as if he had been severally assessed for such equal proportion of such property.

How the property qualification of Jurors shall be determined.

IV. And be it enacted, That the amount of property in respect of which every man shall be qualified and liable to serve as such Juror, shall be determined by the relative amount of property for which he shall be assessed on the Assessment Roll of the Township, Village or Ward of which he shall be a resident inhabitant at the time of the annual selection of Jurors, by the Selectors for such Township, Village or Ward as hereinafter provided, and that the mode for ascertaining the same shall be as follows, that is to say: The names of three fourths of the assessed Resident Inhabitants of the Township, Village or Ward, shall be copied from the Assessment Roll of such Township, Village or Ward, commencing with the name of the person rated at the highest amount on such Roll, and proceeding successively, towards the name of the person rated at the lowest amount, until the names of three fourths of the persons assessed upon such Roll, shall have been copied from the same; and the amount for which the last of such persons shall be assessed upon the said Roll, shall be that which shall qualify every Resident Inhabitant of such Township, Village or Ward as such Juror, and render him liable to serve as the same.

*Residence  
16 Vic can 120  
Sec 1  
Sub section  
Sec 2*

Persons over 60, &c., holding certain offices, or exercising certain professions or callings, exempted from serving as jurors.

V. And be it enacted, That all persons of upwards of sixty years of age,— all Members of the Executive Council of this Province,—the Secretary of His Excellency the Governor of the Province for the time being, and all officers and others in the service of the Governor for the time being,—all officers of the Provincial Government, and all clerks and servants belonging to either House of the Provincial Parliament, or to the Public Departments of the Province,—the Warden of the Provincial Penitentiary, and all the officers and servants of the said Penitentiary,—all Judges of Courts having general jurisdiction throughout Upper Canada,—the Judges of the County Courts and the Judges of all other Courts, except the Quarter Sessions of the Peace having jurisdiction throughout any County, Union of Counties or City in Upper Canada,—all Sheriffs, Coroners, Gaolers and Keepers of Houses of Correction and of Lock-up Houses,—all Priests, Clergymen and Ministers of the Gospel, recognized by law, to whatever denomination of Christians they may belong,—all members of the Law Society

*m sec 2*

of Upper Canada, actually engaged in the pursuit or practice of their profession, whether as Barristers or Students,—all Attornies, Solicitors and Proctors actually practising,—all Officers of the Courts of Justice, whether of general County, City or other local jurisdiction, actually exercising the duties of their respective offices,—all Physicians, Surgeons and Apothecaries actually practising,—all Officers in Her Majesty's Army or Navy on full pay,—all Pilots and Seamen actually engaged in the pursuit of their calling,—all Officers of the Post Office, Customs, and Excise,—all Sheriff's Officers and Constables,—all County, Township, City, Town and Village Treasurers and Clerks and ~~Town Clerks, all Professors, Masters, and Teachers of~~ any University, College, County Grammar School, Common School or other School or Seminary of learning actually engaged in performing the duties of such appointments respectively,—and all Officers and servants of any such University, College, School or Seminary of learning actually exercising the duties of their respective offices or employments,—all County, Township, City, Town and Village Officers not however including Justices of the Peace,—all Millers and all Firemen belonging to any regular Fire Company, shall be and are hereby absolutely freed and exempted from being returned, and from serving as either Grand or Petit Jurors in any of the Courts aforesaid, and shall not be inserted in the Rolls to be prepared and returned by the Selectors of Jurors by virtue of this Act, as hereinafter mentioned.

VI. And be it enacted, That all Members of the Legislative Council and of the Commons House of Legislative Assembly of this Province,—all Wardens of Counties or Unions of Counties, and all other Members of any County Council,—all Mayors, Townreeves and Deputy Townreeves of any City, Town, Township or Village,—all Justices of the Peace, and all other Members and Officers of any Municipal Corporation, shall be and are hereby absolutely freed and exempted from being selected by the Selectors of Jurors hereinafter mentioned to serve as Grand or Petit Jurors in Her Majesty's Inferior Courts, and the names of such persons shall not be inserted in the Rolls from which Jurors are to be taken for such purpose, and if any such name shall have been accidentally inserted in any such Roll, it shall, if drawn in balloting any Jury List or drafting any Panel therefrom, be set aside and not inserted therein, and all such persons shall be moreover absolutely freed and exempted from being returned upon any General Precept to any Sessions of Assize or *Nisi Prius*, Oyer and Terminer or Gaol Delivery, and the names of such persons if drawn in drafting such panel, shall be set aside and not inserted in the same.

VII. And be it enacted, That every person whose name shall have been inserted in any of the Jury Lists as hereinafter provided, for the years next before that in which his name shall be again drawn in any of such Lists or for some prior year, within the Rule of Exemption hereby established, and shall have duly served on some Panel returned under a general Precept from such Jury List, until discharged by the Court to which such Panel was so returned, shall be exempt from having his name inserted in any of such lists for any subsequent year within such rule of exemption, that is to say, if the Jurors' Roll from which such name shall be drawn as hereinafter provided, shall contain a sufficient number of names to make two complete Jury Lists of the denomination of such Jurors' Roll, such person shall be exempt from having his name inserted in such Jury List if it shall appear by the Jurors' Book of the preceding year that his name had been inserted in any of the Jury Lists for that year, and that he duly attended and served upon any such Panel as aforesaid; and if there shall be a sufficient number of names on such Jurors' Roll to make three such complete Jury Lists, such person shall be exempt from having his name so inserted if it shall appear by either of the Jurors' Books of either of the two preceding years, that his name had been inserted in any of such Jury Lists for either of such years, and that he had so attended and served as aforesaid, for either of such years, and so on, *toties quoties*, allowing one additional year's exemption for each complete additional Jury List that such Jurors' Roll shall furnish as aforesaid.

Members of the legislature and certain municipal functionaries exempted from serving at certain courts.

Exemptions arising from having actually served as a juror within a certain time previously.

Service as a city juror not to exempt from service as a county juror, and vice versa.

VIII. And be it enacted, That notwithstanding any thing in this Act contained, service as a Juror upon any Panel returned by the Sheriff of any County or Union of Counties, shall not exempt the person who shall so serve from again serving as a Juror upon any Panel returned by the High Bailiff or other proper Officer of any City embraced within the Bailiwick of such Sheriff, though such service may be so required of such Juror within the period of exemption provided for by the next preceding section of this Act, nor shall any such service upon any Panel returned by the High Bailiff or other proper Officer of any such City, having a Recorder's Court established in the same, exempt the person who shall have so served from again serving as a Juror upon any Panel returned to any of the Superior Courts of Criminal or Civil Jurisdiction, by the Sheriff of the County or Union of Counties within the limits of which such City shall be embraced : and the Jury Lists for such Superior Courts for such County or Union of Counties, and for such City respectively, shall be balloted without any regard being had to any such service, but the inhabitants of every such City, and of the liberties thereof, shall be exempt from serving on Juries at any other than the City Courts, or on trials at the bar, of either of Her Majesty's Superior Courts of Common Law at Toronto, or at the Courts of Assize and *Nisi Prius*, *Oyer* and *Terminer*, and General Gaol Delivery for the County or Union of Counties within the limits or on the borders of which such City shall be situate.

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Citizens exempted from serving, except at certain courts.

IX. And be it enacted, That no man not being a natural born or naturalized subject of Her Majesty, is or shall be qualified to serve as a Grand or Petit Juror in any of the Courts aforesaid, on any occasion whatsoever, except only in the cases hereinafter expressly provided for.

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Aliens disqualified.  
Exception. see 3

Attainted persons disqualified.

X. And be it enacted, That no man who hath been or shall be attainted of any Treason or Felony, or convicted of any crime that is infamous, unless he shall have obtained a free pardon, nor any man who is under outlawry is or shall be qualified to serve as a Grand or Petit Juror in any of the said Courts on any occasion whatsoever.

II.—SELECTION AND DISTRIBUTION OF JURORS.

Certain municipal functionaries to be selectors of jurors.

XI. And be it enacted, That the Mayor or Townreeve, the City, Town, Village or Township Clerk, and the Assessors or Assessor, if there be only one, of the respective Cities, Towns, Villages and Townships in Upper Canada, shall be *ex officio* Selectors of Jurors for every such Township and Village, and for each of the Wards of every such City or Town, and in the discharge of their duty as such Selectors shall assemble annually on the eighth day of September in each year, at the place where the Meetings of the Municipal Corporation of such City, Town, Village or Township shall be usually held, or at such other place within the jurisdiction of such Municipal Corporation as may for that purpose be appointed by the head of such Municipal Corporation, or in his absence, or the vacancy of the Office, by the Clerk of such Municipal Corporation for the purpose of selecting from the Assessment Rolls or Assessment Roll of such City, Town, Village or Township, the names of such persons as being qualified and liable to serve as Jurors under this Act, shall from the integrity of their characters, the soundness of their judgments, and the extent of their information, be in the opinion of such Selectors of Jurors, or of a majority of them, most discreet and competent for the performance of the duties of a Juror ; And it shall be the duty of such City, Town, Village or Township Clerk, or such Assessor or Assessors, or such other officer or person as shall at the time have the actual charge or custody of the Assessment Roll or Assessment Rolls for every such City, Town, Village or Township for such year, to bring such Assessment Roll or Assessment Rolls to every such annual meeting of the Selectors of Jurors for such City, Town, Village or Township, and to permit the use of the same for the purposes aforesaid. *Provided always*

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What persons shall be selected.

Selectors to have the use of assessment rolls.

When the selection shall be made.

XII. And be it enacted, That the Selectors of Jurors for each City, Town, Village and Township in Upper Canada, shall annually on the day mentioned in the next preceding section of this Act, or on the first day thereafter not being a Sunday, or other Statutory Holiday, if such first mentioned day shall be a Sunday or other Statutory Holiday,

Rem...  
16 vic...  
See 1:  
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Holiday, or if they shall have been unable to complete the duty hereby imposed upon them on such first day, proceed to select such names from such Rolls accordingly : Provided always nevertheless, firstly, that they shall in no case select from any of such Rolls, a smaller number of names than what shall be equal to two-thirds of the whole number of names on such Roll, provided there shall be a sufficient number for that purpose on the same qualified and liable to serve in respect of the amount of property for which they shall be assessed on such Roll, and not otherwise wholly disqualified or exempt from serving as Jurors according to the provisions of the fifth, sixth, ninth and tenth sections of this Act, or any of them : And provided also, secondly, that in case of an equality of votes amongst such Selectors of Jurors as to any one or more of the names to be so selected, or as to the Division of the Report of such Selectors in which any such name should be inserted in the distribution of such names as hereinafter provided, or as to any other incidental question which may arise in the performance of the duty hereby imposed upon such Selectors, the Mayor or Townreeve, or in his absence or the vacancy of the office, the City, Town, Village or Township Clerk, or in the absence, or vacancy of the offices of both, then the Assessor whose Roll for the year shall have contained the greatest number of assessed names, and in the case of joint Assessors, the Assessor first named in the appointment of such Assessors shall have a casting or double vote in the decision of the same.

Proviso as to number to be selected.

14<sup>o</sup> 15<sup>o</sup> Vic  
cap 55

Proviso as to case of equal division among the selectors.

XIII. And be it enacted, That the said Selectors of Jurors having made such selection as hereinbefore provided, shall for the purpose of the Report thereof to be by them made as hereinafter provided, distribute the names of the persons so selected from each Roll into four divisions ; the first, to consist of persons to serve as Grand Jurors in the Superior Courts ; the second, of persons to serve as Grand Jurors in the Inferior Courts ; the third, of persons to serve as Petit Jurors in the Superior Courts ; and the fourth, of persons to serve as Petit Jurors in the Inferior Courts, and shall make such distribution according to the best of their judgment as to the relative competency of the parties with reference to the duties to be required of them respectively.

Names of jurors to be distributed into four divisions, and how.

XIV. And be it enacted, That the said Selectors of Jurors shall make such distribution amongst the said four divisions as nearly as may be in the following proportions, relatively to the whole number of persons so selected by them from each of such Rolls for that purpose as aforesaid, that is to say : ~~one ninth as nearly as may be under the first of such divisions ; two ninths as nearly as may be under the second of such divisions ; two ninths as nearly as may be under the third of such Divisions, and four ninths as nearly as may be under the fourth of such Divisions.~~

Proportionate number in each division.

1/9 2/9 2/9 4/9

XV. And be it enacted, That the said Selectors of Jurors shall thereupon make out in duplicate under their hands and seals, or under the hands and Seals of such of them as shall have performed such duty, a report of such Selection and Distribution for every such Township, Village or Ward, which Report shall be as nearly as may be in the form set forth in the Schedule to this Act annexed, marked A, and be filled up agreeably to the directions contained in the notes to such Schedule, to which said Report shall be subjoined a written declaration subscribed by such Selectors of Jurors, stating each for himself, that they had made such Selection and Distribution to the best of their judgment and information pursuant to this Act, and without fear, favour or affection of, to, or for any person or persons whomsoever, gain, reward or hope thereof, other than such fees as they may be lawfully entitled to receive for the same under the authority of this Act ; and one of such Duplicate Reports shall be deposited by such Selectors of Jurors, with the Clerk of the Peace for the County in which such Town, Village or Township shall lie, or within the limits of which such City shall be embraced ; and the other, with the City, Town, Village or Township Clerk of such City, Town, Village or Township respectively, which Clerks respectively, shall keep the same on file in their respective offices for the use and information of all such Sheriffs, High Bailiffs and other Officers, and others Her Majesty's Subjects who may have lawful occasion to examine or make use of the same ; and in the event of the loss or destruction of any such Duplicate Report, by fire or other accident, a copy thereof

Selectors to make duplicate reports in form of Schedule A.

X 6

Declaration to be annexed.

X 7  
Where the said reports shall be deposited.

X 8

Renewal if destroyed.

made from the other of such Duplicates, and certified to be a true copy of such last mentioned Duplicate, by the Officer to whom the legal custody of such last mentioned Duplicate shall belong, shall and may be filed in the office in or out of which such first mentioned Duplicate Original was so lost or destroyed as aforesaid, and shall and may be thenceforth taken, received, and acted upon in all respects as if it were the said Duplicate Original Report so lost or destroyed as aforesaid.

### III.—JURORS' BOOK.

XVI. And be it enacted, That the Clerk of the Peace for every County and Union of Counties in Upper Canada, shall annually procure a Book to be kept as nearly as may be in the Form set forth in the Schedule to this Act annexed marked B, and agreeably to the directions contained in the notes to such Schedule to be called "The Jurors' Book" for the County or Unions of Counties, of which he is such Clerk of the Peace as aforesaid, and the year for which such Book is to be used as hereafter provided, and shall, between the fifteenth day of September and the first day of October in each and every year, transcribe or procure to be transcribed into such Book, from the different Reports of the different Selectors of Jurors for the different Townships, Villages and Wards, or other like local divisions of his County or Union of Counties, so made to him for such year as aforesaid, or from such of them as shall have been so made to him as aforesaid, on or before such fifteenth day of September, the names and additions of all persons so selected to serve as Grand or Petit Jurors, as the same are set forth and distributed in such Reports, which names shall be transcribed into such Book in four Rolls, the first to be called "Roll of Grand Jurors to serve in Her Majesty's Superior Courts of Criminal Jurisdiction," the second, "Roll of Grand Jurors to serve in Her Majesty's Inferior Courts of Criminal Jurisdiction," the third, "Roll of Petit Jurors to serve in Her Majesty's Superior Courts of Criminal and Civil Jurisdiction," and the fourth, "Roll of Petit Jurors, to serve in Her Majesty's Inferior Courts of Criminal and Civil Jurisdiction;" and in each of such Rolls shall be transcribed as aforesaid the names and additions of all persons so selected and reported by the Selectors of Jurors as aforesaid, to serve as such Jurors in such County respectively.

XVII. And be it enacted, That such Jurors' Rolls shall be each divided into Townships, Wards and Villages, or other like sub-divisions, answering to the local divisions of such Counties, and the Cities and Towns embraced within the limits thereof, and such sub-divisions, and also the names within each sub-division respectively, shall be arranged alphabetically, and all the names in each of such Rolls thus arranged, numbered with a series of current numbers from one forward; and to each of such Rolls in the Jurors' Book shall be subjoined a certificate from such Clerk of the Peace, that he had carefully compared such Roll with the Reports made by the several Selectors of Jurors for the different Townships, Wards and Villages and other local divisions of the County or Union of Counties, and the Cities and Towns embraced within the limits of the same for the year, as such Reports remained on file in his office, on the Fifteenth day of September of such year, and that such Roll contains a true and correct transcript of the names and additions of all persons so selected and reported to serve as such Jurors as aforesaid.

### IV.—BALLOTING JURY LISTS FROM JURORS' ROLLS.

XVIII. And be it enacted, That the Clerk of the Peace, for every such County or Union of Counties, shall annually prepare for each of the said Jurors' Rolls in such Jurors' Book, a separate and distinct set of ballots or pieces of parchment, card or paper of uniform and convenient size, and containing the same number of such ballots as there are numbers in the Jurors' Roll to which the same shall belong, upon each set of which ballots there shall be printed or written the whole of the numbers of such Jurors' Roll, allowing one number to each ballot, and shall carefully fold and enclose the whole of each of the said sets of ballots in a separate and distinct sheet of paper or envelope, and securely

Clerk of the peace to prepare jurors' books in form of Schedule B.

Book to contain four distinct rolls.

How the jurors' names shall be arranged in the roll.

How the rolls shall be certified.

Clerk of the peace to prepare ballots, and how.

securely fold, and seal the same so as to prevent any of such ballots from being lost from or out of the same, and shall endorse each of such parcels of ballots with the year and the name of the Jurors' Roll to which the same shall belong.

