

JURIES ORDINANCE 1962.

No. 30 of 1963.

An Ordinance relating to Juries.

[Reserved 4th January, 1963.]
[Assented to 23rd April, 1963.]*

BE it ordained by the Legislative Council for the Northern Territory of Australia, in pursuance of the powers conferred by the *Northern Territory (Administration) Act* 1910-1961, as follows:—

PART I.—PRELIMINARY.

Short title.

1. This Ordinance may be cited as the *Juries Ordinance* 1962.

Commence-
ment.

2. This Ordinance shall come into operation on a date to be fixed by the Attorney-General by notice in the *Government Gazette* of the Northern Territory.†

Parts.

3. This Ordinance is divided into Parts, as follows:—

Part I.—Preliminary (Sections 1-5).

Part II.—Trial by Jury (Sections 6-8).

Part III.—Qualification of Jurors and Liability to Serve (Sections 9-18).

Part IV.—Jury Districts (Sections 19-20).

Part V.—Jury Lists (Sections 21-22).

Part VI.—Jury Precepts and Summonses (Sections 23-36).

Part VII.—Striking and Impanelling Jury.

Division 1.—Criminal Trials (Sections 37-38).

Division 2.—Civil Trials (Sections 39-41).

Part VIII.—Challenge (Sections 42-47).

Part IX.—Disagreement (Sections 48-49).

Part X.—Offences (Sections 50-57).

Part XI.—Miscellaneous (Sections 58-68).

Repeal and
saving.

4.—(1.) The Acts of the State of South Australia specified in Part I. of the First Schedule to this Ordinance are, in their application in the Northern Territory, repealed to the extent expressed in the third column of that Part.

(2.) The Ordinances specified in Part II. of the First Schedule to this Ordinance are repealed.

* Assent notified in the *Government Gazette* of the Northern Territory on 8th May, 1963 (see *Gazette* No. 19, 1963, p. 94).

† The date fixed was 13th May, 1963 (see *Government Gazette* No. 18B of 7th May, 1963, p. 92B).

(3.) The jury list made out under paragraph (a) of sub-section (1.) of section eight of the *Jury Ordinance* 1912-1954 and in force at the commencement of this Ordinance, and the jury list made out under paragraph (b) of that sub-section and in force at the commencement of this Ordinance shall, for the purposes of this Ordinance, remain in force as the jury list for Darwin and the jury list for Alice Springs, respectively, until superseded by jury lists made out and revised under this Ordinance.

5. In this Ordinance, unless the contrary intention appears— Definitions.

- “ ballot box ” means the box into which jury cards are placed by the proper officer under sub-section (2.) of section thirty-three of this Ordinance;
- “ jury card ” means a card prepared in pursuance of paragraph (b) of section thirty-two of this Ordinance;
- “ jury list ” means the jury list for Darwin or the jury list for Alice Springs;
- “ jury precept ” means a precept issued under section twenty-four of this Ordinance;
- “ panel of jurors ” means a list of names prepared in pursuance of paragraph (a) of section thirty-two of this Ordinance;
- “ ^{roll of jurors} ~~talesman~~ ” means a person appointed to serve as a juror under sub-section (2.) of section thirty-seven, or sub-section (2.) of section thirty-nine, of this Ordinance;
- “ the Court ” means the Supreme Court of the Northern Territory of Australia;
- “ the Judge ” means the Judge appointed under sub-section (1.) of section seven of the *Northern Territory Supreme Court Act* 1961 or a Judge appointed under sub-section (2.) of that section;
- “ the proper officer ”, in relation to the exercise of a power or the performance of a duty under this Ordinance, means an officer of the Court appointed by the Judge as the proper officer for that purpose;
- “ the Sheriff ” means the Sheriff of the Northern Territory.

PART II.—TRIAL BY JURY.

6. Where, under a law in force in the Northern Territory, an offence prosecuted in the Court is required to be tried with a jury, the jury shall consist of twelve jurors who shall be chosen and returned in accordance with the provisions of this Ordinance. Juries in criminal cases.

Juries in civil cases.

7.—(1.) The trial of a civil issue in the Court shall, subject to the next succeeding sub-section, be by the Court without a jury.

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(2.) The Court may, if it appears just, order that a civil issue or a question in fact in a civil issue shall be tried by the Court with a jury.

