

Laws of Her Majesty's Province of United Canada, passed in the year 1851. York: Stewart Derbyshire and George Desbarts, 1851.

14 & 15 Victoria – Chapter 65

An Act to amend the Upper Canada Jurors' Act of one thousand eight hundred and fifty, and to make some further provisions for the better accomplishment of the object thereof. 30th August, 1851.

Whereas it is expedient to amend some of the provisions of the Act passed in the last Session of the Parliament of this Province, chaptered fifty-five, and intituled, *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*, and to make some further provisions for the better accomplishment of the object thereof: 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, That where there shall not appear as many as twelve of the Grand Jurors summoned upon any Panel returned upon any Precept to any Court of Criminal Jurisdiction, every such Court, upon request made for the Queen by Her Attorney or Solicitor General, or any of Her Counsel Learned in the Law, or in their absence by any one thereto authorized or assigned by such Court, 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 Grand Inquest of twelve, 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 Grand Inquests, and shall add and annex their names to the Panel returned upon such Precept; and the Court shall proceed with those Grand Jurors who were before empannelled, together with the Salesmen so newly added and annexed, as if all the said Jurors had been originally returned upon such precept.

II. And be it enacted, That the third section of the Act of the Parliament of the late Province of Upper Canada, passed in the tenth year of the reign of His late Majesty King George the Fourth, chaptered one, and intituled, *An Act to provide for the admission of the evidence of Quakers, Menonists, Tankers and Moravians, in criminal cases*, and also the ninety-eighth, ninety-ninth, one hundredth, and one hundred and first sections of the said Upper Canada Jurors' Act of one thousand eight hundred and fifty, shall be and the same are hereby repealed: Provided always, nevertheless, that notwithstanding such repeal, 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 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 lines and penalties may be imposed and applied, as if the said Act and sections hereby repealed continued in force.

III. And whereas the experience of the past year has shown that the fees allowed by the said Upper Canada Jurors' Act of one thousand eight hundred and fifty, were in most respects wholly disproportioned to the amount of labor and responsibility imposed by the said Act, involving in some cases an actual disbursement of money by the officers in procuring the necessary aid to complete the work within the time prescribed by the said Act; and it is therefore just that the parties should be better remunerated for the services so performed by them respectively: Be it therefore enacted, That the different officers who performed the duties required of them by the said Act, for the year one thousand eight hundred and fifty, shall be entitled to receive therefor the fees prescribed for such services by the said Act, as amended by this Act; and that upon their presenting their accounts for the same verified in the manner prescribed by the said Act as so amended, it shall be the duty of the different Municipal Treasurers and Chamberlains to whom the payment of such officers belonged, according to the directions of the said Act, to pay such officers the amount of such respective accounts, out of the like funds as by the said Act was directed with respect to the fees prescribed thereby, deducting from such accounts respectively the amount of any moneys which such officers may have previously received under the said Act.

IV. And be it enacted, That the several words, phrases and sentences of the Upper Canada Jurors' Act of one thousand eight hundred and fifty, to be found in the first column of the Schedule to this Act annexed, marked A, numbered from one to twenty-three inclusive, and set forth in the second column of the said Schedule, as such several words, phrases and sentences are contained in those several parts of the several and respective sections and provisos of the said Act particularly referred to in the third column of the said Schedule opposite to each of such words, phrases and sentences respectively, shall, be and the same, as so contained in such sections and provisos, are hereby repealed; and the several, and respective words, phrases and sentences set forth in the fourth column of the said Schedule, opposite to each of such first mentioned words, phrases and sentences respectively, shall be and the same are hereby substituted for such first mentioned words, phrases and sentences, each for each respectively; and henceforth the said substituted words, phrases and sentences, instead of those for which they are so substituted as aforesaid respectively, shall be and shall be deemed and taken to have been the words, phrases and sentences used in the several and respective sections and provisos of the said Act, in the third column of the said Schedule mentioned opposite to each of such words, phrases and sentences respectively, and in the parts of such sections and provisos therein particularly mentioned; and the said Act, and all other Acts referring to the same, shall be construed as if such substituted words, phrases and sentences had been there used, in such respective sections and provisos respectively, and in the parts thereof respectively in the said third column of the said Schedule mentioned as aforesaid, at the time of the passing of the said Act; anything therein contained to the contrary notwithstanding: Provided always nevertheless, Firstly, that nothing in this Act contained shall render void or otherwise affect in any way anything heretofore done under the authority of the said Act, but the same, unless it shall have been made the subject of proceedings at law actually instituted before the passing of this Act, shall be and the same is hereby ratified and confirmed; any thing herein contained to the contrary notwithstanding: And provided also, Secondly, that