XIX. And be it enacted, That annually on the first day of the Court of General Quarter Sessions of the Peace for each of such Counties or Union of Counties, held next after the first day of October in each year, the Clerk of the Peace for such County or Union of Counties shall bring into Court and publicly deliver to the chairman of such Court *sedente curiâ*, the Jurors' Book so prepared by him as aforesaid, for the then next year, and also the four parcels of ballots belonging to the same as aforesaid, together with the Jurors' Books for such and so many of the then next preceding years as may be required for proceeding with the balloting of the Jury Lists as hereinafter directed, and shall thereupon make oath in open Court, first, that he has carefully compared the Jurors' Rolls in such first mentioned Jurors' Book with the Reports made by the several Selectors of Jurors for the several Townships, Villages and Wards within such County or Union of Counties as the same remained on file in his office on the Fifteenth day of September preceding, and that to the best of his knowledge and belief the said Jurors' Rolls contain a true and correct transcript of the names and additions of all persons so selected and reported by such Selectors of Jurors as aforesaid; secondly, that he has carefully examined and compared the ballots in each of the parcels so delivered into Court as aforesaid, with the Jurors' Roll to which such ballots by the indorsement on such parcel purports to belong, and that each parcel of such ballots so delivered into Court as aforesaid contains to the best of his knowledge and belief the whole of the numbers on the Jurors' Roll, to which by such indorsement such parcel purports to belong; and thirdly, that the Jurors' Books secondly above mentioned are those remaining on file in his office for the years to which they purport respectively to belong, and that all entries in such last mentioned Books have been truly and faithfully made therein, without fraud or collusion of any kind, and according to the very truth: Or if such Clerk of the Peace shall not have been in office during all the time that such Jurors' Books shall have been on file in the office of the Clerk of the Peace for such County or Union of Counties, then that all entries in such Books made during the time that he shall have been in office, have been truly and faithfully made therein, without fraud or collusion of any kind, and according to the very truth, and that he hath no reason but to believe, and doth therefore verily believe that all other entries made therein, prior to his appointment, have been in like manner truly and faithfully made therein as aforesaid: Whereupon the receipt of such Books and the oath or affirmation upon which the same were received respectively, shall be certified under hand and seal by the Chairman of such Court in such Books respectively, and a remembrance of the same also made in the minutes of such Court, and the Court shall then proceed to consider whether, with reference to the probable amount of judicial business to be disposed of through the instrumentality of the Jurors to be ballotted on that occasion, and the whole number of Jurors from whom the balloting is to be had, it is most expedient upon such occasion to ballot a full Jury List, a two-third Jury List or a half Jury List, and they shall come to a resolution thereon accordingly, of which a remembrance shall be duly entered upon the minutes of such Court; And in the event of such resolution affirming the expediency of balloting a full Jury List, then the numbers to be so ballotted from the said Rolls according to the provisions of the next succeeding section of this Act, shall be as follows, that is to say: from the Roll of Jurors to serve as Grand Jurors in the Superior Courts, Forty eight; from the Roll of those to serve as Grand Jurors in the Inferior Courts, Ninety-six; from the Roll of those to serve as Petit Jurors in the Superior Courts, One Hundred and Forty-four; and from the Roll of those to serve as Petit Jurors in the Inferior Courts, Two Hundred and Eighty-eight. And in the event of such resolution affirming the expediency of balloting a two-third Jury List, the numbers to be so ballotted as aforesaid shall be as follows, that is to say: from the said first named of such Rolls, Thirty-eight; from the second, Sixty-four; from the third, Ninety-six; and from the fourth, Two Hundred and Sixteen.

And

Jurors' book to be brought into Q. S. (sitting the court) yearly after 1st October—oath to be taken by the said clerk.

Particulars to be sworn to in such oath.

If the clerk has come but lately into office.

Chairman to enter certificate in the books: and the court to determine the number of jurors to be drawn.

Full list.

Two-third list.

Half list.

Proviso: names of members of the court present to be recorded.

Casting vote.

Proviso as to first jurors' book in any county.

Proclamation previous to balloting.

Mode of balloting.

Grand jurors at superior courts.

Drawing ballots.

Reference to jurors' book.

Open demand of objection, if any.

Hearing and determining on objection.

And in the event of such resolution affirming the expediency of balloting a half Jury List, the numbers to be so ballotted as aforesaid shall be as follows, that is to say: from the said first named of such Rolls, Twenty-four; from the said second, Forty-eight; from the said third, Seventy-two; and from the said fourth, One Hundred and Forty-four: Provided always nevertheless, firstly, that the names of the different members of the said Court who shall be present and vote upon such resolution, shall be entered on the minutes of such Court, and that in the event of the votes of those members present being equal, the Chairman of the said Court for the time being shall have a double or casting vote upon the same: And provided also, secondly, that on the first occasion of bringing into Court a Jurors' Book for any County or Union of Counties, or for any City there being no Jurors' Book for any preceding year for such County, Union of Counties or City, the oath to be made by the Clerk of the Peace or Clerk of the Recorder's Court respectively, shall be modified so as to be adapted to such circumstances.

XX. And be it enacted, That immediately after such resolution shall be so adopted, or if it shall be the unanimous opinion of all the Justices then present that the balloting should be proceeded with at an adjourned sitting of such Court, then on the day to which such balloting shall be adjourned, the said Court shall cause proclamation to be made for all persons to keep silence while the names of the persons to serve as Jurors for the next year for such County, or Union of Counties and City where there is one having a Recorder's Court established therein, within the limits of such County or Union of Counties, are openly ballotted. And the Chairman of such Court, and the Clerk of the Peace for such County or Union of Counties, shall immediately proceed to ballot the names of the requisite number of persons from the said Rolls, to serve as Jurors for such year, which balloting shall be conducted in the following manner, that is to say: the Chairman of the said Court of General Quarter Sessions shall first openly break the seals of the parcel of ballots belonging to the Roll of Jurors to serve as Grand Jurors in the said Superior Courts, and place such ballots promiscuously in a box or urn to be procured for that purpose by the said Clerk of the Peace. And the said Chairman shall thereupon cause the said box or urn to be shaken so as sufficiently to mix the said ballots, and the said Chairman shall then openly draw from the said box or urn indiscriminately one of the said ballots and declare openly the number of such ballot, whereupon the Clerk of the Peace shall immediately declare aloud the name to which such number is appended in the said Roll. And thereupon, if by reference to the Jurors' Book of preceding years, or any of them, it shall appear, (regard being had to the number of names on such Roll,) that such person is exempt from having his name inserted in such Jury List, on the ground of its having been inserted in some one of the Jury Lists, and of his having duly served on some Panel returned, under a General Precept from such Jury List as aforesaid, for some former year sufficiently recent to entitle him to such exemption, the same shall be so publicly announced by the Chairman of such Court, and that such person is on that account exempted from serving for the next year accordingly; and the Clerk of the Peace shall thereupon note in the said Roll for such next year opposite the name of such person, that he was exempted from serving as having served on one of the Grand or Petit Jury Lists for such a year, stating the List and year. But if such person shall be found not entitled to such exemption, then proclamation shall be made, that if any one can inform the Court why the name of such person should not be inserted in the Jury List for which it shall have been so ballotted as aforesaid, he shall come forth and he will be heard: Whereupon, if the party himself in person or by his Counsel or his Attorney in the absence of Counsel, shall by his own oath or by the testimony of witnesses, or if any other person by his own oath or by the testimony of witnesses, shall be able to satisfy the Court that the person whose name shall have been so drawn is either exempt or disqualified from serving as a Grand Juror for which he shall have been so drawn, such person's name shall not be inserted in such Jury List for such next year, and the cause with the name of the person so objecting,

and



and the names of the witnesses upon whose testimony such name was set aside, shall by the Clerk of the Peace be stated in the Minute Book of such Court, and a short note of the cause of disqualification made on the proper Juror's Roll opposite the name of such person. But if no such objection shall be so made or established to the satisfaction of the Court as aforesaid, the names and additions at length of such person shall by the said Clerk of the Peace be forthwith inserted in the Minute Book of such Court. Which being done, the Chairman and Clerk of the Peace shall in like manner proceed to ballot, canvass and set aside, or pass another name, and so on till they shall have transferred the required number of names from such Roll. After which the names so balloted, with the places of residence and additions of the parties alphabetically arranged, shall by such Clerk of the Peace be copied into the Juror's Book with the title of "The Grand Jury List for the Superior Courts," and which List shall have a series of current numbers from one forward as is hereinbefore provided with respect to the Juror's Rolls, with a reference to the number of each name on the Roll of Grand Jurors for the Superior Courts. And each of such names shall by the said Clerk of the Peace, be thereupon marked on such last mentioned Roll as transferred to such Jury List, by a reference to the number belonging to such name on such List. Which List so balloted, canvassed and transferred shall be the Grand Jury List for the Superior Courts for the year next after the same shall be so balloted as aforesaid.

If no objection be made.

Alphabetical arrangement of names finally balloted, &c.

List to serve for the then next year.

XXI. And be it enacted, That after the said Grand Jury List for the Superior Courts shall have been so balloted, canvassed and transferred as aforesaid, the said Chairman and Clerk of the Peace shall in like manner proceed to ballot, canvass and transfer from the Roll of Jurors to serve as Grand Jurors in the said Inferior Courts, to a similar List in the same Book, to be called "The Grand Jury List for the Inferior Courts" for such next year, the required number of names from such Roll, which last mentioned List so balloted, canvassed and transferred, shall be the Grand Jury List for the Inferior Courts for the year next after the same shall be so balloted as aforesaid. After which they shall in like manner proceed to ballot, canvass and transfer from the Roll of Jurors to serve as Petit Jurors in the said Superior Courts, the Petit Jury List for the Superior Court for such year, and lastly from the Roll of Jurors to serve as Petit Jurors in the said Inferior Courts, the Petit Jury List for the Inferior Courts for such year.

Ballotting for grand jurors for inferior courts.

Petit jury lists for superior and inferior courts.

XXII. And be it enacted, That so soon as the said four Jury Lists shall have been so balloted, canvassed and transferred, the Chairman and Clerk of the Peace shall certify under their hands in the said Book, immediately after each of such Jury Lists, that the same had on such a day been duly balloted, canvassed and transferred from the proper Roll in open Court as the Law directs; whereupon such Jurors' Book, with the Jury Lists so certified, shall be deposited with the said Clerk of the Peace, to be kept on file in his office: Provided always nevertheless, that all the duties by this Act required of the Chairman of the Quarter Sessions of the Peace, shall and may in his absence be performed by the presiding Member of such Court for the time being; any thing herein contained to the contrary thereof notwithstanding.

Lists so made, to be certified and filed.

Proviso: if the chairman be absent.

XXIII. And be it enacted, That the Clerk of the Peace shall on or before the thirty-first day of December thereafter, cause a correct copy of such Jurors' Book to be made and deposited in the offices of each of the Clerks of the Crown and Pleas of Her Majesty's two Superior Courts of Common Law at Toronto, and another in that of their Deputy for the County or Union of Counties for which the same shall have been so prepared as aforesaid, each of which shall be certified by him to be a true copy of the original, and from it, in the event of the loss or destruction of the original by fire or other accident, a duplicate original of such Jurors' Book may be made and being certified by either of the said Clerks of the Crown and Pleas, or the Deputy for such County or Union of Counties, to be truly copied from the copy deposited in his office, shall, upon such loss or destruction being established upon oath or affirmation before two or more Justices of the Peace of such County or Union of Counties, be received and used on all occasions, and for all purposes, as the original which shall have been so lost or destroyed as aforesaid.

Clerk of the peace to deposit copies of lists in the offices of the proper courts.

If the lists be destroyed.

## V.—DRAFTING PANELS FROM JURY LISTS.

Panels of jurors to be drafted from the jury lists.

Proviso: if no book for the year.

Proviso: if there be not jurors enough on list.

Notice of drafting panels how given.

Proviso: length of notice.

Proviso: drafting prevented by accident.

Heading to panels and ballots to be prepared by the sheriff.

XXIV. And be it enacted, That every Sheriff or other Officer to whom any Writ of Venire Facias or precept for the return of Jurors shall be directed, shall to such Writ or precept return a panel of the names of such men contained in the proper Jury List for the year in which such Writ or precept is returnable, as shall be drafted from such List in the manner hereinafter mentioned: Provided always, firstly, that if there shall be no Jurors' Book, or certified copy thereof as aforesaid, in existence for such year, it shall be lawful to return to any such Writ or precept, a panel of Jurors selected in like manner from the proper Jury List in the Jurors' Book of the nearest preceding year, for which there shall be a Jurors' Book or certified copy thereof in existence; And provided also, secondly, that if there shall be no Jurors or not a sufficient number of such Jurors upon any Jury List, from which any panel is so required to be drafted, liable to be drafted and to serve upon such panel, it shall be lawful to return to any such Writ or precept, a panel of Jurors selected in like manner, or the residue of whom respectively shall have been selected in like manner, from the proper Jury List in the Jurors' Book of the nearest preceding year, for which there shall be a Jurors' Book or certified copy thereof in existence.

XXV. And be it enacted, That upon any Sheriff or other officer being called upon to return any Panel of Jurors, whether Grand or Petit, it shall be his duty to give notice by Public written Advertisement in his office, and also on the door of the Court House of the County or Union of Counties, or if there be no Court House, in some other public place, of the day, and hour at which he will attend at the office of the Clerk of the Peace to draft such panel of Jurors from the Jury List, at which time and place he shall proceed publicly to draft such panel by ballot from such Jury List in manner hereinafter mentioned, in the presence of the Clerk of the Peace and any two Justices of the Peace of such County or Union of Counties, who, upon reasonable notice from such Sheriff, are hereby required to attend the same, and of any other person or persons who may desire to be present at the same, and attend for that purpose: Provided always nevertheless, firstly, that every such notice, shall if such Sheriff or other officer shall have sufficient time for that purpose, be given by such Sheriff or other officer in the manner above mentioned, at least eight days before the drafting of such panel, and if there shall not be sufficient time for that purpose, the said notice shall be given as soon after the receipt of the precept or writ by him as conveniently may be: And provided also, secondly, that in the event of the drafting of such panel being prevented from taking place, or from being completed by any unavoidable accident at the time so appointed, the same may be had or completed at any other time in the presence of the Clerk of the Peace for the time being, and of the like number of Justices of the Peace, upon a similar notice being first given of such time.

XXVI. And be it enacted, That in proceeding to draft such panel of Jurors from the said Jury List as hereinafter directed, the Sheriff or other officer to whom the return of such panel shall belong, shall in the first place prepare a proper title or heading for the panel of Jurors to be returned, to which he shall fix an appropriate number as such panel shall by the Jurors' Book appear to be the first, second, third or subsequent panel drafted from such Jury List, and which title or heading shall set forth the number of Jurors to be returned in words at length, or where such Sheriff shall have a discretion as to such number, the number that in the exercise of such discretion, he shall have previously determined to return, and which number when discretionary, shall not be altered after the same shall have been so inserted in such title or heading as aforesaid, and thereupon such Sheriff or other officer shall append to such title or heading, a list of numbers from one forward to the number required, and having previously prepared a set of Ballots or pieces of Parchment, Card or Paper as nearly as reasonably may be of uniform and convenient size, and containing the same number of Ballots as there are numbers on the Jury List, from which the panel is to be drafted with the whole of the numbers of such Jury List, allowing one number to each Ballot printed or written on the same, shall proceed to draft such panel of Jurors in the manner hereinafter mentioned.

XXVII. And be it enacted, That the manner of drafting such panel shall be as follows, that is to say : the Sheriff or other officer to whom the return of such panel shall belong, shall place the Ballots promiscuously in a Box or urn to be procured by him for that purpose, and shall cause such box or urn to be shaken so as sufficiently to mix the ballots, and he shall then openly draw from the said box or urn indiscriminately, one of the said ballots, and declare openly, the number of such ballot whereupon the Clerk of the Peace, or one of the Justices of the Peace, present at such drawing, as aforesaid, shall immediately declare aloud the name to which such number is appended in the Jury List from which the Panel is to be drafted, and thereupon, if such person shall be exempt from being drafted or serving upon such panel, under the provisions of the sixth section of this Act, or if upon the face of such Jury List it shall appear that the person whose number has been so drafted has been already drafted to serve on any other panel drafted from such Jury List in obedience to any precept for the return of any general panel, for any sessions or sittings of Assize, *Nisi Prius*, Oyer and Terminer, Gaol Delivery, General Quarter Sessions of the Peace, or County Court, and that such person has actually attended and served upon such Panel as aforesaid, and there shall remain a sufficient number of names on such Jury List to complete the panel then in course of being drafted, without taking any of those who have been previously drafted upon any such former panel from the same list, the same shall be publicly announced, and that the name of such person so drafted is on such account, respectively, not inserted in such panel. But if upon examination of such Jury List, no such cause shall appear for omitting the name of such person from the said panel then being drafted, the name and addition of the person whose name shall have been so drafted, shall be thereupon written down on a sheet of paper to be provided for that purpose, and such name shall by the said Sheriff or other Officer, be thereupon marked on the said Jury List, with a reference to the number which will belong to such panel in the Juror's Book. Which being done, the Sheriff shall proceed in like manner to draft and dispose of other numbers from the said box or urn, until the necessary number for the panel to be so drafted shall be completed. After which, the names so drafted, with the places of residence and additions of the parties, arranged alphabetically, shall, by such Sheriff or other officer, be transcribed on another sheet of paper, with a reference to the number of such name on the Jury List, and such name shall, by the said Sheriff or other officer or his deputy, be thereupon marked in the said Jury List, with a reference to the number which will belong to such panel in the Jurors' Book. Whereupon, such panel so alphabetically arranged and numbered with a short statement of the writ or precept in obedience to which it was drafted, the date and place of such drafting, and the names of the Sheriff or other officer or minister, or his deputy, and of the Clerk of the Peace and Justices of the Peace present at such drafting, or at least of two of them, shall be fairly entered in the said Juror's Book, and attested by the signatures of such Sheriff or other officer or minister, or his deputy, and of the said Clerk of the Peace and the said Justices, or at least two of them, and the said Sheriff shall, upon his return of the writ of *venire facias*, or precept under authority of which such panel was drafted, annex a panel to the said writ or precept containing the names, together with the places of abode, and additions of the persons so drafted upon such panel, and shall transmit a copy thereof to the office of the Clerk of the Peace, and also one to each of the Clerks of the Crown and Pleas of the two Superior Courts of Common Law at Toronto, and also to that of the Deputy for his County, each of which copies, as well as the Jurors' Book, shall at all reasonable times be open to inspection by litigants or their professional Agents without fee or reward.