(3.) Where the Court so orders, the jury shall consist of four jurors who shall be chosen and returned in accordance with the provisions of this Ordinance.

Payment of fees for juries in civil cases.

8.—(1.) Where the Court orders a trial with a jury, the Court may further order that a party to the action shall pay to the Sheriff the prescribed fee.

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(2.) Where the Court makes an order under the last preceding sub-section, the Court may further order that the fee so paid shall be costs in the cause.

PART III.—QUALIFICATION OF JURORS AND LIABILITY TO SERVE.

Qualifications of jurors.

9.—(1.) Subject to this Ordinance and any other law in force in the Territory, a male person whose name is on the Roll of Electors for the Northern Territory and whose real place of living is in the Northern Territory is qualified and liable to serve as a juror.

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(2.) Subject to this Ordinance and any other law in force in the Territory, a female person whose name is on the Roll of Electors for the Northern Territory, whose real place of living is in the Northern Territory and who notifies the Sheriff in writing that she desires to serve as a juror as from the first day of January next succeeding the date of the notification, is qualified and liable to serve as a juror as from that first day of January.

(3.) A female person who is qualified and liable to serve as a juror and who notifies the Sheriff in writing that she does not desire to serve as a juror as from the first day of January next succeeding the date of the notification ceases, as from that first day of January, to be qualified and liable to serve as a juror.

Persons not qualified.

10. A person—

- (a) who has been convicted of an offence punishable under the law of a part of the Queen's dominions by imprisonment for one year or longer and has not been granted a free pardon in respect of the offence;
 - (b) who is an undischarged bankrupt;
 - (c) who is unable to read, write and speak the English language; or
 - (d) who is of unsound mind,
- is not qualified to serve as a juror.

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(181) under the *Magistrates Act 1912-1972*
(10) under the *Air Navigation Regulations*

11. The following persons are exempt from serving as Persons exempt. jurors and the names of those persons shall not be inserted in a jury list:—

- (a) the Administrator; *(a) the Administrator, official Secretary*
(b) the Secretary of the Administration Council.
- (b) persons exempt from serving as jurors in the Northern Territory—
 - (i) under the *Jury Exemption Act 1905-1950*; or
 - (ii) under the Jury Exemption Regulations;
- (c) clergymen in holy orders, priests of the Roman Catholic faith and other ministers of religion having established congregations;
- (d) magistrates, coroners and justices of the peace;
- (e) members of the Police Force of the Northern Territory; *(e) members and officers of the Regulation Council*
- (f) Commonwealth Police Officers appointed under the *Commonwealth Police Act 1957*;
- (g) practising barristers and solicitors and their clerks;
- (h) practising medical practitioners who are registered under the *Medical Practitioners Registration Ordinance 1935-1961*;
- (i) practising pharmacists who are registered under the *Pharmacy Ordinance 1936-1957*;
- (j) practising dentists who are registered under the *Dentists Registration Ordinance 1953-1957*;
- (k) practising veterinary surgeons who are registered under the *Veterinary Surgeons Ordinance 1960*;
- (l) schoolmasters and schoolteachers who are engaged in full-time teaching of organized classes at colleges and schools;
- (m) quarantine officers appointed under the *Quarantine Act 1908-1961*;
- (n) managers, cashiers and tellers of banks;
- (o) editors, publishers, reporters and printers of newspapers;
- (p) officers of gaols or prisons;
- (q) persons who are engaged in full-time duties as members of a fire brigade;
- (r) members of the armed forces;
- (s) masters and seamen of all ships;
- (t) persons regularly employed on duties on board of aircraft used—
 - (i) in aerial ambulance services; or

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(a) *officers and employees of the Royal Flying Doctor Service*

(ii) in air service operations—

(A) in which aircraft are available, for hire or reward, for the transport of members of the public or for use by members of the public for transport of cargo; and

(B) which are conducted in accordance with fixed schedules to and from fixed terminals over specified routes;

(u) officers and employees of the Overseas Telecommunications Commission (Australia) engaged in radio telegraphic duties;

(v) temporary employees of the Commonwealth Public Service who are employed in the Attorney-General's Department;

(w) persons who are blind, deaf or dumb or otherwise incapacitated by disease or infirmity from discharging the duties of a juror; and

(x) persons above the age of sixty years who, at the revision of a jury list in pursuance of this Ordinance, claim exemption.