notwithstanding the repeal of the parts and provisions of the said Act 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 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 said parts and provisions of the said Act hereby repealed, continued in force.

V. And be it enacted, That in pleading, citing or otherwise referring to the said Act, it shall, in all cases whatsoever, be sufficient to use the expression, *The Upper Canada Jurors' Act of one thousand eight hundred and fifty*, or words of equivalent import; that in pleading, citing or otherwise referring to this Act, it shall, in all cases whatsoever, be sufficient to use the expression, *The Upper Canada Jurors' Law Amendment Act of one thousand eight hundred and fifty-one*, or words of equivalent import; and that in pleading, citing or otherwise referring to the said Acts, and any other Acts that may be hereafter passed touching or concerning or in any wise relating to such Jurors, Juries or Inquests generally, it shall, in all cases whatsoever, be sufficient to use the expression, *The Upper Canada Jurors' Acts*, or words of equivalent import, which shall, in all cases, be understood to include and refer to such and so much of the said Acts as shall be then in force touching or concerning or in any wise relating to such Jurors, Juries and Inquests: Provided always nevertheless, that in Legislative enactments, wholly confined in their operations to that part of this Province called Upper Canada, the use of the words "Upper Canada," or words of equivalent import, in any of the expressions above mentioned, shall not be deemed necessary for the purpose aforesaid, but in every such case, such expressions shall have the like effect as if such words were contained therein.

Schedule A.

Referred to in the Fourth Section of this Act.

Number	Words, Phrases and Sentences of 13 & 14 Vict. cap. 55, repealed by this Act.	Sections, and Provisos of 13 & 14 Vict. cap. 55, and the parts thereof respectively in which the repealed Words, Phrases and Sentences are contained.	Words, Phrases and Sentences Substituted for those by this Act Repealed.
1	"and Town Clerks, all Professors, Masters and Teachers of any University," (<i>to the end of the section.</i>)	Sec. 5. After the words "Treasurers and Clerks"	"All Collectors and Assessors, 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 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 reported by the Selectors of Jurors by virtue of this Act, as hereinafter mentioned."
2	"from being returned upon any general Precept."	Sec. 6 Between the words "and exempted" and the words "to any sessions."	"from being returned to serve as Petit Jurors upon any General Precept."
3	"eighth."	Sec. 11. Between the words "on the" and the words "day of."	"first."
4	"and to permit the use of the same for the purposes aforesaid."	Sec. 11. After the words "Village or Township," near the end of the section.	"and to permit the use of the same for the purposes aforesaid. Provided always, nevertheless, that the word Township as above used, and wherever else it occurs in this Act, shall in all cases apply to Unions of Townships, all proceedings with respect to which under the same shall be such as if the Townships forming such Union were but one Township."
5	"one ninth as nearly as may be" (<i>to the end of the section.</i>)	Sec. 14. After the words "that is to say."	" <i>one fifteenth</i> as nearly as may be under the first of such Divisions; <i>two fifteenths</i> as nearly as may be under the second of such Divisions; — <i>four fifteenths</i> as nearly as may be under the third of such Divisions; — and <i>eight fifteenths</i> as nearly as may be under the fourth of such Divisions."
6	"Township, Village or Ward."	Sec. 15. Between the words "every such" and the words "which Report."	"Township, Village or Urban Ward."
7	"Duplicate Reports shall be deposited."	Sec. 15. Between the words "of such" and the words "by such Selectors."	"Duplicate Reports shall on or before the fifteenth day of the same month of September, be deposited."
8	"of all such Sheriffs, High Bailiffs and other officers and others Her Majesty's subjects who may have."	Sec. 15. Between the words "and information" and the words "lawful	"of all who may have"