XXVIII. And be it enacted, That the number of the Petit Jurors to be returned on any General Precept for the return of Petit Jurors for any sittings or Sessions of Assize, *Nisi Prius*, Oyer and Terminer, Gaol Delivery, Sessions of the Peace, or County Court, shall not in any case be less than forty-eight or more than seventy-two, unless by the direction of the Judges appointed to hold such Sittings or Sessions of Assize, *Nisi Prius*, Oyer and Terminer, Gaol Delivery, Sessions of the Peace, or

Mode in which the jurors shall be balloted for.

Allowance of exemptions, &c.

If no exemption.

Names to be arranged alphabetically.

Panel to be entered in jurors' book and certified.

Copies to be transmitted to the proper courts.

Number of jurors to be returned on general precept.

County Court, or one of them, who are hereby empowered, by order under hand and seal, to direct a greater or lesser number, and then such number as shall be so directed, shall be the number to be returned.

#### VI.—JURY PROCESS.

Precepts to be issued, and by whom.

XXIX. And be it enacted, That the Judges, Justices and others to whom the holding of any Sittings or Sessions of Assize, *Nisi Prius*, Oyer and Terminer, Gaol Delivery, Sessions of the Peace, or County Court, shall by law belong, or some one or more of such Judges, Justices or others shall for that purpose issue precepts to the Sheriff or other proper Officer or Minister for the return of a competent number of Grand Jurors, where such shall be requisite for such Sittings or Sessions, and of a competent number of Petit Jurors for the trial of such issues of fact in cases criminal or civil as it may be competent to such Petit Juries to try at such Sittings or Sessions according to law.

When precepts shall be issued, and to whom directed.

XXX. And be it enacted, That the several precepts for the return of Panels of Grand and Petit Jurors for any Sittings or Sessions of Assize, *Nisi Prius*, Oyer and Terminer, Gaol Delivery, Sessions of the Peace, or County Court, shall be issued to the Sheriff or other Officer or Minister to whom the return of such precepts shall belong, as soon as conveniently may be after the Commission, or other day upon which the Jurors to be returned, upon such precepts, are to be summoned to attend, shall, or may be known, and where such day is fixed by law, then as soon as conveniently may be after the close of the last preceding Sittings or Sessions of the same Court: Provided always, that it shall and may be lawful for the Sheriff to return the same panels to the precepts, for the return of panels of Petit Jurors for the Sittings or Sessions of the Peace, and for the Sittings or Sessions of the County Court, in all cases where the day for holding such respective Sittings or Sessions shall be the same.

Providor: when county court and Q. S. sit at the same time.

Writs of *venire facias*: their form.

XXXI. And be it enacted, That every Writ of *venire facias juratores*, where such Writ may by law be necessary for the trial of any issue whatsoever, whether civil or criminal, or on any penal Statute, in any of the Courts of Upper Canada hereinbefore mentioned, shall direct the Sheriff or other Officer or Minister to whom the same shall be directed, to return twelve good and lawful men of the body of his Bailiwick, qualified according to law, and the rest of the Writ shall proceed in the accustomed form. And that every precept to be issued for the return of Jurors for Sittings or Sessions of Assize, *Nisi Prius*, Oyer and Terminer, Gaol Delivery, Sessions of the Peace, or County Court, shall in like manner direct the Sheriff or other Officer or Minister to whom the same may be directed, to return a competent number of good and lawful men of the body of his Bailiwick, qualified according to law, and shall not require the same to be returned from any Hundred or Township, or from any particular *venue* within such Bailiwick, and that the want of Hundredors shall be no cause of challenge; any law, custom or usage to the contrary notwithstanding.

And of precepts.

Date of teste and return of jury process.

XXXII. And be it enacted, That except in trials at Bar, the Writ of *venire facias juratores*, where such Writ may by Law be necessary, may be tested on the day on which the same shall issue, and be made returnable on any day in Term or vacation, and that except in trials at Bar, the Writ of *distringas juratores* and *habeas corpora* may be tested either on the return day of the *venire* or on any subsequent day in Term or vacation: as well after as before or on the Commission day of the Assizes at which the causes in which they may be sued out shall be intended to be tried, and all such process may be sued out of the office of the Deputy Clerk of the Crown and Pleas in the County, as well as out of the principal office at Toronto.

What must be inserted in writs of *habeas corpora*, &c.

XXXIII. And be it enacted, That in any Writ of *habeas corpora juratorum* or *distringas* subsequent to and founded upon any Writ of *venire facias juratores*, it shall not be requisite to insert the names of all the Jurors contained in such panel, but it shall be sufficient to insert in the mandatory part of such Writs respectively—"the bodies of the several persons in the panel to this Writ annexed, named," or words of the like import, and to annex to such Writs respectively, panels containing the same names as were returned on the panel to such *venire facias* with their places of abode and additions.

XXXIV.

XXXIV. And be it enacted, That for the trial of issues in cases whether criminal or civil which shall in course come on for trial at any Sittings or Sessions of Assize, *Nisi Prius*, Oyer and Terminer, Gaol Delivery, Sessions of the Peace, or County Court, it shall not be necessary actually to sue out any Writ of *venire facias juratores* or other Jury process, but the award of such process by the Court and the entry of such award where necessary on the Roll, together with the return of a panel of Jurors upon the general precept issued for such Sittings or Sessions, and the trial of such issues respectively, by a Jury taken from such general Panel in the manner hereinafter provided, shall be sufficient and shall be as valid and effectual in law to all intents and purposes whatsoever, as if such *venire facias juratores*, or other process had been actually and regularly sued out in each case, and the names of the Jurors who shall have so tried such issues, respectively, had been regularly returned upon such Jury process, respectively: Provided always nevertheless, firstly, that nothing in this section contained shall extend or be construed to extend to any issue, to be tried at Bar, or by a Special Jury, or by a Jury *de medietate linguæ* or *de ventre inspiciendo* in a case in which a view shall have been granted, as hereinafter mentioned: And provided also, secondly, that every Jury of which some of the Jurors shall have been regularly taken from such general Panel, shall, notwithstanding its being completed by the award of a *tales de circumstantibus*, be deemed where such *tales de circumstantibus* shall have been regularly awarded according to law, to be taken from such general Panel for the purposes of this section. And provided also, thirdly, that to every *venire facias* directed to any Sheriff in any case in which a view shall have been granted, and which *venire facias* shall not be endorsed for the return of a Special Jury thereon, such Sheriff shall return the same Jurors as those whose names are inserted in the panel returned upon the general precept for the Sittings or Sessions at which such cause is to be tried.

Actual writ of *venire facias* may be dispensed with.

Proviso; as to jurors *de medietate*.

Proviso as to *tales*.

Proviso: where a view is granted.

XXXV. And be it enacted, That if any Plaintiff or Demandant or any Defendant in *Quare impedit* or *Replevin* shall in any cause which shall be at issue, sue out any Writ of *Venire Facias* upon which any Writ of *Habeas Corpora* or *distringas* with a *Nisi Prius*, shall issue in order to the trial of the said issue at the Assizes or Sessions of *Nisi Prius*, and shall not proceed to trial at the first Assizes or Sessions of *Nisi Prius*, after the teste of such Writ of *Habeas Corpora* or *distringas*, then and in every such case, (except when a view by Jurors shall be directed as hereinafter mentioned,) such Plaintiff, Demandant or Defendant, whenever he shall think fit to try the said issue at any other Assizes or Sessions of *Nisi Prius*, shall sue forth a new Writ of *Venire Facias*, commanding the Sheriff or other Minister to return anew, twelve good and lawful men of the body of the Bailiwick qualified according to Law, and the rest of the Writ shall proceed in the accustomed manner, which Writ being duly returned, a Writ of *Habeas Corpora* or *distringas* with a *Nisi Prius* shall issue thereupon, upon which such Plaintiff, Demandant or Defendant, shall and may proceed to trial, as lawfully and effectually to all intents and purposes, as if no former Writ of *Venire Facias* had been prosecuted in that cause, and so *toties quoties* as the case shall require; And if any Defendant or Tenant, shall in any cause which shall be at issue be minded to bring to trial any issue joined against him when by the practice of the Court he may do so by Proviso, he shall or may of the issuable Term next preceding such intended trial to be had at the next Assizes or Sessions of *Nisi Prius*, sue out a *Venire Facias* in the form aforesaid by Proviso, and prosecute the same by Writ of *Habeas Corpora* or *distringas* with a *Nisi Prius*, as lawfully and effectually to all intents and purposes as if no former Writ of *Venire* had been sued out, or returned in that cause and so *Toties Quoties* as the matter may require.

As to cases where the plaintiff, &c. shall not proceed to trial.

New *venire*.

When defendant, &c., may bring on trial by proviso.

#### VII.—DRAWING JURY AT TRIAL.

XXXVI. And be it enacted, That the name of each man who shall be summoned and empanelled as a Petit Juror, upon the general precept for any Sittings or Sessions of Assize, *Nisi Prius*, Oyer and Terminer, Gaol Delivery, Sessions of the Peace or County Court, with the name of his place of abode, and addition shall be written on a

Jury to be drawn by ballott, and in what manner.

distinct piece of Parchment, Card or Paper, such pieces of Parchment, Card or Paper, being all as nearly as reasonably may be of uniform and convenient size, and shall be delivered to the Clerk of Assize, Marshal or other Clerk of such Court by the Sheriff, and shall by direction and care of such Sheriff, be put together in a Box or Urn to be provided for that purpose, and when any issue shall be brought on to be tried by the Jurors returned upon such general precept, such Clerk of Assize, Marshal or other Clerk of such Court, shall in open Court draw out twelve of the said Parchments, Cards or Papers one after another, and if any of the men whose names shall be so drawn shall not appear or shall be challenged and set aside, then such further number until twelve men be drawn, who shall appear, and after all just causes of challenge allowed, shall remain as fair and indifferent, and the said twelve men so first drawn and appearing and approved as indifferent, their names being noted in the minute Book of such Clerk of Assize, Marshal or other Clerk of such Court, and they being sworn shall be the Jury to try the issue, and the names of the men so drawn and sworn, shall be kept apart by themselves until such Jury shall have given in their verdict, and the same shall be recorded, or until such Jury shall by consent of the parties, or by leave of the Court be discharged, and then the same names shall be returned to the box or urn, there to be kept with the other names remaining at that time undrawn, and so *Toties Quoties* as long as any issue remains to be tried.

XXXVII. And be it enacted, That if any issue shall be brought on to be tried at any of the said Sittings or Sessions before the Jury in any other issue shall have brought in their verdict, or being discharged, it shall be lawful for the Court to order twelve of the residue of the said Parchments, Cards or Papers not containing the names of any of the Jurors who shall not have so brought in their verdict or been discharged, to be drawn in the manner last aforesaid, for the trial of the issue which shall be so brought on to be tried.

XXXVIII. And be it enacted, That notwithstanding the two last preceding Sections, where no objection shall be made on the part of the Queen, or any other party, it shall be lawful for the Court to try any issue with the same Jury that shall have previously tried, or been drawn to try any other issue without their names being returned to the box or urn, and re-drawn or to order the name or names of any man or men in such Jury, whom both parties may consent to withdraw or who may be justly challenged or excused by the Court to be set aside, and another name or other names, to be drawn from the box or urn, and to try the issue with the residue of such original Jury, and with such men or men, whose name or names shall be so drawn, and who shall appear and be approved as indifferent, and so *toties quoties* as long as any issue remains to be tried.

#### VIII.—SPECIAL JURIES.

XXXIX. And be it enacted, That it shall be in the power of Her Majesty, or any prosecutor, Relator, Plaintiff, or Demandant, and of any Defendant or Tenant in any case whatsoever, whether civil or criminal or on any Penal Statute, excepting only on Indictments for Treason or Felony, to have the issues joined in any such cases and triable by a Jury, tried by a Special Jury to be struck as hereinafter provided upon suing out the necessary Jury Process for that purpose, and procuring such Special Jury to be struck and duly summoned for the day on which the trial of such case is to be had, and every Jury so struck shall be the Jury returned for the Trial of such issue : Provided always, that in the event of a new Trial being ordered in any such case after a verdict of any such Jury, the *venire facias juratores* shall set forth the names of the Jurors who sat on the first trial of such cause, or in the event of more trials than one having been previously had, the names of all Jurors who shall have sat upon any of such trials. And none of the Jurors who shall have so sat on any such former trial shall be returned, or sit as Jurors upon any subsequent trial of the same cause.

XL. And be it enacted, That in every such case the party desiring such Special Jury to be struck, whether an actor in such cause or not, shall have a right in person,

or

Non appearance of challenge.

Jurors to be sworn, &c.

Jurors who have not brought in verdict, not to be included in any ballot.

By consent, the same jury may try several causes.

Either party may demand a special jury, except in cases of treason or felony.

Proviso: in case of a new trial.

*Venire facias* for special jury, how sued out and indorsed.

or by his Attorney or Agent, to sue out a Writ of *venire facias juratores* for that purpose, and every such Writ before it shall be delivered to the Sheriff or other Officer or Minister to whom it shall be directed, shall be indorsed with a direction to such Sheriff or other Officer or Minister requiring him to return a Special Jury on the same, and every such Sheriff or other Officer or Minister upon receipt of any such *venire facias*, so endorsed as aforesaid, shall, by a Memorandum in writing upon such Writ, appoint some convenient day and hour for striking such Special Jury, the day and hour to be so fixed for such purpose being sufficiently distant to enable the party suing out the said *venire* to give the necessary notice to the opposite party, as hereinafter provided.

XLI. And be it enacted, That in any such case the party, his Attorney or Agent suing out such *venire facias*, shall give notice in writing to the opposite party, his Attorney or Agent, that he had sued out a *venire facias* in such case for the purpose of having a Special Jury struck therein, and of the day and hour appointed by the Sheriff or other Officer or Minister for striking the same, which notice shall be served on such last mentioned party, his Attorney or Agent, at least four days before the day so appointed, and an Affidavit or Affirmation of such service, or an admission in writing under the hand of the Attorney or Agent on whom it may have been served, shall be produced to such Sheriff or other Officer or Minister at the time appointed for striking such Special Jury, and in default thereof the said Sheriff or other Officer or Minister shall not proceed to strike such Special Jury upon such Appointment.

XLII. And be it enacted, That every Special Jury to be struck under the authority of the thirty-ninth section of this Act, shall, except as hereinafter provided, consist solely of persons whose names shall appear on either the Roll of Grand Jurors for the Superior Courts or on the Roll of Grand Jurors for the Inferior Courts for the year in which the Writ of *venire facias* upon which such Jury shall be struck is returnable, and the same shall be struck in the manner hereinafter provided.

XLIII. And be it enacted, That every such Special Jury shall be struck in the following manner, that is to say: the Sheriff having furnished himself with a set of Ballots or pieces of parchment, card or paper, of as uniform and convenient size as reasonably may be, and containing the same number of Ballots as there are numbers on the respective Grand Jurors' Rolls from which the said Special Jury is to be struck, and upon which ballots shall be printed or written, the whole of the numbers of such Grand Jurors' Rolls allowing one number to each Ballot, and distinguishing each number by the letters S. C. or I. C. according as it shall belong to the Roll of Grand Jurors for the Superior Courts, or to the Roll of Grand Jurors for the Inferior Courts, shall, at the office of the Clerk of the Peace, at the time appointed for such purpose as aforesaid, in the presence of all the parties in the case and of their Attorneys and Agents (if they respectively choose to attend, or if the said parties, their Attorneys or Agents, all or any of them do not attend, then upon such proof as is hereinbefore provided of the service of the notice of striking such Special Jury in their absence,) put all the said Ballots in a box or urn, to be by him provided for that purpose, and after having caused the said box or urn to be shaken so as sufficiently to mix the said Ballots, shall draw out of the said box or urn forty of the said numbers, one after another, and shall, as each number is drawn, refer to the corresponding number in the Grand Jurors' Roll, to which such Ballot shall belong, and read aloud the name to which such number is appended in the said Roll. And if at the time of so reading any such name, either party, or his Attorney or Agent, shall object that the man whose name shall be so drawn is in any manner incapacitated from serving on the said Jury, and shall also then and there prove the same to the satisfaction of such Sheriff, such name shall be set aside, and the said Sheriff shall instead thereof draw out of the said box or urn another number, and shall in like manner refer to the corresponding number in the Grand Jurors' Roll, to which such Ballot shall belong, and read aloud the name to which such number is appended in the said Roll. Which name may be in like manner set aside, and other numbers and names shall in every such case be resorted to, according to the mode of proceeding hereinbefore described, for the purpose of supplying names in the places of those set  
aside,

Notice to be given to the other party of the time when the jury is to be struck.

Special juries to be taken only from rolls of grand jurors.

Mode of balloting for a special jury.

As to jurors, &c., objected to, and objection proved.

Provision if forty names cannot be obtained from the rolls.

List of jurors to be made out; each party to strike out 12.

Remaining 16 to be summoned, and jury taken from them.

Sheriff may strike in place of party failing to attend.

Superior courts may order cases of certain kinds to be tried by a jury of men conversant with the subject.

And in certain other cases by consent of parties.

Such *extra* special juries shall be struck by elisors.