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12. Except as a talesman—

(a) a person who does not reside within the jury district for Darwin is not qualified or liable to serve as a juror at Darwin; and

(b) a person who does not reside within the jury district for Alice Springs is not qualified or liable to serve as a juror at Alice Springs.

13. The verdict of a jury shall not be impeached on the ground that a juror was not qualified to serve, or was exempt from serving, as a juror unless the lack of qualification or the exemption was submitted before the juror was sworn.

14. A person whose name is on a jury list is not excused from attendance as a juror by reason of lack of qualification under section twelve of this Ordinance unless the lack of qualification was claimed at the revision of the list in pursuance of this Ordinance.

15. The Judge may, upon application by a person summoned to attend as a juror or by a person appointed as a talesman, order that he shall be excused from attendance on any day on which it appears that he is a candidate, or has to perform

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Jurors to serve within own jury districts.

Impeachment of verdict of jury.

Liability of unqualified or exempted persons to attend as jurors.

Jurors who are candidates or officers at elections, &c.

any official duty requiring his personal attendance, at an election or poll held or taken under a law in force in the Northern Territory.

16.—(1.) On proof on oath, or by affidavit or statutory declaration, to the satisfaction of the Judge that a person summoned to attend as a juror or a person appointed as a talesman ought to be excused from attendance by reason of ill-health or any matter of special urgency or importance, the Judge may, if he thinks fit, in chambers or in open court and at any time after service of the summons, order that that person shall be excused from further attendance on the Court or from attendance on the Court for any period during the sittings of the Court.

Discharge in cases of urgency or language difficulty.

(2.) If it appears to the Judge that a person summoned to attend as a juror or a person appointed as a talesman has not sufficient understanding of the English language, or of the course of judicial proceedings, for the proper discharge of the duties of a juror, the Judge may discharge that person from further attendance on the Court.

17. The Judge, on proof to his satisfaction, in chambers or in open court, that two or more partners who are members of the same partnership or two or more persons employed in the same establishment have been summoned to attend as jurors on the same days, may order that one or more of those partners or persons shall be excused from attendance during one or more of those days.

One of two partners, &c., may be exempted.

18. If, in the opinion of the Judge, it is doubtful whether a person summoned to attend as a juror or appointed as a talesman—

Judge may excuse a person if in doubt whether he is qualified or exempt.

- (a) is qualified to serve as a juror; or
- (b) is exempt from service as a juror,

in the issue before the Court, the Judge may order that that person be excused from further attendance on the Court.

PART IV.—JURY DISTRICTS.

19. For the purposes of this Ordinance, there shall be—

Jury districts.

- (a) a jury district for Darwin; and
- (b) a jury district for Alice Springs.

20.—(1.) The jury district for Darwin consists of the area of land described in the Schedule to the *Darwin Lands Acquisition Act* 1945.

Boundaries of jury districts.

(2.) The jury district for Alice Springs consists of the town of Alice Springs as defined in section four of the *Alice Springs Administration Ordinance* 1937-1956.

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PART V.—JURY LISTS.

23/65.
Jury lists.

21.—(1.) The Sheriff shall, as soon as practicable after the commencement of this Ordinance and thereafter at intervals not exceeding ~~twelve~~ ^{five} months, make out a jury list for Darwin and a jury list for Alice Springs.

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(2.) The jury list for Darwin shall contain, in alphabetical order, the names of persons qualified and liable to serve, and not exempt from serving, as jurors who reside within the jury district for Darwin.

(3.) The jury list for Alice Springs shall contain, in alphabetical order, the names of persons qualified and liable to serve, and not exempt from serving, as jurors who reside within the jury district for Alice Springs.

(4.) A jury list shall show the address and occupation of each person whose name appears on the list and the names appearing on the list shall be prefixed by numbers in regular arithmetical series.

(5.) The Sheriff shall, as soon as practicable after he has made out a jury list—

(a) cause copies of the list to be posted up at each police station and post office—

(i) in the case of a jury list for Darwin—
within the jury district for Darwin; and

(ii) in the case of a jury list for Alice Springs—within the jury district for Alice Springs,

together with a notice in accordance with the Form in the Second Schedule to this Ordinance that the list will be revised at a sitting of a Court of Summary Jurisdiction constituted by a Stipendiary Magistrate to be held at Darwin or Alice Springs, as the case may be, on a date specified in the notice; and

(b) cause to be published in a newspaper circulating in Darwin or Alice Springs, as the case requires—

(i) a notice to the effect that the jury list has been so posted up; and

(ii) a copy of the notice posted up with the jury list.