		occasion."	
9	"original Report so lost or destroyed as aforesaid."	Sec. 15 At the end of the section.	"original Report so lost or destroyed as aforesaid: Provided always, nevertheless, that in every such case of the destruction of any original Selectors' Report, it shall be the duty of the officer in whose office the same shall have been so destroyed, to procure as soon as reasonably may be, such a certified copy of such Report from the other officer to whom the legal custody of the other duplicate original of such Report shall belong, and to file the same in his office accordingly."
10	"first."	Sec. 16. Between the words "and the" and the words "day of October."	"thirty-first."
11	"Villages and Wards."	Sec. 16 Between the words "different Townships" and the words "or other life."	"Villages and Urban Wards."
12	"to serve as such Jurors in such Country respectively."	Sec. 16. At the end of the Section.	"to serve as such Jurors in such County respectively. Provided always, nevertheless, Firstly, That in every case in which a Proclamation shall have issued disuniting any Junior County from any Senior County or Union of Counties upon, from and after the first day of January of the then following year, the Clerk of the Peace for the Union of Counties of which such Junior County shall at the time be a Member, shall procure two of such "Jurors' Books," one for the County or Counties from which such Junior County is to be so disunited, and the other for such Junior County itself, into the former of which Books shall be so transcribed the names and additions of all persons so selected by the Selectors of Jurors for the different Townships, Villages and Urban Wards of such Senior County or Counties, and into the latter of such Books the names and additions of all persons so selected by the Selectors of Jurors for the different Townships, Villages and Urban Wards of such Junior County respectively: Provided also, Secondly, That in every such case the preparing of the Ballots, the balloting of the Jury lists, and the performing oof all other acts and things required by this Act to be done for such Junior County for such following year, shall be done and performed by the Clerk of the Peace and Court of General Quarter Sessions of the Peace for such original Union of Counties and the Chairman and Officers thereof. And provided also, Thirdly, That in

		<p>every such case, it shall be the duty of the Clerk of the Peace for such Junior County, as soon as may be after the same shall be completed and the copies thereof made and deposited in the proper officers in that behalf, the said Jurors' Book for such Junior County, who shall thereupon give him a receipt for such book, and upon such receipt being filed with the Treasurer of such Junior County, the Clerk of the Peace and Crier of the said Court of Quarter Sessions of such original Union of Counties, upon their accounts for the services thus performed for such Junior County being verified, in the manner hereinafter provided, by affidavit before any Commissioner for taking affidavits for any of such Counties or the Union of which they may be members, shall be paid the amount of such accounts by the Treasurer of such Junior County out of the like moneys as are hereinafter provided with respect to the payment of similar accounts by the Treasurers of other Counties, and such payments shall in like manner be allowed in the accounts of such Treasurers accordingly."</p>	
13	"first day of October."	<p>Sec. 19 Between the words "after the" and the words "in each year."</p>	"thirty-first day of October."
14	"Provided always, nevertheless, firstly" (to the end of the section.)	<p>Sec. 19. Between the words "after the" and the words "in each year."</p>	<p>"Provided always, nevertheless, Firstly, That as respects the County of York, or any Union of which that County shall for the time being, be the Senior County, the numbers to be ballotted from the first and third of such Jurors' Rolls shall be as follows, that is to say: When a full Jury List is to be ballotted, then from the first of such Rolls, ninety-six, and from the third, two hundred and eighty-eight; when a two-third Jury List is to be so ballotted, then from the first of such Rolls, seventy-two, and from the third, two hundred and sixteen; and when a half Jury List is to be so ballotted, then from the first of such Rolls, forty-eight, and from the third, one hundred and forty-four. And provided also, of the different members of the said Court who shall be present and vote upon any 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 casting vote upon the same: And provided also, Thirdly, Jurors' Book for any County or Union of Counties, or for any City, there being no Jurors' Books 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,</p>