Indorsement or *venire*.

aside, until the whole number of forty names not liable to be set aside shall be completed. And if in any case it shall so happen that the whole number of forty names cannot be obtained from the said Grand Jurors' Rolls, in such case the said Sheriff shall in like manner Ballot such a number of names from the Grand Jurors' Rolls in the Jurors' Book of the nearest year for which there shall be a Jurors' Book or certified copy thereof, in the office of the said Clerk of the Peace, in addition to those already taken from the first mentioned Grand Jurors' Rolls, as shall be required to make up the full number of forty names. And the said Sheriff shall thereupon make out a List of the forty names, together with their respective places of abode and additions, from which List, after a reasonable time allowed in the discretion of such Sheriff for enquiry and consideration respecting the same, each party, his Attorney or Agent shall strike out twelve names, such names being so struck out by such parties one by one alternately, the party suing out such *venire facias* commencing. And the Sheriff shall thereupon return upon such *venire facias*, and summon or cause to be summoned thereon the sixteen persons whose names shall remain on such List to appear on the day appointed for the trial of such cause. And from such sixteen persons, or so many of them as shall appear in obedience to such summons, shall be taken by Ballot in the manner hereinbefore by the thirty-sixth section of this Act prescribed for the drawing of Petit Jurors from the General Panel therein mentioned, a Special Jury for the trial of such cause.

XLIV. And be it enacted, That if either of the parties in such cause shall neglect to attend either in person or by Attorney or Agent at the striking of such Special Jury, the Sheriff, upon production of such affidavit, affirmation or admission of service of such notice as aforesaid, and after waiting at least half an hour for such absent party, shall, if requested by the other party, his Attorney or Agent, proceed to strike such Special Jury, and in case of the continued absence of such first mentioned party, shall on his behalf strike out of the said List the twelve names to be by such party struck out of such list as aforesaid.

XLV. And be it enacted, That it shall and may be lawful for either of Her Majesty's Superior Courts of Common Law at Toronto, in Term time, or any Judge thereof, in Vacation, in suits between Merchant and Merchant, or Trader and Trader, or Merchant and Trader involving one or more questions of mercantile consideration, and in suits between Manufacturer and Manufacturer, or Mechanic and Mechanic, or Manufacturer and Mechanic involving one or more questions of Mechanical or scientific consideration, and in suits between any of the former and any of the latter involving one or more of any of such questions without the consent of parties; and in suits between any other persons involving one or more questions of scientific consideration, with the consent of the parties to such last mentioned suits, to order and direct any such cause to be tried by a Special Jury of men belonging to the appropriate kind or kinds of business as aforesaid, or of scientific men respectively, as the case may be: Provided always that every such Rule not made with the consent of parties, shall be made only upon a Rule to shew cause or summons upon which the adverse party shall have had the usual opportunity of being heard as in other cases.

XLVI. And be it enacted, That in every Rule for striking any such Special Jury as is provided for in the last preceding section of this Act, it shall be ordered that such Special Jury shall be struck, and the names of such Special Jury certified to the Sheriff by three Elisors to be appointed in writing by endorsement upon such Rule, one by the Plaintiff in such cause, his Attorney or Agent, another by the Defendant, his Attorney or Agent, and the third by the Clerk of the Crown and Pleas of the Court in which the cause shall be pending, or in case of such Elisors disagreeing, then by the majority of such Elisors, all three being present, and that the Sheriff shall return and summon upon the *venire facias* in such cause, such persons as such Elisors, or the majority of them, shall certify to him as having been struck as Special Jurors for the trial of the same. And the indorsement to return a Special Jury on the *venire facias* in every such cause, shall direct the Sheriff to return a Special Jury of men of the appropriate



appropriate kind or kinds of business as aforesaid, or of scientific men, as the case may be, pursuant to such certificate as he may receive from the Elisors (naming them,) or a majority of them in that behalf appointed by such Rule.

XLVII. And be it enacted, That every such Special Jury as is provided for by the forty-fifth section of this Act, shall be struck in the following manner, that is to say: the three Elisors or a majority of them, upon the delivery to them of a copy of the Rule for such Special Jury, and of the *venire facias* for the return of such Jury, shall, at the request of either of the parties in such cause, make an appointment in writing of a day, hour and place for striking such Special Jury as by the forty-third section of this Act is provided with respect to other Special Juries. And upon notice of such appointment being served upon the opposite party, and such service proved as in the same section is provided with respect to such other Special Juries, the said Elisors shall, at the time and place so appointed and after waiting the time prescribed by the said forty-third section, proceed to make a list of the names and additions of all such persons whose names shall appear on any of the Jurors' Rolls for the year in which such *venire facias* is returnable, who shall in their judgment come within the description of persons required to be struck on such Jury according to the exigency of such Rule. And if there shall not be forty of such persons to be found upon such Rolls or either of them, then the said Elisors, or the majority of them, if they shall know of a sufficient number of persons answering such description within the County, or Union of Counties, whether such persons shall be otherwise qualified and liable to serve, or exempt from serving as Jurors or not, provided they be not persons disqualified from any of the causes set forth in the tenth section of this Act or either of them, shall add the names and additions of a sufficient number of such persons to such list to complete the same to forty names. And if there shall be the names of more than forty of such persons on such Rolls, the said Elisors, or the majority of them from the names of all persons on such Rolls who shall answer such description, shall, in the manner prescribed by the forty-third section of this Act, for the striking other Special Juries, select forty of such names. And the List of such forty names being thus completed, the same shall be reduced in the same manner as hereinbefore by the said forty-third section is provided with respect to such other special Juries. And the said Elisors shall thereupon give a certificate to each of the parties to such suit, their Attorney or Agent, certifying the names and additions of the sixteen persons whose names shall remain upon such List; and the Sheriff or other Officer or Minister to whom such *venire facias* shall be directed, shall, upon receipt of either of such certificates, return and summon such sixteen persons upon such *venire facias* accordingly, and from these sixteen persons so returned, shall be selected the Jury to try such cause, in the same way and under and subject to the like restrictions as by the said forty-third section of this Act is enacted with respect to other special Juries; provided always, that every such person so struck on any such Special Jury shall be liable to serve on the same although exempted from serving upon Juries by the general provisions of the fifth, sixth and seventh sections of this Act as hereinbefore provided.

XLVIII. And be it enacted, That nothing herein contained shall be construed to prevent the same Special Jury, however nominated, from being summoned and returned, to try any number of causes so as the parties in every such cause or their Attornies shall have signified their assent in writing to the Sheriff or other Officer or Minister to whom the return of Juries in such cases shall belong, to the nomination and return of such special Jury for the trial of their respective causes: Provided always, that it shall be lawful for the Court at which he shall be summoned to attend, if it shall so think fit, upon the application of any man who shall have served upon one or more Special Juries at any Assizes or Sessions of *Nisi Prius*, to discharge such man from serving upon any other Special Jury during the same Assizes or Sessions of *Nisi Prius*.

XLIX. And be it enacted, That the party who shall sue out a *venire facias* for a Special Jury in any cause, shall pay the fees for striking such Special Jury, the fees of the Jurors and all the expenses occasioned by the trial of the cause by such Special Jury,

Mode of striking such jury by elisors.

Elisors to attend.

If there be not forty proper persons on the rolls,

If there be more than forty such.

Reducing list.

Elisors to certify 16 jurors: who shall be summoned accordingly.

And jury taken from them.

Same special jury may by consent try any number of causes.

Proviso: in favor of Jurors having served once.

As to fees and costs of trial by special jury.

Jury, and shall not have any further or other allowance for the same upon taxation of costs, than such party would be entitled to, in case the cause had been tried by a common Jury, unless the Judge before whom the cause is tried, shall, immediately after the verdict in open Court, or afterwards upon a Summons at Chambers, certify under his hand that the same was a cause proper to be tried by a Special Jury.

#### IX.—VIEWS, JURIES DE MEDIETATE LINGUÆ AND INQUESTS.

Superior courts may grant views when they shall think them necessary—conditions, &c.

L. And be it enacted, That when in any case either Civil or Criminal, or on any Penal Statute depending in either of Her Majesty's Superior Courts of Common Law at Toronto, it shall appear to such Court or to any Judge thereof in vacation, that it will be proper and necessary that some of the Jurors who are to try the issues in such case, should have the view of the place in question, in order to their better understanding the evidence that may be given upon the trial of such issues; in every such case, such Court, or any Judge thereof in vacation, may order a Rule to be drawn up containing the usual terms, and also requiring, if such Court or Judge shall so think fit, the party applying for the view to deposit in the hands of the Sheriff a sum of money to be named in the Rule, for payment of the expenses of the view and commanding Special Writs of *venire facias* and *distringas* to issue, by which the Sheriff or other Officer or Minister, to whom the said Writs shall be directed, shall be commanded to have six or more of the Jurors named in such Writs, or in the Panels thereunto annexed, (who shall be mutually consented to by the parties, or if they cannot agree, shall be drawn by ballot from such Panel as hereinafter provided,) at the place in question, some convenient time before the trial, who then and there shall have the place in question shewn to them by two persons in the said writs named, to be appointed by the Court or Judge; and the said Sheriff or other Officer or Minister, who is to execute any such writ, shall, by a Special return upon the same, certify that the view hath been had according to the command of the same, and shall specify the names of the viewers.

Certificate of view.

How viewers shall be chosen, if not agreed upon by the parties.

LI. And be it enacted, That when the parties in any such case shall not agree as to the Jurors to be nominated to take such view, such viewers shall, by the Sheriff or other Officer or Minister, to whom the *venire facias juratores* in such case shall be directed, be drawn by ballot from the Panel returned upon such *venire facias*, at some time and place to be appointed by such Sheriff or other Officer or Minister for that purpose, in the like manner as by the thirty-sixth section of this Act is provided for drawing Juries from the general Panel at *Nisi Prius*: Provided always nevertheless, that no such Sheriff or other Officer or Minister shall proceed to draw such viewers from such Panel without having first given at least forty-eight hours' notice in writing to the respective parties in such suit, of the day, hour and place of such drawing.

Viewers to be the first sworn on the jury.

LII. And be it enacted, That when a view shall have been allowed in any case, those men who shall have had the view, or such of them as shall appear upon the Jury to try the issue, shall be first sworn, and so many only shall be added to the viewers who shall appear, as shall after all defaults and challenges allowed, make up a full Jury of twelve.

Right of alien to be tried by jury, *de medietate* saved.

LIII. And be it enacted, That nothing herein contained shall extend or be construed to extend to any Jury of matrons or any Writ *de ventre inspiciendo*, or to deprive any alien not naturalized, indicted or impeached of any felony or misdemeanor, of the right of being tried by a Jury *de medietate linguæ*, but that on the prayer of every such alien so indicted or impeached, the Sheriff shall by command of the Court return for one half of the Jury a competent number of aliens, if so many there be in the Town or place where the trial is had, and if not then so many aliens as shall be found in the same town or place if any, and that no such alien Juror shall be liable to be challenged for want of any qualification required by this Act, but every such alien may be challenged for any other cause in like manner as if he were qualified by this Act.

What persons only may be summoned as jurors on inquests.

LIV. And be it enacted, That no man shall be liable to be summoned or impanelled to serve as a Juror in any County, City or Town in Upper Canada, upon any inquest or inquiry to be taken or made before any Sheriff or Coroner, by virtue of any writ of inquiry,

inquiry, or by or before any Commissioners appointed under the Great Seal of the Province, or the Seal of any Court in Upper Canada, having general jurisdiction throughout the same, or having general jurisdiction throughout any County of the same, or throughout any City or Town and the liberties or precincts thereof within the same, unless the name of such person shall appear upon one or other of the Jurors' Rolls, for the year in which such person shall be called upon to serve on such inquest or inquiry: Provided always, that nothing herein contained shall extend or be construed to extend to any inquest to be taken by or before any Coroner of any County, Union of Counties, City or Town, by virtue of his office, or to any inquest or inquiry to be taken or made by or before any Sheriff, High Bailiff or Coroner of any County, Union of Counties, City or Town, but that the Coroners, Sheriffs and High Bailiffs aforesaid, in all such Counties, Unions of Counties, Cities and Towns respectively, when acting otherwise than under a writ of enquiry, shall and may respectively take and make all inquests and inquiries by Jurors of the same description as they have been used and accustomed to do before the passing of this Act.

Proviso; as to certain inquests.

### X.—CHALLENGES.

LV. And be it enacted, That if any man shall be returned as a Juror for the trial of any issue in any cause civil or criminal, or on any Penal Statute in any of the Courts hereinbefore mentioned, who shall not be qualified according to this Act, the want of such qualification shall be a good cause of challenge, and he shall be discharged upon such challenge, if the Court shall be satisfied of the fact; Provided always, that nothing herein contained shall extend in any wise to any Special Juror.

Want of qualification to be cause.

LVI. And be it enacted, That if any man returned as a Juror for the trial of any such issue, shall be qualified in other respects according to this Act, the want of freehold shall not on such trial in any case civil or criminal, or on any Penal Statute, be accepted as a good cause of challenge either by the Crown or by the party, nor as cause for discharging the man so returned upon his own application; any law, custom or usage to the contrary notwithstanding.

Proviso; as to special jurors.

Want of freehold, not a cause.

LVII. And be it enacted, That no challenge shall be taken to any Panel of Jurors for want of a Knight's being returned on such Panel, nor any array quashed by reason of any such challenge; any law, custom or usage to the contrary notwithstanding.

Want of a knight, no cause.

LVIII. And be it enacted, That no person arraigned for murder or felony shall be admitted to any peremptory challenge above the number of twenty, and that the defendants arraigned for any misdemeanor, if they, or such of them as may be tried together, shall unite in such challenge, may challenge peremptorily without assigning any cause for the same, any two of the Jurors who may be called upon to serve on such trial.

Peremptory challenges limited.

LIX. And be it enacted, That in cases in which the Queen shall be a party, those who sue for the Queen shall not be allowed a challenge to any Juror who may be called to serve upon the Jury in any such case, except for cause to be assigned, tried and disposed of according to the custom of the Court.

Crown to challenge for cause only.

LX. And be it enacted, That in all civil cases, and cases upon any Penal Statute, each party, the plaintiff or plaintiffs, demandant or demandants, on one side, and the defendant or defendants, tenant or tenants, on the other, may each challenge peremptorily without assigning any cause for the same, any two of the Jurors who may be called upon to serve on the trial of any such cause; Provided always nevertheless, that the Juror so challenged shall not be a Special Juror, struck upon such Jury according to the provisions in this Act contained for the striking of Special Juries.

Peremptory challenge in civil cases.

Proviso; as to special jurors.

### XI.—SUMMONING JURORS.

LXI. And be it enacted, That the summons of every man to serve on Grand Juries and on Petit Juries, not being Special Juries, in any of the Courts aforesaid, shall be made by the proper officer, eight days at the least before the day on which the Juror is to attend, by delivering to the man to be summoned, or in case he shall be absent from the usual place of his abode, by leaving with some grown person there inhabiting,

Time during which jurors must be summoned before day of attending.

a note in writing under the hand of the Sheriff or other proper Officer, containing the substance of such summons, and the summons of every man to serve on Special Juries in any of the Courts aforesaid shall be made by the like person and in the like manner as aforesaid, three days at the least before the day on which the Special Juror is to attend; which last mentioned day may be any day after the commission day of the Assizes at which the cause is to be tried as well as such commission day, and the Judges of the different Courts may by any general rule to be made by them according to law for that purpose, make such regulations as they may deem expedient for regulating the time and manner of bringing on such Special Jury trials at *Nisi Prius*.

Jurors on inquest, &c., and matrons *de ventre*, to be summoned as before.

LXII. And be it enacted, That the summons of every man to serve upon any Inquest or Inquiry before any Sheriff or Coroner, or before any Commissioners appointed under the Great Seal of this Province or under the Seal of either of Her Majesty's Superior Courts of Common Law at Toronto, or to serve as a talesman upon any Jury either for the trial of an issue, or assessment of damages, in any of the Courts aforesaid, and of any matron to serve on a Jury *de ventre inspiciendo*, shall notwithstanding any thing in this Act contained, be made by the proper officer in the manner heretofore used and accustomed in such cases respectively, as if this Act had not been passed.

## XII.—PENALTIES.

On jurors for non-attendance.

LXIII. And be it enacted, That if any man having been duly summoned to attend on any kind of Jury, in any of the Courts in Upper Canada, hereinbefore mentioned, shall not attend in pursuance of such Summons, or being there called shall not answer to his name: or if any such man or any talesman after having been called shall be present, but not appear, or after his appearance shall wilfully withdraw himself from the presence of the Court, the Court shall set such fine upon every such man or talesman so making default, (unless some reasonable excuse shall be proved by oath, affidavit or affirmation,) as the Court shall think meet.

On viewers for non-attendance.

LXIV. And be it enacted, That where any viewer having been duly summoned to attend on a Jury shall make default, as in the last preceding section of this Act is set forth, the Court at which he shall have been summoned to attend for the trial of such cause, is hereby authorized and required to set upon such viewer, (unless some reasonable excuse shall be proved as aforesaid,) a fine to the amount of five pounds at the least, and as much more as the said Court under the circumstances of the particular case shall think proper.

On jurors upon inquests and inquiries for non-attendance.

LXV. And be it enacted, That if any man having been duly summoned and returned to serve as a Juror in any County, Union of Counties, City or Town in Upper Canada, upon any inquest or inquiry, before any Sheriff or Coroner, or before any of the Commissioners aforesaid, shall not, after being openly called three times, appear and serve as such Juror, every such Sheriff, Coroner and Commissioners respectively, are hereby authorized and required (unless some reasonable excuse shall be proved on oath, affidavit, or affirmation) to impose such fine upon any man so making default, as they shall respectively think fit, not exceeding Five pounds; and every such Sheriff, Coroner and Commissioners respectively shall make out and sign a certificate, containing the christian and surname, the residence and addition of every man so making default, together with the amount of the fine imposed, and the cause of such fine, and shall transmit such certificate to the Clerk of the Peace for the County or Union of Counties, or Clerk of the Recorder's Court of any such City as aforesaid, in which, or the liberties thereof, every such defaulter shall reside, on or before the first day of the General Quarter Sessions of the Peace, or Sittings or Sessions of every such Recorder's Court of any such City as aforesaid, next ensuing. And every such Clerk respectively is hereby required to copy the fines so certified on the Roll, on which all fines and forfeitures imposed at such Quarter Sessions, or Sittings or Sessions of such Recorder's Court of any such City, shall be copied, and the same shall be estreated, levied and applied in like manner, and subject to the like powers, provisions and penalties in all respects as if they had been

Sheriff to certify defaults, and transmit certificate.