Revision of jury lists.

22.—(1.) On the date mentioned in the notice the Sheriff shall lay the list before a special sitting of such a Court of Summary Jurisdiction and a Stipendiary Magistrate shall thereupon revise the list—

(a) by striking out the names of persons who appear to the Stipendiary Magistrate to be not qualified or liable to serve, or to be exempt from serving, as jurors;

(b) by inserting the names of persons who appear to the Stipendiary Magistrate to be qualified and liable to serve, and not exempt from serving, as jurors and whose names have been omitted from the list; and

(c) by correcting any other errors or mistakes.

(2.) If it appears to the Stipendiary Magistrate that the assistance of all or any of the Justices of the Peace resident in a jury district is necessary or desirable for the revision of the jury list for that district, the Stipendiary Magistrate may direct the Sheriff to summon those Justices to attend at the sitting.

(3.) When the revision of the list has been completed, the Stipendiary Magistrate shall sign the list as revised and cause the list to be transmitted to the Sheriff.

PART VI.—JURY PRECEPTS AND SUMMONSES.

23. In this Part, unless the contrary intention appears, “the Sheriff”, in relation to a jury precept that is directed, under section twenty-six of this Ordinance, to a person other than the Sheriff means that other person. Definition.

24. From time to time, and as often as occasion demands, the Judge shall issue, under his hand and seal, a precept directed to the Sheriff requiring him to summon jurors before the Court at Darwin or Alice Springs, as the case requires. Jury precepts.

25. A jury precept shall be in accordance with the form in the Third Schedule to this Ordinance and shall specify the number of jurors required and the time when and the place where the attendance of the jurors is required, and shall be issued and delivered to the Sheriff at least seven clear days before the time so specified. Terms of precept.

26. If it appears to the Judge that the Sheriff is a party to, or interested in, a matter to be tried before a jury, the Judge may direct a jury precept to such other person as the Judge thinks fit. Provision for cases where Sheriff is interested.

27.—(1.) When a jury precept is delivered to the Sheriff, he shall choose in the following manner the persons to be summoned from those whose names appear in the jury list for Darwin or the jury list for Alice Springs, as the case requires:— Jurors to be chosen by lot.

(a) there shall be placed in a rotating ballot box approved by the Judge a card or other device in respect of each person liable to be summoned, being a card or other device that bears the number, and nothing but the number, prefixed in the jury list to the name of the person;

- (b) after the cards or other devices have been thoroughly mixed by the Sheriff, as many cards or other devices shall be drawn forth one at a time as there are jurors required to be summoned;
- (c) where the number on a card or other device so drawn indicates the name of a juror whom the Sheriff knows to be dead or to have left the jury district for Darwin or the jury district for Alice Springs, as the case may be, or to be no longer qualified or liable to serve, or to have become exempt or to be incapacitated by disease from serving, as a juror, another card or other device shall be drawn in its place.

(2.) The persons whose names on the jury list correspond with the numbers so selected, other than numbers in the place of which other numbers are selected, shall be the jurors to be summoned.

Jurors not liable to be summoned until list exhausted.

28.—(1.) A person who has, during the currency of a jury list, attended the Court in pursuance of a jury summons or has served as a juror shall not be liable to be summoned to serve as a juror during the currency of the same jury list until that jury list has been exhausted.

(2.) A jury list shall be deemed to be exhausted if the only cards or other devices that remain in the ballot box mentioned in paragraph (a) of the last preceding section are cards or other devices in respect of which paragraph (c) of that section provides that other cards or other devices shall be drawn in their place.

Summons to jurors.

29. The Sheriff shall cause to be served upon each juror chosen in pursuance of section twenty-seven of this Ordinance a summons in writing, signed by the Sheriff, in accordance with the form in the Fourth Schedule to this Ordinance.

Service of summons.

30. A summons to a juror shall, subject to the next succeeding section, be served on the juror by delivering it to him personally as soon as practicable and not less than four clear days before the time specified in the summons for his attendance.

Substituted service.