			shall be modified so as to be adapted to such circumstances."
15	"proclamation to be made for all persons."	Sec. 20. Between the words "shall cause" and the words "to keep silence"	"proclamation to be made firstly for all persons."
16	"are openly balloted. And the Chairman of such Court."	Sec. 20. Between the words "or Union of Counties," and the words "And the Clerk of the Peace."	"are openly balloted. And Secondly, That if any one can inform the Court why the name of any person which may be drawn upon such ballot should not be inserted in the Jury List for which it shall be drawn, he shall come forth and he will be heard. And the Chairman of such Court."
17	"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 balloted as aforesaid, he shall come forth and he will be heard."	Sec. 20. Between the words "exemption then" and the words "whereupon if."	"the name and addition of such person shall be again openly declared aloud by the Clerk of the Peace as having been balloted to serve as a Grand Juror for the Superior Courts."
18	"the Clerk of the Peace," (to end of section)	Sec. 23. After the word "That" at the beginning of the Section.	"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 office of the Clerk of the Crown and Pleas of Her Majesty's Court of Queen's Bench at Toronto, and another in that of His 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 the said Clerk of the Crown and Pleas, or his 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: Provided always, nevertheless, That in every such case of the destruction of any original Jurors' Book, it shall be the duty of the Clerk of the Peace for such County or Union of Counties, to procure, as soon as reasonably may be, such a duplicate original of such book so certified as aforesaid, and to deposit the same in his office as above provided, and that in

		<p>every such case it shall be the duty of the Sheriff or other officer or minister of such County or Union of Counties to whom the return of Jury Process shall belong, upon a notice to him by the Clerk of the Peace of such destruction and of the procurement and deposit of such duplicate original in lieu thereof, which notice every such Clerk of the Peace is hereby required to give as soon as may be thereafter, to furnish to such Clerk of the Peace copies of all Panels of Jurors drafted by such Sheriff or other Minister from the Jury Lists in such book; and it shall thereupon be the duty of such Clerk of the Peace to enter such panels in such duplicate original Jurors' Book accordingly, as nearly as may be as the same were entered in the said original Jurors' Book."</p>
<p>19 "with respect to Juries returned by them upon similar process."</p>	<p>Sec. 75. At the end of the Section.</p>	<p>"with respect to Juries returned by them upon similar process. Provided always, nevertheless, Firstly, that in every case in which Proclamation shall have issued whereby any Town in Upper Canada, shall, upon, from and after the first day of January of the following year, be erected into a City, a Jurors' Book shall be prepared, and Jury Lists ballotted for such City for such following year, as above directed with respect to all other Cities in Upper Canada: And provided also, Secondly, That in every such case, the preparing of the Ballots, the ballotting of the Jury Lists and the performing of all other acts and things required by this Act to be done for such City so to be erected as aforesaid, for such following year, shall be done and performed by the Clerk of the Peace and Court of General Quarter Sessions of the Peace for the County or Union of Counties within the limits of which such Town shall lie, in the like manner as according to the provisions hereof would in the case of such other Cities be done and performed by the Clerk of the Recorder's Court of such Cities, the Recorder and Recorder's Court and the Officers of such Clerk of the Peace, on demand made on him for that purpose, to deliver over to the Clerk of the Recorder's Court of such City so to be erected as aforesaid, as soon as may be after the same shall be completed and the copies thereof made and deposited in the proper office, in that behalf, the said Jurors' Book for such City so to be given him a receipt for such Book, and upon such receipt being filed with the Chamberlain of such City, the Clerk of the Peace and Crier of the said Court of Quarter Sessions of such County or Union of Counties, upon their accounts for the services thus performed for such City being verified in the manner hereinafter provided by affidavit before any Commissioners for</p>