Fines to be estreated.

been part of the fines imposed at such Quarter Sessions or Sittings respectively, as aforesaid.

LXVI. And be it enacted, That if any Sheriff or other Officer or Minister as aforesaid shall wilfully impanel and return any man to serve on any Jury in any of the Courts aforesaid, such man's name not being duly drawn upon such Panel, in the manner in this Act prescribed,—or if any Clerk of Assize, Associate, Marshal, Clerk of the Peace, Clerk of the Recorder's Court or other Officer of any of the Courts aforesaid, shall wilfully record the appearance of any man so summoned and returned, who did not really appear,—in every such case, the Court shall, and may, upon examination in a summary way, set such fine upon such Sheriff, Officer or other Minister, Clerk of Assize, Associate, Marshal, Clerk of the Peace, Clerk of the Recorder's Court or other Officer offending, as the Court shall think meet.

On sheriffs, &c., for default to perform duties assigned to them.

LXVII. And be it enacted, That no Sheriff, under-Sheriff, Coroner, Elisor, Bailiff or other Officer, Minister or person whatsoever, shall, directly or indirectly, take or receive any money or other reward or promise of money or reward, to excuse any man from serving or being summoned to serve on Juries, or under any such colour or pretence; and that no Bailiff or other officer, appointed by any Sheriff, under-Sheriff, Coroner, or Elisor, to summon Juries, shall summon or pretend to summon any man to serve thereon other than those whose names are specified in a Warrant or Mandate signed by such Sheriff, under-Sheriff, Coroner or Elisor, and directed to such Bailiff, or other officer; and if any Sheriff, under-Sheriff, Coroner, Elisor, Bailiff, or other officer, shall wilfully transgress in any of the cases aforesaid, or shall summon any of the Jurors, not being a Special Juror, less than eight days before the day on which he is to attend, or shall summon any Special Juror less than three days before the day on which he is to attend, except in the cases hereinbefore excepted, the Court of Assize, *Nisi Prius*, Oyer and Terminer, Gaol Delivery, Sessions of the Peace, County and Recorder's Court, within whose jurisdiction the offence shall be committed, may, and is hereby required on examination and proof of such offence, in a summary way, set such fine upon every person so offending, as the Court shall think meet, according to the nature of the offence.

On sheriffs, &c., taking money as a bribe.

On bailiffs, &c., acting illegally.

Court to set fine on offender.

LXVIII. And be it enacted, That if any Sheriff or Deputy Sheriff of any County or Union of Counties, or any High Bailiff or other Officer of any City, shall make or cause to be made any alteration whatever in the Rolls, Lists or Panels in any Jurors' Book, or in the certified copies thereof in their official custody, or in the official custody of any of them, or in any of them, except in compliance with the directions in this Act contained, or shall neglect or refuse to prepare the Jurors' Book, the Ballots necessary for balloting the Jury Lists, drafting the Panels, striking Special Juries, and drawing Juries at the trial, or shall neglect or omit to return such Jurors' Book, and the ballots for drafting such Jury Lists, to the Court to which by this Act he is required to return the same, or shall neglect or omit to perform any other duty required of him by this Act, or shall wilfully do any thing inconsistent with the provisions of this Act, every such Sheriff, Deputy Sheriff, High Bailiff, or other Officer so offending, shall for every such offence forfeit the sum of Fifty pounds, one moiety thereof to the use of Her Majesty, Her Heirs or Successors, and the other moiety thereof, with full costs, to such person as shall sue for the same in any Court of competent jurisdiction, by action of debt, bill, plaint or information.

On sheriffs, &c., making any unauthorized alteration in any jurors' book, or neglecting to return the same, &c.

LXIX. And be it enacted, That if any Clerk of the Crown and Pleas, or any of their Deputies, shall make or cause to be made any alteration whatever in the Rolls, Lists or Panels in any Juror's Book, or in any copy thereof deposited in his office, or shall wilfully certify as true any copy of any Jurors' Book, or any Roll, List or Panel therein, when the same shall not be a true copy thereof, every such Clerk of the Crown and Pleas, or Deputy Clerk of the Crown and Pleas, shall, for every such offence, forfeit the sum of Fifty pounds, one moiety thereof to the use of Her Majesty, Her Heirs or Successors, and the other moiety thereof, with full costs, to such person as shall sue for the same in any Court of competent jurisdiction by action of debt, bill, plaint or information.

On clerks of C. & P making such alterations or certifying falsely, &c.

On assessors not making and returning the assessment roll in proper time.

LXX. And be it enacted, That if any Assessor of any Township, Village or Ward in Upper Canada, shall neglect or omit to make out and complete his Assessment Roll for such Township, Village or Ward, and to return the same to the office of the Clerk of such Township or Village, or of the City or Town in which such Ward shall be situated, or other office or place of deposit for such Roll, at least on or before the first day of September of the year for which he shall be such Assessor, every such Assessor so offending, shall forfeit for every such offence the sum of Fifty pounds, one moiety thereof to the use of Her Majesty, Her Heirs or Successors, and the other moiety thereof, with full costs, to such person as shall sue for the same in any Court of competent jurisdiction by action of debt, bill, plaint or information: Provided always, that nothing herein contained shall be construed to relieve any such Assessor from the obligation of returning such Assessment Roll at an earlier period of the year, or from any penalty he may incur by not returning the same accordingly.

Proviso:

On Municipal officers not producing assessment roll as required.

LXXI. And be it enacted, That if any City, Town, Village or Township Clerk, or any Assessor or other officer or person who, at the time of the annual meeting of the Selectors of Jurors for any City, Town, Village or Township in Upper Canada, shall have the actual charge or custody of the Assessment Rolls or Assessment Roll of such City, Town, Village or Township, for such year, shall neglect or omit to perform the duties required of him by the eleventh section of this Act, as regards the production of such Roll or Rolls at such annual meeting of such Selectors of Jurors, or permitting such Selectors the necessary access to the same for the purpose aforesaid, every such Clerk or other Officer or person so offending shall for every such offence forfeit the sum of Twenty-five pounds, one moiety thereof to the use of Her Majesty, Her Heirs and Successors, and the other moiety thereof, with full costs, to such person as shall sue for the same in any Court of competent jurisdiction, by action of debt, bill, plaint or information.

On selectors of jurors not producing assessment roll as required.

LXXII. And be it enacted, That if any Selector of Jurors for any Township, Village or Ward in Upper Canada, shall wilfully select and report as qualified and liable to serve as a Grand or Petit Juror, any person who, according to the provisions of this Act, ought not to have been so selected or reported, or shall take any money or other reward for so selecting or reporting or omitting to select or report any person whomsoever, or shall wilfully insert in any such Report a wrong description of the name, place of abode, or addition of any one so selected and reported, or shall neglect or omit to complete his selection and Report, and to deposit the same in the proper office at least on or before the fifteenth day of September of the year for which he shall act as such Selector of Jurors, every such Selector of Jurors offending in any of the foregoing cases, shall, for every such offence, forfeit a sum not exceeding Twenty pounds, nor less than Five pounds, at the discretion of the Justice before whom he shall be convicted.

On clerks of the peace for wilful dereliction of duty.

LXXIII. And be it enacted, That if any Clerk of the Peace, or Clerk of any such Recorder's Court of any City as aforesaid, or his Deputy, shall, when acting in performance of the duties required of him by the eighteenth, nineteenth, twentieth, twenty-first, twenty-second and twenty-third sections of this Act, neglect or omit to perform any duty required of him by those sections in the manner therein prescribed, or shall wilfully do any thing inconsistent with the provisions of the same, every such Clerk of the Peace, or other Clerk as aforesaid, or his Deputy, so offending, shall, for every such offence, forfeit the sum of Fifty pounds, one moiety thereof to the use of Her Majesty, Her Heirs or Successors, and the other moiety thereof, with full costs, to such person as shall sue for the same, in any Court of competent jurisdiction, by action of debt, bill, plaint or information.

How pecuniary penalties shall be levied and applied.

LXXIV. And be it enacted, That all fines to be imposed under this Act by either of Her Majesty's Superior Courts of Common Law at Toronto, or by any Court of Assize, *Nisi Prius*, Oyer and Terminer, Gaol Delivery, Sessions of the Peace, County Court, or Recorder's Court, shall be levied and applied in the same manner as any other fines imposed by the said Courts respectively, and that all other penalties hereby enacted (for which no other remedy is given) shall, on conviction of the offence, before any

any Justice of the Peace, within his jurisdiction, be levied, unless such penalty be forthwith paid, by distress and sale of the offender's goods and chattels, by warrant under the hand and seal of such Justice, who is hereby authorized to hear and examine witnesses on oath or affirmation on any complaint, and to determine the same, and to mitigate the penalty, if he shall see fit, to the extent of the moiety thereof. And all penalties, the application whereof is not herein particularly directed, shall be paid to the complainant; and for want of sufficient distress, the offender shall be committed by warrant, under the hand and seal of such Justice, to the Common Gaol or House of Correction, for such term not exceeding six calendar months, as such Justice shall think proper, unless such penalty is sooner paid.

Mitigation of penalty where no application is directed.

Committal for non-payment.

### XIII.—APPLICATION OF PROVISIONS.

LXXV. And be it enacted, That in every City in Upper Canada in which there is or shall be established a Recorder's Court, or any other Court either Civil or Criminal, or both, having local jurisdiction within such City and the liberties thereof, and in which Court or any Sittings or Sessions thereof, Jurors shall be required for the trial of issues of fact joined in any such Court, according to the course of the Common Law, the Clerk of the Recorder's Court of every such City, shall annually, within the same period as is hereinbefore provided for the performance of a similar duty by the Clerk of the Peace of the different Counties and Unions of Counties in Upper Canada, and in a similar manner, prepare from such Reports of the Selectors of Jurors of the County or Union of Counties within the limits of which such City shall be embraced, as shall be returned for Wards, or other local divisions of such County or Unions of Counties lying within such City or the liberties thereof, a Jurors' Book for such City, inserting in the Jurors' Rolls in such Book respectively, the names of such persons resident within such City, or the liberties thereof, as upon such Reports or upon such of them as shall then have come in as aforesaid, shall be returned as qualified and liable to serve as Grand or Petit Jurors respectively, either in the Superior or Inferior Courts, except only that there shall, in every such case, be but two Rolls, one of Grand Jurors consisting of all such persons as shall have been so selected and reported for Grand Jurors in either the Superior or Inferior Courts, and the other of all such persons as shall have been in like manner selected and reported for Petit Jurors in either the Superior or Inferior Courts, as is hereinbefore required of the Clerk of the Peace of every County and Union of Counties, in respect of his County, and the heads of such Rolls in such Jurors' Books shall be adapted to the same accordingly. And such Recorder's Court, the Recorder of such City or the Chairman or other presiding Member thereof, and the Clerk of such Court for the time being, shall respectively perform the like duties in respect of such Books, the preparing the Ballots and the balloting of the Jury Lists from the Jurors' Rolls, as are hereinbefore prescribed to the Quarter Sessions of the Peace, the Chairman thereof, and the Clerk of the Peace for the respective Counties or Unions of Counties; and all other duties which are by this Act prescribed to the Sheriffs of Counties, in respect of Jurors, whether Grand or Petit, within their respective bailiwicks, shall, as respects Grand or Petit Juries for the administration of justice in any such Courts of any such Cities, be performed by and required of such High Bailiff, or other officer, as aforesaid: and that the manner of drafting, striking, returning and summoning Juries by the Sheriff, upon writs of *venire facias juratores*, as prescribed by this Act, shall be observed and followed by the High Bailiff, Coroners, Elisors, and other Officers and Ministers, having the return of Jury process within every such City, which Coroners, Elisors and other Officers and Ministers shall for such purpose have free access, at all reasonable times to the Jurors' Book, in the office of the Recorder's Court or other similar office of such City; and it shall be the duty of such High Bailiffs, Coroners, Elisors, and other Officers and Ministers of every such City, to perform all such duties in any way connected with the drafting, striking, returning and summoning such Juries, and they are hereby invested with all such powers as in and by this Act are prescribed to or vested in the Sheriffs of the different Districts with respect to Juries returned by them upon similar process.

In cities, the clerk of the recorder's court shall perform the duties performed by the clerk of the peace in counties; other functionaries of the Court performing certain other duties.

Aldermen to act as justices of the peace, under this Act.

LXXVI. And be it enacted, That all the powers conferred and duties imposed by this Act upon Justices of the Peace, with respect to Counties and Unions of Counties, shall be and the same are hereby conferred and imposed upon the Aldermen of the different Cities in Upper Canada, in which a Recorder's Court shall have been established in respect of the Cities of which they are or shall be Aldermen respectively.

Deputies of sheriffs, &c., may perform their duties.

LXXVII. And be it enacted, That the duties by this Act required of the Sheriffs of the different Counties and Unions of Counties and of the High Bailiffs, or other similar Officers of the different Cities in Upper Canada, and those also required of the Clerks of the Peace, and Clerks of the Recorder's Courts of such Cities as aforesaid, may be executed and performed either by the principal Officer himself, or by his Under-Sheriff or Deputy respectively.

Coroners, elisors, &c., to draft, &c., juries in like manner as sheriffs are required to do.

LXXVIII. And be it enacted, That the manner of drafting or striking, returning and summoning Juries by the Sheriff upon writs of *venire facias juratores* as prescribed by this Act, shall be observed and followed by all Coroners, Elisors, and other Officers and Ministers having the return of Jury process, who shall for such purpose have free access at all reasonable times to the Jurors' Book in the Sheriff's office, and it shall be the duty of every such Coroner, Elisor, and other Officer and Minister to perform all such duties, and they are hereby invested with all such powers, in any way connected with the drafting, striking, returning and summoning such Juries, as in and by this Act are prescribed to or vested in the Sheriffs of the different Counties, with respect to Juries returned by them upon similar process.

Provisions as to panel of grand jurors for oyer and terminer, &c., to apply to other courts.

LXXIX. And be it enacted, That the several directions in this Act contained, respecting the issue of precepts for the return of a Panel of Grand Jurors for the sittings or Sessions of Oyer and Terminer, and Gaol Delivery, as well as for the execution and return of such precepts, with all things touching the same, shall, in all and several their particulars, be observed and followed, with respect to the Sittings or Sessions of the General Quarter Sessions of the Peace in Upper Canada, and with respect to the Sittings or Sessions of the several Recorder's Courts of the different Cities in Upper Canada in which such Court shall have been established.

Provisions as to panel of petit jurors, at assizes, &c., to apply to quarter sessions and county courts.

LXXX. And be it enacted, That the several directions in this Act contained respecting the issue of precepts for the return of a General Panel of Petit Jurors, for the Sitting or Sessions of Assize and *Nisi Prius*, as well as for the execution and return of such precepts with all things touching the same, except only those contained in the eighty-fourth section of this Act, shall in all and several their particulars be observed and followed with respect to the Sittings or Sessions of the several Quarter Sessions and County Courts in Upper Canada, and with respect to the Sittings or Sessions of the several Recorder's Courts of the different Cities in Upper Canada in which such Court shall have been established.

#### XIV.—MISCELLANEOUS PROVISIONS.

Allowances for services under this Act.

LXXXI. And be it enacted, That the Selectors of Jurors, for every selection and distribution of Jurors and the Report thereof made by them under this Act, shall be entitled to the sum of Ten Shillings each, and the City, Town, Village or Township Clerk to the further sum of Five Shillings for bringing with him to the meeting of such Selectors the Assessment Roll or Assessment Rolls of the year as required by the eleventh section of this Act, such moneys to be paid to them respectively, by the Treasurer of the County or Union of Counties, for which such Jurors are to serve, out of any moneys in his hands belonging to such County or Union of Counties not otherwise specially appropriated by Act of Parliament, and which money shall be paid by such Treasurer to every such Selector of Jurors upon receipt of a certificate from the Clerk of the Peace for such County or Union of Counties, that such Report had been duly made to him within the time for that purpose prescribed by this Act. That the Clerk of the Peace of every such County or Union of Counties, and the Clerk of the Recorder's Court of every City, in which a Recorder's Court shall have been established, for every Juror's Book furnished and prepared by him under this

Selectors.