31.—(1.) Where the Judge, upon application by the Sheriff, is satisfied—

- (a) that it is not reasonably practicable for the Sheriff to serve a summons on a juror in the manner provided by the last preceding section; and

(b) that the summons will come to the notice of the juror if it is served in another manner, or if the giving of notice of the summons in another manner is substituted for service of the summons, the Judge may order that the summons be served in a manner specified in the order or that the giving of notice of the summons and of its effect by advertisement or otherwise, as specified in the order, be substituted for service of the document.

(2.) Where the Judge makes an order under the last preceding sub-section authorizing the giving of notice of the summons and of its effect by advertisement, the form of the advertisement shall be approved by the Master of the Court.

32. The Sheriff shall, before the time when a jury precept is required to be returned into the Court—

Panel of jurors and return of persons not summoned.

- (a) prepare a list showing the names, in alphabetical order, and the descriptions, of the persons summoned in pursuance of the jury precept;
- (b) prepare, in respect of each person whose name appears on the list referred to in the last preceding paragraph, a card showing the name and description of that person; and
- (c) prepare a list showing the names, in alphabetical order, of persons not summoned by virtue of paragraph (c) of sub-section (1.) of section twenty-seven of this Ordinance and the reasons why those persons were not summoned.

33.—(1.) Upon the day and at the place named in a jury precept for the appearance of the jurors required to be summoned by the jury precept, the Sheriff shall—

Sheriff's return to precept.

- (a) return into the Court the jury precept with the panel of jurors relating to the precept annexed thereto;
- (b) furnish to the proper officer the jury cards relating to the precept; and
- (c) furnish to the Court the list prepared in relation to the precept in pursuance of paragraph (c) of the last preceding section.

(2.) Upon receipt of the jury cards, the proper officer shall place them in a ballot box approved by the Judge.

34. A party to the trial of a civil issue, or his counsel, may, at a convenient time before the trial, inspect or obtain a copy of the panel of jurors annexed to a precept for the appearance of jurors at that trial.

Inspection of jury panels in civil cases.

Informalities,
&c., not to
invalidate
verdict.

35. An omission, informality or error in name or description (if there is no question as to identity) with respect to a jury list, a jury precept or a panel of jurors does not invalidate or affect any verdict returned by a jury that is in other respects according to law.

Correction
of mistakes
of name or
description.

36. The Sheriff, on showing to the satisfaction of the Judge that an error has been made in the name or description of a juror and that there is no question as to the identity of the person may, by leave of the Judge in writing, cause the error to be corrected and the person to be thereafter summoned by his right name and description.

PART VII.—STRIKING AND IMPANELLING JURY.

Division 1.—Criminal Trials.

Striking jury
in criminal
cases.

37.—(1.) At a criminal trial, the proper officer shall draw the jury cards out of the ballot box one at a time and call aloud the name and description on each card until twelve persons appear and remain approved as indifferent and those persons, upon being duly sworn, shall be the jury to try the issues on the trial.

(2.) If all the jury cards are exhausted, by challenge or otherwise, before twelve persons appear and remain approved as indifferent, the Court may, at the request of the Crown Prosecutor or the prisoner or his counsel, order the Sheriff to appoint forthwith from amongst such of the persons in or in the vicinity of the Court as are qualified and liable to serve, and not exempt from serving, as jurors in a jury district as many persons as are sufficient to make up twelve jurors.

(3.) Talesmen are subject to challenge in accordance with this Ordinance.

(4.) A card bearing the name of a juror who has been called but not sworn shall, immediately after the jury has been sworn, be returned to the ballot box.

(5.) When the verdict of the jury has been given and recorded or the jury has been discharged, whichever first occurs, the jury cards bearing the names of the jurors impanelled shall, unless the Court otherwise orders, be returned to the ballot box.

Different
issues may
be tried by
same jury.

38. Where a jury has tried, or been drawn to try, a criminal issue, the Court may, if no objection is made by the Crown Prosecutor or other party to another criminal issue—

(a) try that other issue with that jury without the jury cards of the jurors being returned to the ballot box and redrawn; or

- (b) order the names of any jurors to the withdrawal of whom the parties consent, or who are justly challenged or excused by the Court, to be set aside and other jury cards to be drawn from the ballot box and try that other issue with the residue of the original jury and with such jurors whose names appear on the cards so drawn as appear and are approved as indifferent.

Division 2.—Civil Trials.

39.—(1.) When a civil issue that is to be tried with a jury is called on for trial, the proper officer—

Striking jury
in civil cases.