			taking affidavits for such County or Union of Counties, shall be paid the amount of such accounts by the Chamberlain of such City out of the like moneys as are thereafter provided with respect to the payment of similar accounts by the Chamberlains of other Cities, and such payment shall in like manner be allowed in the accounts of such Chamberlain accordingly."
20	"Sheriff's Office."	Sec. 78. Between the words "Books in the" and the words "and it shall."	"Office of the Clerk of the Peace."
21	"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"	Sec. 81. Between the words "to the same" and the words "by the eleventh"	"of Five shillings for every one hundred names on the Assessment Roll or Assessment Rolls of the City, Town, Village or Township for the year in which such selection of Jurors shall be made, and the City, Town, Village or Township Clerk, to the further sum of Two shillings and six pence, for every such one hundred names for bringing the said Assessment Roll or Assessment Rolls with him to the meeting of such Selectors as required."
22	"for every Jurors' Book furnished and prepared, (<i>to the end of section.</i>)"	Sec. 81. After the words "Recorder's Court shall have been established."	"shall be entitled to the following sums of money for the respective services performed by them under this Act, that is to say: For receiving and examining the Report of Selectors for each City, Town, Village and Township, causing any deficiency which may be found therein to be supplied, and filing the same in his office, Three shillings and nine pence; For giving certificate to Selectors of Jurors of Report having been made, Two shillings and six pence; — For preparing in proper form the Jurors' Book and superintending the making up of same (besides actual disbursements for Stationers' charges,) each, Thirty shillings; — For arranging alphabetically and in order, the names contained in Selectors' Reports, per one hundred names, Fifteen shillings; — For making up Jurors' Books, entering all the names and numbers, and all other matter required to be entered therein, per one hundred names, Fifteen shillings; — For each copy of the Jurors' Book required by the Act, per one hundred names, Fifteen shillings; — For preparing on cards the ballot for Jurors, to correspond with numbers in Jurors' Book, per one hundred names, Two shillings and six pence; — For each certificate required to be entered on Jurors' Book to verify same, Five shillings; — For balloting and entering each Jury List, per one hundred names, Thirty shillings; — For copy of Jury List required to be entered, per one hundred names, Fifteen shillings; — For each Panel

of Jurors drafted from the Jury List, per one hundred names on such Jury List, Twenty shillings; — For entering each Panel in the Jurors' Book, with the numbers corresponding to the Jury List, Ten shillings; — For making up aggregate Return in detail of Jurors, Forty shillings; — For copy thereof and transmitting same to Provincial Secretary when required, and for Office copy of same, each, Twenty shillings; — That the Sheriff, High Bailiff or other Officer of every such County, Union of Counties or City, shall, exclusive of such Fees as he may be entitled to from the parties in any suit, be entitled to from the parties in any suit, be entitled to the following sums of money for the respective Services performed by them under this Act, that is to say: 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, Twenty-five shillings; — For copies of such Panel to be returned in the Offices of the Superior Courts of Common Law at Toronto, each, Five shillings; — For every summons served upon the Jurors on such Panel, the sum of Two shillings and six pence; — And for every certificate given to any of such Jurors of his having served, to evidence his exemption from serving again until his time for doing so shall return in its course, the sum of One shilling and three pence; — And in case of the Sheriffs of Counties, the further sum of Six pence for every mile that he or his Deputy or Bailiffs may necessarily and actually have had to travel from the County Town for the purpose of serving such summonses. And that the Crier of every such Court of Quarter Sessions or Recorder's Court, shall, for making the proclamations, calling the names of all those drawn in the course of balloting such Jury Lists, and performing all other duties required of him under this Act, be entitled to the sum of Fifteen shillings, for every one hundred names so drawn: Which several sums 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, to such Officers severally, 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 proof by affidavit made before some Commissioner for taking affidavits in some on of Her Majesty's Superior Courts of Common Law at Toronto, for such County or Union of Counties, of such several services having been executed and of such travel having been so

		<p>necessarily performed in the service of such summonses. 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: Provided always, nevertheless, That in all such cases when there shall be more than a hundred or an even number of hundreds of such names, if the broken number beyond such hundred or hundreds shall fall short of fifty names, the same shall not be reckoned, and if such broken number shall amount to fifty names or upwards, the same shall be reckoned as a full hundred, but in all cases of there being altogether less than a single hundred, the same shall be reckoned as a full hundred."</p>
<p>23 "not exceeding one hundred and forty-four, as such Justices shall think fit."</p>	<p>Sec. 85. Between the words "Petit Jurors" and the words "to direct."</p>	<p>"not exceeding one hundred and forty-four in any County or Union of Counties, except the County of York, or any Union of which that County shall for the time being be the Senior County, and in the said County or Union of Counties last mentioned, not exceeding two hundred and eight-eight, as such Justice shall think fit."</p>