Clerks of the peace, and of recorder's courts.



this Act, shall be entitled to the sum of One Pound Ten Shillings, the further sum of Two Shillings for every hundred names contained in the Rolls of Jurors by him entered in such Jurors' Book as directed by this Act, and the further sum of One Pound for each Jury List balloted and entered in such Jurors' Book according to the provisions thereof, and for every certified copy thereof required to be made by this Act, one half the amount so allowed for the original, and which several sums of money shall be paid by the Treasurer of such County or Union of Counties, or the Chamberlain of such City, as the case may be, out of any moneys in his hands belonging to such County, Union of Counties or City respectively not otherwise specially appropriated by Act of Parliament, upon receipt of a certificate from the Chairman of the Quarter Sessions of such County or Union of Counties, or the Recorder or other presiding officer of such Recorder's Court, that such Book had been furnished and prepared and such other services performed by such Clerk of the Peace or Clerk of the Recorder's Court respectively, within the time and according to the directions prescribed by this Act, and the further sum of One Pound for every Panel of Jurors drafted from any Jurors' Book in his office, to be paid in the case of General Panels returned upon such general precepts as are mentioned in the twenty-ninth section of this Act, out of the like moneys and by the like officer as hereinbefore mentioned, upon the production to such officer of the certificate of the Sheriff or other officer who shall have drafted the same, that such General Panel was so drafted as aforesaid, and in all other cases to be paid by the party suing out the Jury process upon which such Panel shall have been drafted. And the Sheriff, High Bailiff or other Officer of every such County, Union of Counties or City, exclusive of such fees as he may be entitled to from the parties in any suit or otherwise, for each Panel of Jurors, whether Grand or Petit, returned and summoned by him in obedience to any general Precept for the return of Grand or Petit Jurors for any Sittings or Sessions of *Assize and Nisi Prius, Oyer and Terminer, Gaol Delivery, Sessions of the Peace, or County or Recorder's Court* respectively, under this Act, shall be entitled to the sum of One pound, and which sum of money shall be paid by the Treasurer of such County or Union of Counties or by the Chamberlain of such City, as the case may be, out of any moneys in his hands belonging to such County, Union of Counties or City respectively, not otherwise specially appropriated by Act of Parliament, upon receipt of a certificate from any two Justices of the Peace or Aldermen respectively, as the case may be, who may have been present at the drafting of such Panel pursuant to the twenty-fifth section of this Act, of such Sheriff, High Bailiff or other Officer having performed such service according to the directions of this Act, and in the case of Sheriffs of Counties, a further sum of Six pence for every mile that he or his deputy or Bailiffs may necessarily have to travel from the County Town for the purpose of summoning the Jurors upon such Panel, to be paid by such Treasurer out of the like moneys upon proof by affidavit made before some Commissioner for taking affidavits in some one of Her Majesty's Superior Courts of Common Law at Toronto, for such County or Union of Counties, of such travel having been so necessarily performed in the making such service; For all which moneys so to be paid as aforesaid, every such Treasurer and Chamberlain shall be allowed in his accounts with such County, Union of Counties or City, as if the same had been paid under the Special Authority and direction of the Municipal Corporation of such County, Union of Counties or City respectively.

LXXXII. And be it enacted, That in every case in which in any County or Union of Counties or any City of Upper Canada, there shall be no Sittings or Sessions of the General Quarter Sessions of the Peace, or Recorder's Court respectively after the first day of October in such year, at which according to the provisions of this Act, the Jury Lists for the following year for such County, Union of Counties or City respectively, are hereby required to be balloted from the Jurors' Rolls as herein provided, or if from any other cause such Lists or either of them shall not have been balloted, pursuant to the provisions of this Act, it shall and may be lawful for the Governor of this Province,

Sheriffs, high bailiffs,  
&c.

How paid.

The said sums to be  
allowed to treasurers  
in their accounts.

Governor may in  
certain cases authorize  
the holding of special  
sessions for balloting  
for jurors, &c., under  
this Act.

Province, by warrant under his privy Seal, of which a copy shall be published in the Official Gazette of the Province, and also (if there be such) in one public Newspaper published in such County, Union of Counties or City, as the case may be, to fix any day not sooner than fourteen days from the publication of the same in such Gazette, and also a place in such County, Union of Counties or City for holding a Special Sittings or Sessions of such Court for the purpose of balloting such Jury Lists as hereinbefore directed; and the several provisions and clauses of this Act, relating to the Sittings or Sessions of such Court, in which the balloting of such Jury Lists are hereinbefore directed to be done, shall be extended and applied to and be in force with respect to any such Special Sittings or Sessions, by any such warrant so directed to be held as aforesaid.

What shall be done if the clerk of the peace, &c, cannot take the oath required by section nineteen.

LXXXIII. And be it enacted, That in the event of any Clerk of the Peace or Clerk of the Recorder's Court being unable to make such oath as is required by the nineteenth section of this Act, as to the Entries made in any of such Jurors' Books, previous to the time of such Book coming into his custody from his predecessor, or having reason to suspect that any original entries in any of such Books have after their original completion been erased, mutilated or altered, he shall in lieu of that part of the said oath, make oath that, as to such entries, he is unable to speak, but that from circumstances which have come to his knowledge, or of which he has been informed, he has reason to doubt the correctness thereof, or of some parts thereof, or has reason to suspect that some of the original entries in some of such Books have been erased, mutilated or altered, as the case may be; and in every such case, such Court shall, immediately after the balloting shall have been completed, proceed, either on the same or some subsequent day, to examine and enquire by the oaths of such as may be informed thereof into such supposed incorrect entries, erasures, mutilations or alterations, their nature and extent, and by whom, when, and for what purpose made, and to punish the parties who may be thereupon found to have made such incorrect entries, erasures, mutilations or alterations, by fine or imprisonment in their discretion, and to cause such incorrect entries, erasures, mutilations or alterations to be rectified, and such Books restored to their original state as nearly as may be according to the best information they shall have been able to obtain of or concerning the same.

Certain courts to have the same powers as heretofore, for certain purposes.

LXXXIV. And be it enacted, That Her Majesty's two Superior Courts of Common Law at Toronto, and all Courts of Oyer and Terminer, and Gaol Delivery in Upper Canada, shall respectively have and exercise the same powers and authority as they have heretofore had or exercised in issuing any writ or precept, or in making any award or order orally or otherwise for the return of a Jury for the trial of any issue before any of such Courts respectively, or for the amending or enlarging the Panel of Jurors, returned for the trial of any such issue, and the return to any such writ, precept, award or order shall be made in the manner heretofore used and accustomed in such Courts respectively, save and except that the Jurors shall be returned from the body of the County or Union of Counties, and not from any Hundred or Township or from any particular venue within such County or Union of Counties, and shall be qualified according to this Act.

Justices of assize may direct the panel of petit jurors to be divided into two sets, each to serve a certain time.

LXXXV. And be it enacted, That in any County or Union of Counties in which the Justices of Assize shall think fit so to direct the Sheriff, the Sheriff to whom the return of the precept for the trial of causes at *Nisi Prius*, for such County or Union of Counties, doth belong, shall summon and impanel such number of Petit Jurors, not exceeding one hundred and forty-four, as such Justices shall think fit to direct to serve indiscriminately on the criminal and civil side, and that where such Justices shall so direct, the Sheriff shall divide such Jurors equally into two sets, the first of which sets to consist, except as hereinafter provided, of the necessary number of those first drawn upon such Panel, shall attend and serve for so many days at the beginning of each Assize as such Justices shall, within a reasonable time before the commencement of such Assize think fit to direct, and the other of which sets to consist, except as before excepted, of the residue of such Jurors, shall attend and serve for the residue

residue of such Assize: Provided always, firstly, that such Sheriff shall in the summons to the Jurors, in each of such sets specify whether the Juror named therein, is in the first or second set, and at what time the attendance of such Juror will be required; and during the attendance and service of the first of such sets, the Juries on the civil side shall be drawn from the names of the persons in that set, and during the attendance and service of the second of such sets, from the names of the persons in such second set: And provided also, secondly, that in any cause where a Rule for a view shall have been obtained as hereinbefore mentioned, in a case to be tried by a Jury to be taken from such Panel, it shall be lawful for the Judge before whom such case is to be tried, and he is hereby required on the application of the party obtaining such Rule, to appoint that in case the names of any one of the viewers shall stand in such Panel, among the first half of the names in the same, the names of all the viewers in such case shall by such Sheriff be placed in the first of such sets, and that the case shall be tried during the attendance and service of that set of Jurors in which such viewers are included.

Proviso.

Proviso.

LXXXVI. And be it enacted, That where a full Jury shall not appear before any Court of Assize or *Nisi Prius*, or before any sittings of any County Court for the trial of issues, and assessment of damages as at *Nisi Prius*, or before any such Court, of any such City as aforesaid, when engaged in the trial of a civil suit, or where after the appearance of a full Jury, by challenge of any of the parties, the Jury is likely to remain untaken for default of Jurors, every such Court, upon request made for the Queen, by any one thereto authorized or assigned by the Courts or on request made by the parties, Plaintiff, Demandant, Defendant or Tenant, or their respective Attornies, in any action or suit whether popular or private, shall command the Sheriff or other Officer or Minister to whom the making of the return shall belong, to name and appoint as often as need shall require, so many of such other able men, of the County, Union of Counties or City, as the case may be, then present, as shall make up a full Jury, and the Sheriff or other Officer or Minister aforesaid, shall, at such command of the Court, return such men duly qualified, as shall be present, or can be found, to serve on such Jury, and shall add and annex their names to any Panel that may have been returned upon any *venire facias*, in such cause; Provided always, that when a Special Jury shall have been struck for the trial of any issue, the talesmen shall be such as shall be empanelled upon the Common Jury Panel to serve at the same Court, if a sufficient number of such men can be found, and the Queen, by any one so authorized or assigned as aforesaid, and all and every the parties aforesaid, shall, and may in each of the cases aforesaid, have their respective challenges to the Jurors so added, and the Court shall proceed to the trial of every such issue with those Jurors who were before empanelled together with the talesmen so newly added and annexed, as if all the said Jurors had been returned upon the writ or precept awarded to try the issue.

Tales may be ordered in default of jurors.

Proviso: when the jury is a special one.

Challenges.

LXXXVII. And be it enacted, That every Sheriff and other Officer or Minister to whom the return of Jurors shall belong, shall be, and is hereby indemnified for empannelling and returning any man as a Grand or Petit Juror respectively, who shall be named in the Grand or Petit Jurors' Rolls from which he shall be taken respectively for the year for which he shall be summoned, although he may not be qualified or liable to serve as such Juror for such year.

Sheriff, &amp;c., indemnified for summoning any man on the roll.

LXXXVIII. And be it enacted, That immediately after every Sittings or Sessions of Assize, *Nisi Prius*, Oyer and Terminer, Gaol Delivery, Sessions of the Peace, and County Court, the Sheriff shall, on the Jury List from which the Panel of Grand Jurors (if any) returned to such Sittings or Sessions was drafted, and on the Jury List from which the Panel of Petit Jurors returned upon the General Precept to such Sittings or Sessions respectively was drafted, opposite the names of the Jurors respectively, note the non-attendance or default of all such of the Jurors in such Panels respectively as shall not have duly attended and served upon such Panels until discharged by the Court.

Sheriffs to note names of jurors attending and serving; and of defaulters.

LXXXIX. And be it enacted, That every Juror who shall have so attended and served upon any such Panel as last aforesaid, shall (upon application by him made to

Certificates to be given to jurors attending.

such

such Sheriff or Deputy Sheriff, before he shall depart from the place of trial), receive a certificate testifying such his attendance and service, which certificate the Sheriff or Deputy Sheriff is hereby required to give upon payment of One Shilling.

High bailiff to note names of jurors attending and serving.

XC. And be it enacted, That immediately after every Sittings or Sessions of the Recorder's Court for any City, the High Bailiff of such City shall, on the Jury List from which the Panel of Grand Jurors returned to such Sittings or Sessions was drafted, and on the Jury List from which the Panel of Petit Jurors returned upon the General Precept to such Sittings or Sessions was drafted, opposite the names of the Jurors respectively, note the non-attendance or default of all such of the Jurors in such Panels respectively as shall not have duly attended and served upon such Panels until discharged by the Court.

And to give certificates to such jurors.

XCI. And be it enacted, That every Juror who shall have so attended and served upon any such Panel as last aforesaid, shall (upon application by him made to such High Bailiff or his Deputy before he shall depart from the place of trial) receive a certificate testifying such his attendance and service, which certificate the High Bailiff or his Deputy is hereby required to give upon payment of One Shilling.

Attaints of jurors abolished.

XCII. And be it enacted, That it shall not be lawful either for the Queen or for any one on her behalf, or for any party or parties in any case whatsoever, to commence or prosecute any writ of attaint against any Jury or Jurors for the verdict by them given, or against the party or parties who shall have Judgment upon such verdict, and that no inquests shall be taken to inquire of the concealments of other inquests, but that all such attaints and inquests shall henceforth cease, become void, and be utterly abolished; any Law, Statute or usage to the contrary notwithstanding.

Embracery, punishable as heretofore.

XCIII. And be it enacted, That notwithstanding any thing herein contained, every person who shall be guilty of the offence of embracery, and every Juror who shall wilfully or corruptly consent thereto, shall and may be respectively proceeded against by indictment or information, and be punished by fine and imprisonment, in like manner as every such person and Juror might have been before the passing of this Act.

As to affirmations instead of oaths, in certain cases.

XCIV. And be it enacted, That nothing herein contained shall be construed to affect or alter any Statute or Law whereby the affirmation of persons belonging to certain religious societies, classes or descriptions of persons is allowed, or directed to be in all cases received and taken from such persons in lieu of an oath.

Omissions to observe the directions of this Act not to vitiate the verdict, &c..

XCV. And be it enacted, That no omission to observe the directions in this Act contained, or any of them, either as respects the qualification, selection and distribution of Jurors, the preparation of the Jurors' Book, the balloting Jury Lists from the Jurors' Rolls, the drafting panels from the Jury Lists or the striking of Special Juries, shall be taken as a ground of impeaching the verdict in any cause, or be allowed for error upon any writ of error or appeal to be brought upon any judgment to be hereafter rendered in any case, criminal or civil, by any Court in Upper Canada.

Powers of courts, practice, &c., not altered unless expressly.

XCVI. And be it enacted, That nothing herein contained shall extend or be construed to extend to alter, abridge or affect any power or authority, which any Court or Judge now hath, or any practice or form in regard to trials by Jury, Jury Process, Juries or Jurors, except in those cases only where any such power or authority, practice or form is repealed or altered by this Act, or is, or shall be inconsistent with any of the provisions thereof, nor to change or alter any privilege of Parliament.

Acts and parts of Acts in schedule C., repealed.

XCVII. And be it enacted, That the several Acts and parts of Acts of the Parliament of the late Province of Upper Canada, set forth in the Schedule to this Act annexed marked C, and containing a description of the Acts and parts of Acts repealed by this Act, so far as the same shall be in force at the commencement of this Act, and all Acts continuing or making permanent any of the said Acts, or continued or made permanent by any of them, shall be, and the same are hereby repealed; Provided always nevertheless, Firstly: That no Act or part of an Act repealed by any of the Acts hereby repealed, shall be revived by the passing of this Act, and no Act, or part of an Act, perpetuated or continued by any of the Acts hereby repealed, (except such as are herein expressly repealed) shall be repealed by the passing of this Act. And

Proviso.

Proviso.

provided

provided always, Secondly : That notwithstanding the repeal of the Acts and parts of Acts hereby repealed, all acts which might have been done, and all proceedings which might have been taken or prosecuted relating to any offences or neglects which may have been committed, or to any matters which shall have happened, or to any moneys which shall have become due, or to any fines or penalties which shall have been incurred before the day on which this Act shall come into full operation, shall and may still be done or prosecuted, and the offences and omissions may be dealt with and punished, and the moneys may be recovered and dealt with, and the fines and penalties may be imposed and applied as if the Acts and parts of Acts hereby repealed, continued in force.

XCVIII. And be it enacted, That all the provisions of this Act relating to the qualifications of Jurors, the selection and distribution of such Jurors, the preparation of the Jurors' Books, the balloting the Jury Lists, and the completion of such Jurors' Books, and the deposit thereof in the proper office, so far as they regard Jurors to be returned on any precept, or other Jury Process which shall be delivered to any Sheriff, High Bailiff or other Officer to whom the return of such Jury Process shall by law belong, upon or after the first day of January in the year of our Lord, one thousand eight hundred and fifty-one,—and all such other provisions thereof as require to be acted upon, so as to have the Juror's Books for the said year in the hands of the proper Officers throughout Upper Canada, ready to be made use of by all such Sheriffs, High Bailiffs, and other Officers aforesaid, according to the directions thereof, upon and after the first day of January in the year aforesaid, shall, so far as is necessary for that purpose, but no further, come into force and take effect immediately after the passing thereof; but none of such provisions shall extend or be construed to extend to any Jurors or Panel of Jurors either Grand or Petit to be returned upon any Precept or other Jury Process which shall be delivered to any Sheriff, High Bailiff or other Officer to whom the return thereof shall belong, on or before the thirty-first day of December in this present year; and all such last mentioned Precepts and other Jury Process, shall be executed and returned by the Officers to whom the same shall be directed, and all Jurors so returned thereupon shall be held to be the proper Jurors to inquire for the Queen or to try all issues of fact in that behalf, and all proceedings to be had thereupon in all causes, Criminal as well as Civil, shall be had and taken and held good in law to all intents and purposes whatsoever, as if this Act had not been passed; and that except as to such last mentioned Jury Process, the Jurors to be returned and the proceedings to be had thereupon, this Act and all the provisions thereof, shall come into force and take effect in all and several the particulars thereof, upon, from and after the said first day of January in the year of our Lord, one thousand eight hundred and fifty-one, and not before.

XCIX. And be it enacted, That it shall and may be lawful for the Governor of this Province for the time being to extend in his discretion, by Proclamation under the Great Seal thereof, the periods in this present year by this Act prescribed for the selection and distribution of Jurors, the preparation of the Jurors' Books, the balloting of the Jury Lists, the completion of such Jurors' Books and the deposit thereof in the proper office; Provided always nevertheless, that every such extension of time for the purposes aforesaid respectively, may be by one or more Proclamations issued at the same or different times as well after as before the expiration of the period or periods extended by the same, and may apply to any one or more of such periods, and to the whole of Upper Canada or to any one or more of the Counties or Unions of Counties thereof, as in the discretion of the Governor of the Province for the time being shall seem most expedient.

C. And be it enacted, That it shall be the duty of the Clerk of the Peace, Clerk of the County, or such other officer or person as at the time of the meeting of such Selectors of Jurors for any City, Town, Village or Township for the present year, for the selection of Jurors for service during the year one thousand eight hundred and fifty-one, shall have the actual charge or custody of the Assessment Roll or Assessment

When the enactments in this Act shall respectively take effect.

Governor may extend the time allowed for certain purposes by this Act.

Assessment rolls to be used in making jury lists for 1851, produced by the proper officers.

Rolls for such City, Town, Village or Township for such year, to bring such Assessment Roll or Assessment Rolls to such meeting, and to permit the use of the same for the purpose aforesaid, or to deliver to some one of such Selectors of Jurors, previous to the day of meeting of such Selectors, a certified copy or certified copies of such Roll or Rolls, in which latter case it shall be the duty of such Selector to bring such certified copy or copies of such Roll or Rolls to such meeting of the said Selectors, and the said Selectors shall proceed thereon as if the same were the original Assessment Roll or Rolls of such City, Town, Village or Township for the present year.

Clerks of the peace to perform certain duties for the residue of 1850, as heretofore.

To have access to assessment rolls.

Penalty for default: and how enforced.

Proviso: the time during which such duties shall be so performed, may be extended by the Governor.

CI. And be it enacted, That it shall be the duty of the different Clerks of the Peace in Upper Canada to perform for the residue of the present year the duty heretofore by law required of them as regards Jurors and Juries, their selection and return, and all things incident thereto, although the Assessment Rolls of the different Townships and other places within their respective Counties or Unions of Counties may not have been deposited with them as heretofore, and to enable them to do so it shall be the duty of the Officer or person in whose charge or custody any such Roll may in fact be, to give every such Clerk of the Peace free access to all such Rolls at all reasonable times for the purpose aforesaid, and in default thereof every such Officer or person shall forfeit and pay the sum of Fifty Pounds to be sued for and recovered in any of Her Majesty's Courts of competent jurisdiction by any person who will sue for the same, one half thereof to the use of such person, his executors and administrators, and the other half thereof to the use of Her Majesty, Her Heirs and Successors for the public uses of this Province: Provided always nevertheless, that the provision by this section made with respect to Jurors and Juries for the present year, and all other Acts of Parliament and Laws in force in Upper Canada, immediately preceding the passing of this Act in respect of the same, may, by the Governor of this Province for the time being, by Proclamation under the Great Seal thereof, if He shall think it expedient to issue the same, be continued in force for and during the year of our Lord one thousand eight hundred and fifty-one, or such part thereof as in and by such Proclamation may be prescribed, in which case all Juries shall be returned, summoned and impannelled as heretofore till the expiration of the time so prescribed in and by such Proclamation; any thing herein contained to the contrary notwithstanding.

SCHEDULE A.

REPORT OF THE SELECTION AND DISTRIBUTION OF JURORS

For the Township of Albion (or for the Ward of St. James, in the City of Toronto), in the County of York, for the year 1851, made at the Town (or City) Hall of the said Township (or City) by A. B. Townreeve (or Mayor), C. D. Town (or City) Clerk, and E. F., G. H. and I. J. Assessors of the said Township (or Ward), on the day of \_\_\_\_\_ in the year 1850, pursuant to the directions of the Act of Parliament of (1)

FIRST DIVISION

For the Roll of Grand Jurors to serve in Her Majesty's Superior Courts of Criminal Jurisdiction.

| NAMES.               | No. of Lot or House, where known to the Selectors. | Concession or Street, or Unincorporated Village or Hamlet, where known to the Selectors. | Additions. |
|----------------------|--|--|------------|
| John Anderson.....   | 16   | 2  | Esquire.   |
| Peter Cameron.....   | 4  | 6  | Yeoman.    |
| William O'Leary..... | —  | Oatlands   | Gentleman. |
| Alfred Piper.....    | 17   | 1  | Esquire.   |
| &c.                  |  |  |            |

## SECOND DIVISION

For the Roll of Grand Jurors to serve in Her Majesty's Inferior Courts of Criminal Jurisdiction.

| NAMES.             | No. of Lot or House, where known to the Selectors. | Concession or Street, or Unincorporated Village or Hamlet, where known to the Selectors. | Additions. |
|--------------------|--|--|------------|
| William Adams..... | 9  | 4  | Gentleman. |
| Richard House..... | 7  | 5  | Yeoman.    |
| Jacob Wyse.....    | 2  | 1  | Tailor.    |
| Allan Thomas.....  | 24   | 5  | Esquire.   |
| &c.                |  |  |            |

## THIRD DIVISION.

For the Roll of Petit Jurors to serve in Her Majesty's Superior Courts of Criminal Jurisdiction.

| NAMES.               | No. of Lot or House, where known to the Selectors. | Concession or Street, or Unincorporated Village or Hamlet, where known to the Selectors. | Additions. |
|----------------------|--|--|------------|
| David Boothe.....    | 11   | 7  | Merchant.  |
| George Sullivan..... | 3  | 4  | Esquire.   |
| Nathan Lowe.....     | 6  | 1  | Shoemaker. |
| Henry Grace.....     | 24   | 7  | Yeoman.    |
| &c.                  |  |  |            |

## FOURTH DIVISION

For the Roll of Petit Jurors to serve in Her Majesty's Inferior Courts of Criminal Jurisdiction.

| NAMES.                   | No. of Lot or House, where known to the Selectors. | Concession or Street, or Unincorporated Village or Hamlet, where known to the Selectors. | Additions. |
|--------------------------|--|--|------------|
| George Gule.....         | 7  | 8  | Tailor.    |
| Samuel Jones.....        | 15   | 3  | Yeoman.    |
| William Carpenter.....   | 7  | 2  | Esquire.   |
| Thomas Hoole Rogers..... | 11   | 1  | Gentleman. |
| &c.                      |  |  |            |

We, the above-named Selectors of Jurors for the Township of Albion <sup>(2)</sup> do hereby solemnly declare, each severally for himself, that we have made the Selection and Distribution of Jurors in this Report from the Assessment Roll of the said Township for the present year to the best of our judgment and information, pursuant to the directions of the Act of Parliament of <sup>(1)</sup> and that we have so made the same without fear, favor or affection of, to or for any person or persons whomsoever, gain, reward or hope

hope thereof, other than the fees to which we are entitled under the provisions of the said Act of Parliament.

Witness our Hands and Seals, the day and year last above written.

A. B. [L. S.]

*Townreeve.*

C. D. [L. S.]

*Town Clerk.*

E. F. [L. S.]

*Assessor.*

G. H. [L. S.]

*Assessor.*

I. J. [L. S.]

*Assessor.*

### SCHEDULE B.

The JURORS' BOOK for the County of York, for the year 1851. (1)

#### 1.—ROLL OF GRAND JURORS

To serve in Her Majesty's Superior Courts (2) of Criminal Jurisdiction.

| No. on Roll. | NAMES.   | No. of Lot or House as in Report of Selectors. | Concession or Street, or Unincorporated Village or Hamlet, as in Report of Selectors. | Additions. | No. on List. | Remarks.  |
|--------------|--|--|---|------------|--------------|---|
|              | 1 ALBION,<br>(Township.)   |  |   |            |              |   |
| 1            | Anderson John.....   | 16   | 2   | Esquire,   |              | Exempted,<br>having served on G. J. List, S. C. 1850. |
| 2            | Aylof Graham.....  | 9  | 4   | Gentleman, |              |   |
| 3            | Bosworth David.....  | 11   | 7   | Merchant,  |              |   |
| 4            | Cameron Peter.....<br>( <i>&amp;c., to, say</i> )                      | 4  | 6   | Yeoman,    |              |   |
| 20           | Young David.....   | 7  | 8   | Tailor,    | 3            |   |
|              | 2 BROCK,<br>(Township.)  |  |   |            |              |   |
| 21           | Allan Simon.....   | 21   | 7   | Yeoman,    |              | 144   |
| 22           | Bolland George.....<br>( <i>&amp;c., to, say</i> )                     | 5  | 12  | Gentleman, | 2            |   |
| 31           | Wilkinson James.....   | 13   | 4   | Esquire,   |              |   |
| 32           | Yates Edward.....  | 1  | 5   | Yeoman,    |              |   |
|              | 3 OSHAWA,<br>(Village.)  |  |   |            |              |   |
|              | 4 ST. JAMES WARD,<br>(City of Toronto.)<br>[ <i>&amp;c., to, say</i> ] |  |   |            |              |   |
|              | 26 YORK,<br>(Township.)  |  |   |            |              |   |
| 503          | Arthur Thomas.....   | 3  | 2 From Bay.   | Yeoman,    | 1            |   |
| 504          | Bull Peter.....  | 14   | 1 E. Yonge St.  | Yeoman,    |              |   |

These are to certify that I have carefully compared the above Grand Jurors' Roll with the Reports made by the several Selectors of Jurors for the different Townships, Villages and Wards in the County of York, including the City of Toronto, as embraced within the same for certain judicial purposes, for the year one thousand eight hundred and fifty, as such Reports remained with me as Clerk of the Peace on the fifteenth day of September in that year, and that such Grand Jurors' Roll contains a true and correct



correct transcript of the names, descriptions and additions of all persons so selected and reported as competent, qualified and liable to serve as Grand Jurors in Her Majesty's Superior Courts of Criminal Jurisdiction for such County.

Witness my hand, this \_\_\_\_\_ day of \_\_\_\_\_ one thousand eight hundred and fifty.

E. F., Clerk of the Peace.

## 2.—THE GRAND JURY LIST

For the Superior Courts, <sup>(2)</sup> as balloted in open Court, at a General Quarter Sessions of the Peace for the County, on \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_ 1850, being the first day of the first General Quarter Sessions of the Peace for the County, held next after the first day of October in that year, by C. D. Chairman of the said Court, and E. F. the Clerk of the Peace, pursuant to the directions of the Act of Parliament of <sup>(3)</sup>

| No. on List. | NAMES.                       | No. of Lot or House, as in Jurors' Roll. | Concession or Street, or Unincorporated Village or Hamlet, as in Jurors' Roll. | Township, Village, or Ward. | Additions. | No. on Roll. | No. of Panel. | Remarks.                      |
|--------------|------------------------------|--|--|-----------------------------|------------|--------------|---------------|-------------------------------|
| 1            | Arthur Thomas....            | 3  | 2 From Bay   | York                        | Yeoman     | 503          | 1             | Served accordingly.           |
| 2            | Bollands George..            | 5  | 12   | Brock                       | Gentleman  | 22           | 1             | Omitted to attend altogether. |
| 3            | Young David.....<br>(&c. to) | 7  | 8  | Albion                      | Tailor     | 20           |               |                               |
| 144          | Yates Edward.....            | 1  | 5  | Brock                       | Yeoman     | 32           | 1             | Served accordingly.           |

These are to certify that on \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_ instant, being the first day of the first General Quarter Sessions of the Peace for the County of York, next after the first day of October in this year <sup>(6)</sup> the foregoing Grand Jury List for the Superior Courts for this County for the year one thousand eight hundred and fifty-one, was in open Court duly balloted, canvassed and transferred from the Roll of Grand Jurors to serve in Her Majesty's Superior Courts of Criminal Jurisdiction for the same year, pursuant to the directions of the Act of Parliament of <sup>(3)</sup>

Witness our hands, this \_\_\_\_\_ day of \_\_\_\_\_ one thousand eight hundred and fifty.

C. D. Chairman.

E. F. Clerk of the Peace.

## 3.—GRAND JURY PANELS FOR THE SUPERIOR COURTS. <sup>(2)</sup>

(a) No. 1.

Panel of Grand Jurors returned upon a precept from the Honorable G. H., the Honorable I. J., [&c.] Her Majesty's Justices in that behalf, tested the day of \_\_\_\_\_ 185\_\_\_\_\_, for the return of twenty-four of such Jurors for the Sessions of *Oyer and Terminer* and Gaol Delivery, to be held for this County on the \_\_\_\_\_ day of \_\_\_\_\_ one thousand eight hundred and fifty-one, as drafted on \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_ one thousand eight hundred and fifty-one, at the Office of the Clerk of the Peace in Toronto, by A. B., Esquire, Sheriff, in the presence of K. L.

L. and M. N., Esquires, Justices of the Peace for the said County, pursuant to the directions of the Act of Parliament of (3)

| No. of Panel. | NAMES.                          | No. of Lot or House, as in Jury List. | Concession or Street, or Unincorporated Village or Hamlet, as in Jury List. | Township, Village or Ward. | Additions. | No. on List. | Remarks. |
|---------------|---------------------------------|---------------------------------------|---|----------------------------|------------|--------------|----------|
| 1             | Arthur Thomas.....              | 3                                     | 2 From Bay  | York                       | Yeoman     | 1            |          |
| 2             | Bolland George.....<br>(&c. to) | 5                                     | 12  | Brock                      | Gentleman  | 2            |          |
| 24            | Yates Edward.....               | 1                                     | 5   | Brock                      | Yeoman     | 144          |          |

Witness our hands the day and year last above written.

A. B. Sheriff.  
K. L. J. P.  
M. N. J. P.

(b) No. 2. (5) &c.

#### 4.—ROLL OF GRAND JURORS

To serve in Her Majesty's Inferior Courts (2) of Criminal Jurisdiction. (4)

| No. on Roll. | NAMES.   | No. of Lot or House as in Report of Selectors. | Concession or Street, or Unincorporated Village or Hamlet, as in Report of Selectors. | Additions. | No. on List. | Remarks.  |
|--------------|--|--|---|------------|--------------|---|
|              | 1 ALBION,<br>(Township)                                  |  |   |            |              |   |
| 1            | Acland White.....  | 16   |   | 2          |              | Exempted,<br>having served on G. J.<br>List, S. C.<br>1850. |
| 2            | Adams William.....                                       | 9  |   | 4          |              |   |
| 3            | Eswald David.....  | 11   |   | 7          |              |   |
| 4            | Hamilton Peter.....<br>(&c., to, say)                    | 4  |   | 6          |              |   |
| 20           | Large George.....  | 7  |   | 8          | Tailor,      | 3   |
|              | 2 BROCK,<br>(Township)                                   |  |   |            |              |   |
| 21           | Ash Simon.....   | 21   |   | 7          | Yeoman,      | 2   |
| 22           | Borland George.....<br>(&c., to, say)                    | 5  |   | 12         | Gentleman,   |   |
| 31           | Wilkins James.....                                       | 13   |   | 4          | Esquire,     | 144   |
| 32           | Waters Edward.....                                       | 1  |   | 5          | Yeoman,      |   |
|              | 3 OSHAWA,<br>(Village)                                   |  |   |            |              |   |
|              | 4 ST. JAMES WARD,<br>(City of Toronto)<br>[&c., to, say] |  |   |            |              |   |
|              | 26 YORK,<br>(Township)                                   |  |   |            |              |   |
| 503          | Astor Thomas.....  | 3  | 2 From Bay,   |            | Yeoman,      | 1   |
| 504          | Peel Peter.....  | 14   | 1 E. Yonge St.  |            | Yeoman,      |   |

These are to certify that I have carefully compared the above Grand Jurors' Roll with the Reports made by the several Selectors of Jurors for the different Townships, Villages and Wards in the County of York, including the City of Toronto, as embraced within

within the same for certain judicial purposes for the year one thousand eight hundred and fifty, as such Reports remained with me as Clerk of the Peace on the Fifteenth day of September in that year, and that such Grand Jurors' Roll contains a true and correct transcript of the names, descriptions and additions of all persons so selected and reported as competent, qualified and liable to serve as Grand Jurors in Her Majesty's Inferior Courts of Criminal Jurisdiction for such County.

Witness my hand, this \_\_\_\_\_ day of \_\_\_\_\_ one thousand eight hundred and fifty.

E. F. Clerk of the Peace.

5.—THE GRAND JURY LIST

For the Inferior Courts, <sup>(2)</sup> as ballotted in open Court at a General Quarter Sessions of the Peace for the County, on \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_ 1850, being the first day of the first General Quarter Sessions of the Peace for the County held next after the First day of October in that year by C. D. Chairman of the said Court, and E. F. Clerk of the Peace, pursuant to the directions of the Act of Parliament of <sup>(3)</sup>

| No. on List. | NAMES.                                   | No. of Lot or House, as in Jurors' Roll. | Concession or Street, or Unincorporated Village or Hamlet, as in Jurors' Roll. | Township, Village or Ward. | Additions. | No. on Roll. | No. of Panel. | Remarks.                      |
|--------------|--|--|--|----------------------------|------------|--------------|---------------|-------------------------------|
| 1            | Astor Thomas.....                        | 3  | 2 From Bay.  | York,                      | Yeoman,    | 503          | 1             | Served accordingly.           |
| 2            | Borland George...                        | 5  | 12   | Brock,                     | Gentleman, | 22           | 1             | Omitted to attend altogether. |
| 3            | Large George.....<br>( <i>q.c., to</i> ) | 7  | 8  | Albion,                    | Tailor,    | 20           |               |                               |
| 144          | Waters Edward...                         | 1  | 5  | Brock,                     | Yeoman,    | 32           | 1             | Served accordingly.           |

These are to certify that on \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_ instant, being the first day of the first General Quarter Sessions of the Peace for the County of York next after the First day of October in this year <sup>(6)</sup>, the foregoing Grand Jury List for the Inferior Courts for this County, for the year one thousand eight hundred and fifty-one, was in open Court duly ballotted, canvassed and transferred from the Roll of Grand Jurors to serve in Her Majesty's Inferior Courts of Criminal Jurisdiction for the same year, pursuant to the directions of the Act of Parliament of <sup>(3)</sup>

Witness our hands, this \_\_\_\_\_ day of \_\_\_\_\_ one thousand eight hundred and fifty.

C. D. Chairman,  
E. F. Clerk of the Peace.

6.—GRAND JURY PANELS FOR THE INFERIOR COURTS. <sup>(2)</sup>

(a) No. 1.

Panel of Grand Jurors returned upon a precept from S. B. H., and K. L. M., Esquires, two of Her Majesty's Justices of the Peace in and for the County of York, tested the \_\_\_\_\_ day of \_\_\_\_\_ 185 \_\_\_\_\_, for the return of twenty-four of such Jurors for the General Quarter Session of the Peace to be held for this County on \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_ one thousand eight hundred and fifty-one, as drafted on \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_ one thousand eight hundred and fifty-one, at the Office of the Clerk of the Peace in Toronto, by A. B., Esquire, Sheriff,

Sheriff, in the presence of K. L., and M. N., Esquires, Justices of the Peace for the said County, pursuant to the directions of the Act of Parliament of (3)

| No. on Panel. | NAMES.                          | No. of Lot or House, as in Jury List. | Concession or Street, or Unincorporated Village or Hamlet, as in Jury List. | Township, Village or Ward. | Additions. | No. on List. | Remarks. |
|---------------|---------------------------------|---------------------------------------|---|----------------------------|------------|--------------|----------|
| 1             | Astor Thomas.....               | 3                                     | 2 From Bay  | York                       | Yeoman     | 1            |          |
| 2             | Borland George.....<br>(&c. to) | 5                                     | 12  | Brock                      | Gentleman  | 2            |          |
| 24            | Waters Edward.....              | 1                                     | 5   | Brock                      | Yeoman     | 144          |          |

Witness our hands, the day and year last above written.

A. B. Sheriff.  
K. L. J. P.  
M. N. J. P.

(b) No. 2. (5) &c.

### 7.—ROLL OF PETIT JURORS

To serve in Her Majesty's Superior Courts (2) of Criminal and Civil Jurisdiction. (4)

| No. on Roll. | NAMES.                              | No. of Lot or House, as in Report of Selectors. | Concession or Street, or Unincorporated Village or Hamlet, as in Report of Selectors. | Additions. | No. on List. | Remarks.   |
|--------------|-------------------------------------|---|---|------------|--------------|--|
|              | 1 ALBION.<br>(Township.)            |   |   |            |              |  |
| 1            | Parley Peter.....                   | 16  | 2   | Esquire    |              |  |
| 2            | Alley Simon.....                    | 21  | 7   | Yeoman     | 2            |  |
| 3            | Aikins William.....                 | 25  | 3   | Yeoman     |              |  |
| 4            | Ashford Thomas.....                 | 19  | 5   | Yeoman     | 3            |  |
| 5            | Adams George.....                   | 5   | 5   | Gentleman  | 1            |  |
| 6            | Worth David.....                    | 11  | 7   | Merchant   | 5            |  |
| 7            | Barclay John.....                   | 9   | 2   | Shoemaker  | 4            |  |
| 8            | Cameron William.....                | 4   | 6   | Yeoman     |              |  |
| 9            | Daniels George.....                 | 22  | 11  | Yeoman     | 6            |  |
| 10           | Small William.....<br>(&c. to, say) | 7   | 8   | Tailor     | 7            |  |
| 1060         | Yarrolld George.....                | 14  | 9   | Baker      | 288          | Exempted, having served on P. J. List, S. C. 1850. |
|              | 2 BROCK.<br>(Township.)             |   |   |            |              |  |
|              | &c.                                 |   |   |            |              |  |

These are to certify that I have carefully compared the above Petit Jurors' Roll with the Reports made by the several Selectors of Jurors for the different Townships, Villages and Wards in the County of York, including the City of Toronto, as embraced within the same for certain judicial purposes, for the year one thousand eight hundred and fifty, as such Reports remain with me as Clerk of the Peace on the fifteenth day of September of that year, and that such Petit Jurors' Roll contains a true and correct transcript of the names, descriptions and additions of all persons so selected and

and reported as competent, qualified and liable to serve as Petit Jurors in Her Majesty's Superior Courts of Criminal and Civil Jurisdiction for such County.

Witness my hand, this                      day of                      1850.

E. F. Clerk of the Peace.

### 8.—THE PETIT JURY LIST

For the Superior Courts, <sup>(2)</sup> as ballotted in open Court at a General Quarter Sessions of the Peace for the County, on                      the                      day of                      one thousand eight hundred and fifty, being the first day of the first General Quarter Sessions of the Peace for the County held next after the first day of October in that year by C. D. Chairman of the said Court, and E. F. the Clerk of the Peace, pursuant to the directions of the Act of Parliament of <sup>(3)</sup>

| No. on List. | NAMES.                          | No. of Lot or House, as in Jurors' Roll. | Concession or Street, or Unincorporated Village or Hamlet, as in Jurors' Roll. | Residence. | Additions. | No. on Roll. | No. of Panel. | Remarks.            |
|--------------|---------------------------------|--|--|------------|------------|--------------|---------------|---------------------|
| 1            | Adams George.....               | 5  | 5  | Albion     | Gentleman  | 5            |               |                     |
| 2            | Alley Simon.....                | 21                                       | 7  | Albion     | Yeoman     | 2            | 1             | Served accordingly. |
| 3            | Ashford Thomas...               | 2  | 19   | Albion     | Yeoman     | 4            |               |                     |
| 4            | Barclay John.....               | 19                                       | 8  | Albion     | Shoemaker  | 7            |               |                     |
| 5            | Worth David.....                | 9  | 5  | Albion     | Merchant   | 6            |               |                     |
| 6            | Daniel George.....              | 11                                       | 16   | Albion     | Yeoman     | 9            |               |                     |
| 288          | Yarrold George.....<br>(&c. to) | 14                                       | 9  | Albion     | Baker      | 1060         | 1             |                     |

These are to certify that on                      the                      day of                      instant, being the first day of the first General Quarter Sessions of the Peace for the County of York next after the first day of October in this year, <sup>(6)</sup> the foregoing Petit Jury List for the Superior Courts for this County for the year 1851, was in open Court duly ballotted, canvassed and transferred from the Roll of Petit Jurors to serve in Her Majesty's Superior Courts of Criminal and Civil Jurisdiction for the same year, pursuant to the directions of the Act of Parliament of <sup>(3)</sup>

Witness our hands, this                      day of                      1850.

C. D. Chairman.

E. F. Clerk of the Peace.

### 9.—PETIT JURY PANELS

FOR THE SUPERIOR COURTS <sup>(2)</sup>

(a) No. 1.

Panel of Petit Jurors returned upon a precept from the Honorable G. H., the Honorable J. J. (&c.) Her Majesty's Justices, in that behalf tested the                      day of                      one thousand eight hundred                      , for the return of forty-eight of such Jurors for the Sessions of Assize and *Nisi Prius*, *Oyer* and *Terminer*, and Gaol Delivery, to be held for this County, on                      the                      day of                      one thousand eight hundred and fifty-one, as drafted on                      the                      day of                      one thousand eight hundred and fifty-one, at the Office of the Clerk of the Peace in Toronto, by

A. B. Esquire, Sheriff, in the presence of K. L. and M. N. Esquires, Justices of the Peace for the said County, pursuant to the directions of the Act of Parliament of <sup>(3)</sup>

| No. on Panel. | NAMES.             | No. of Lot or House, as in Jury List. | Concession or Street, or Unincorporated Village or Hamlet, as in Jury List. | Township Village, or Ward. | Additions. | No. on List. | Remarks. |
|---------------|--------------------|---------------------------------------|---|----------------------------|------------|--------------|----------|
| 1             | Alley Simon.....   | 21                                    | 7   | Albion                     | Yeoman     | 2            |          |
|               | (&c. to)           |                                       |   |                            |            |              |          |
| 48            | Yarrod George..... | 14                                    | 9   | Albion                     | Baker      | 288          |          |

Witness our hands, the day and year last above written.

A. B. Sheriff,  
K. L. J. P.  
M. N. J. P.

(b) No. 2, (5), &c.

#### 10.—ROLL OF PETIT JURORS

To serve in Her Majesty's Inferior Courts <sup>(2)</sup> of Criminal and Civil Jurisdiction. <sup>(4)</sup>

| No. on Roll. | NAMES.                 | No. of Lot or House, as in Report of Selectors. | Concession or Street, or Unincorporated Village or Hamlet, as in Report of Selectors. | Additions. | No. on List. | Remarks.   |
|--------------|------------------------|---|---|------------|--------------|--|
|              | 1 ALBION<br>(Township) |   |   |            |              |  |
| 1            | Alford Peter.....      | 16  | 2   | Esquire    |              |  |
| 2            | Adams Simon.....       | 21  | 7   | Yeoman     | 2            |  |
| 3            | Addis William.....     | 25  | 3   | Yeoman     |              |  |
| 4            | Ashton Thomas.....     | 19  | 5   | Yeoman     | 3            |  |
| 5            | Aylwin William.....    | 5   | 5   | Gentleman  | 1            |  |
| 6            | Brooks David.....      | 11  | 7   | Merchant   | 5            |  |
| 7            | Burley John.....       | 9   | 2   | Shoemaker  | 4            |  |
| 8            | Catty Peter.....       | 4   | 6   | Yeoman     |              |  |
| 9            | Davis George.....      | 22  | 11  | Yeoman     | 6            | } Exempted, having served on P. J. List, S. C. 1850. |
| 10           | Gule George.....       | 7   | 8   | Tailor     | 7            |  |
|              | &c. (to, say)          |   |   |            |              |  |
| 1060         | Yeld George.....       | 14  | 9   | Baker      | 288          |  |
|              | 2 BROCK,<br>(Township) |   |   |            |              |  |
|              | &c.                    |   |   |            |              |  |

These are to certify that I have carefully compared the above Petit Jurors' Roll with the Reports made by the several Selectors of Jurors for the different Townships, Villages and Wards in the County of York, including the City of Toronto, as embraced within the same for certain judicial purposes, for the year one thousand eight hundred and fifty, as such Reports remained with me as Clerk of the Peace, on the fifteenth day of September in that year, and that such Petit Jurors' Roll contains a true and correct transcript

transcript of the names, descriptions and additions of all persons so selected and reported as competent, qualified and liable to serve as Petit Jurors in Her Majesty's Inferior Courts of Criminal and Civil Jurisdiction for such County.

Witness my hand, this                      day of                      1850.

E. F. Clerk of the Peace.

### 11.—THE PETIT JURY LIST

For the Inferior Courts, <sup>(2)</sup> as balloted in open Court at a General Quarter Sessions of the Peace for the County, on                      the                      day of                      one thousand eight hundred and fifty                      , being the first day of the first General Quarter Sessions of the Peace for the County held next after the First day of October in that year, by C. D. Chairman of the said Court, and E. F. Clerk of the Peace, pursuant to the directions of the Act of Parliament of <sup>(3)</sup>

| No. on List. | NAMES.                 | No. of Lot or House, as in Jurors' Roll. | Concession or Street, or Unincorporated Village or Hamlet, as in Jurors' Roll. | Residence. | Additions. | No. on Roll. | No. of Panel. | Remarks.                    |
|--------------|------------------------|--|--|------------|------------|--------------|---------------|-----------------------------|
| 1            | Aylwin William...      | 5  | 5  | Albion,    | Gentleman, | 5            |               |                             |
| 2            | Adams Simon. ...       | 21                                       | 7  | Albion,    | Yeoman,    | 2            | 1             | Served accordingly.         |
| 3            | Ashton Thomas...       | 19                                       | 5  | Albion,    | Yeoman,    | 4            |               |                             |
| 4            | Burley John.....       | 9  | 2  | Albion,    | Shoemaker. | 7            |               |                             |
| 5            | Brooks David....       | 11                                       | 7  | Albion,    | Merchant,  | 6            |               |                             |
| 6            | Davis George.....      | 22                                       | 11   | Albion,    | Yeoman,    | 9            |               |                             |
|              | ( <i>&amp;c., to</i> ) |  |  |            |            |              |               |                             |
| 288          | Yold George.....       | 14                                       | 9  | Albion,    | Baker,     | 1060         | 1             | Attended, but made default. |

These are to certify that on                      the                      day of                      instant, being the first day of the first General Quarter Sessions of the Peace for the County of York, next after the First day of October in this year, <sup>(6)</sup> the foregoing Petit Jury List for the Inferior Courts for this County for the year one thousand eight hundred and fifty-one, was in open Court duly balloted, canvassed and transferred from the Roll of Petit Jurors to serve in Her Majesty's Inferior Courts of Criminal and Civil Jurisdiction for the same year, pursuant to the directions of the Act of Parliament of <sup>(3)</sup>

Witness our hands, this                      day of                      one thousand eight hundred and fifty.

C. D. Chairman,  
E. F. Clerk of the Peace.

### 12.—PETIT JURY PANELS FOR THE INFERIOR COURTS. <sup>(2)</sup>

(a) No. 1.

Panel of Petit Jurors returned upon a precept from S. B. H., and K. L. and M. N., Esquires, two of Her Majesty's Justices of the Peace in and for the County of York, tested the                      day of                      185                      , for the return of forty-eight of such Jurors, for the General Quarter Sessions of the Peace to be held for this County, on the                      day of                      1851, as drafted on the                      the                      day of                      1851, at the Office of the Clerk of the Peace in Toronto, by A. B. Esquire, Sheriff, in the presence of K. L., and M. N. Esquires, Justices of the Peace for

for the said County, pursuant to the directions of the Act of Parliament of (3)

| No. of Panel. | NAMES.           | No. of Lot or House, as in Jury List. | Concession or Street, or Unincorporated Village or Hamlet, as in Jury List. | Township, Village or Ward. | Additions. | No. on List. | Remarks. |
|---------------|------------------|---------------------------------------|---|----------------------------|------------|--------------|----------|
| 1             | Adams Simon..... | 21                                    | 7   | Albion,                    | Yeoman,    | 2            |          |
|               | (&c., to)        |                                       |   |                            |            |              |          |
| 48            | Yold George..... | 14                                    | 9   | Albion,                    | Baker,     | 288          |          |

Witness our hands, the day and year last above written.

A. B., Sheriff,  
K. L., J. P.  
M. N., J. P.

(b) No. 2.

Panel of Special Jurors returned upon a Writ of *venire facias juratores*, out of the Court of Queen's Bench, in the case of N. O. Plaintiff, against P. Q. Defendant, tested (&c.) and returnable (&c.) as struck at the Office of the Clerk of the Peace in Toronto, on the day of 185 , by A. B. Esquire, Sheriff, in the presence of R. S. Attorney for the Plaintiff, and T. A. Agent for the Attorney of the Defendant, (or in the presence of R. S. Attorney for the Plaintiff, the Defendant's Attorney, though served with the appointment, not appearing) pursuant to the directions of the Act of Parliament of (3)

| No. on Panel. | NAMES.              | No. of Lot or House, as in Jury List. | Concession or Street, or Unincorporated Village or Hamlet, as in the Jury List. | Township, Village or Ward. | Additions. | No. on Grand Jurors' Rolls. | Remarks.   |
|---------------|---------------------|---------------------------------------|---|----------------------------|------------|-----------------------------|--|
| 1             | Abbott William..... | 11                                    | 9   | Albion,                    | Gentleman, | I. C. 31                    | From G. J. Roll for S. C. for year 1850 No. 10, the G. J. Rolls for this year being exhausted. |
| 2             | Wilkins James.....  | 13                                    | 4   | Brock,                     | Esquire,   |                             |  |
|               | (&c., to)           |                                       |   |                            |            |                             |  |
| 16            | Young David.....    | 7                                     | 8   | Albion,                    | Tailor,    | S. C. 20                    |  |

Witness my hand, the day and year last above written.

A. B., Sheriff.

(c) No. 3. (5) &c.



## SCHEDULE C.

Containing a description of the Acts and parts of Acts of the Parliament of the late Province of Upper Canada, repealed by this Act.

| No. | Date and Subject of Act.                         | TITLE.  | Extent of Repeal.   |
|-----|--|---|---|
| 1   | 32 Geo. 3, Cap. 2. . . . .<br>(Jury Trials.)     | An Act to establish Trials by Jury. . . . .   | So much of the First Section as directs the mode of Summoning Jurors. |
| 2   | 34 Geo. 3, Cap. 1. . . . .<br>(Regulation.)      | An Act for the Regulation of Juries. . . . .  | The whole.  |
| 3   | 36 Geo. 3, Cap. 2. . . . .<br>(Venire.)          | An Act to amend certain parts of an Act intituled, "An Act for the Regulation of Juries," and a certain other Act, intituled, "An Act to establish a Superior Court of Civil and Criminal Jurisdiction, and to regulate the Court of Appeal." . . . . . | The whole.  |
| 4   | 40 Geo. 3, Cap. 2. . . . .<br>(Special Juries.)  | An Act for the Regulation of Special Juries.  | The whole.  |
| 5   | 43 Geo. 3, Cap. 13. . . . .<br>(Special Juries.) | An Act for the better Regulation of Special Juries. . . . .   | The whole.  |

## NOTES TO SCHEDULE A.

- (1) Here insert the Year and Chapter of this Act.
- (2) Or as the case may be.

## NOTES TO SCHEDULE B.

- (1) This Title to be placed at the head of each page or folio throughout the Book.
- (2) So much of this Sub-Title as ends with this word, to be placed at the head of each page or folio of the Book appropriated to this class of entries.
- (3) Here insert the year and Chapter of this Act.
- (4) This Roll to be commenced on a new page or folio after leaving a sufficient number of leaves for the Jury List to be ballotted from the preceding Roll and the probable number of Panels that may be drafted from such List in the course of the year.
- (5) The subsequent Panels following immediately may be commenced on the same page or folio on which the preceding one is closed.
- (6) Or, if at a Special Sessions held under the authority of the eighty-second section of this Act, say, "Of a Special General Sessions of the Peace for the County of York, held for that purpose under the warrant of His Excellency the Governor General," (or Lieutenant Governor, as the case may be,) the foregoing Grand or Petit Jury List, &c. was in open Court, &c.

## CAP. LVI.

An Act to amend the Law respecting the office of Coroner.

[ 24th July, 1850. ]

**W**HEREAS the regulations for holding Coroners' Inquests are insufficient, and it is desirable that some remedy should be provided therefor: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-write the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That from and after the passing of this Act, no Inquest shall be holden on the body of any deceased person by any Coroner until it has been first made to appear to such Coroner, that there is reason

Preamble.

In what cases only Inquests shall be held.

reason