(a) shall draw the jury cards out of the ballot box one at a time and call aloud the name and description on each card until, after all challenges for cause are allowed, twelve persons appear and remain approved as indifferent; and

(b) shall compile a list of the names of those jurors.

(2.) If all the jury cards are exhausted, by challenge or otherwise, before the list contains the names of twelve jurors—

(a) the Court may order the Sheriff to appoint from amongst such of the persons in or in the vicinity of the court as are qualified and liable to serve, and not exempt from serving, as jurors in a jury district as many persons as are sufficient to make up twelve jurors; and

(b) the Sheriff, upon so doing, shall place the names of the jurors so appointed on the list.

(3.) Talesmen are subject to challenge in accordance with this Ordinance.

(4.) Upon the list being completed, the list shall be delivered by the Sheriff successively to the plaintiff and to the defendant, each of whom may strike out four names from the list.

(5.) If no more than four names then remain on the list, the persons whose names so remain shall be the jury, but if more than four names then remain on the list, the persons whose names are the first four names so remaining shall be the jury.

(6.) The jurors so selected shall be sworn and impanelled as the jurors for the trial.

(7.) A card bearing the name of a juror who has been called but not impanelled shall, immediately after the jury has been sworn, be returned to the box.

(8.) When the trial has been completed, the cards bearing the names of the jurors impanelled shall, unless the Court otherwise orders, be returned to the box.

(9.) In this section, "the plaintiff" includes the plaintiff's solicitor or counsel and "the defendant" includes the defendant's solicitor or counsel.

Different
issues may
be tried by
same jury.

40.—(1.) Where a jury has tried, or been drawn to try, a civil issue, the Court may, if no objection is made on behalf of the plaintiff or defendant to another civil issue—

(a) try that other issue with that jury without the jury cards of the jurors being returned to the ballot box and redrawn; or

(b) order the names of any jurors to the withdrawal of whom the parties consent, or who are justly challenged or excused by the Court, to be set aside and other jurors to be selected in their stead and try that other issue with the residue of the original jury and with such jurors so selected as appear and are approved as indifferent.

(2.) The selection of jurors for the purposes of paragraph (b) of the last preceding sub-section shall be made according to the procedure set out in the last preceding section for striking a jury for the trial of a civil issue but so that the numbers "twelve" and "four" appearing in that section are replaced respectively by numbers bearing to those numbers respectively the same ratio as the number of jurors to be selected bears to the number "four".

Reducing
list where
party does
not appear.

41. Where a plaintiff or defendant does not appear in person, or by counsel or solicitor, names on the list of jurors may be struck out on his behalf under sub-section (4.) of section thirty-nine of this Ordinance by the proper officer or by some other officer of the Court approved by the Court.

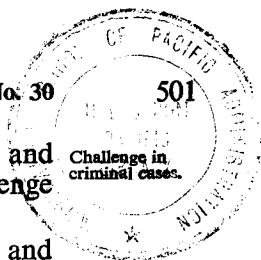
PART VIII.—CHALLENGE.

Right of
challenge.

42. Subject to the provisions of this Ordinance, challenge to the array and to the polls may be made and allowed for such and the like cause, in such and the like form and manner and under and subject to the like laws, rules and regulations in every respect as by law was or were established, used and practised in like cases in the Northern Territory immediately before the commencement of this Ordinance.

Standing
jurors by.

43. Nothing in this Ordinance affects the power of the Court on the trial of a criminal issue to order, at the request of the Crown Prosecutor, a juror to stand by until the panel of jurors is exhausted.



44.—(1.) Upon the trial of a criminal issue, the Crown and the person arraigned or his counsel may each challenge peremptorily—

- (a) in the case of a capital offence—twelve jurors; and
- (b) in any other case—six jurors,

and are not, except for cause shown, entitled to further challenges.

(2.) A peremptory challenge in excess of the number of peremptory challenges allowed under the last preceding sub-section is void and the trial shall proceed as if such a challenge had not been made.

45. A challenge upon the trial of a criminal issue shall be made as the juror comes to his seat in the jury box.

Time for challenging in criminal cases.

46. Subject to section thirty-nine of this Ordinance, a person is not entitled to challenge a juror upon the trial of a civil issue except for cause shown.

Challenge in civil cases.

47.—(1.) An omission, error or irregularity by the Sheriff or any of his officers in the time and mode of service of a summons on a juror, or the summoning or return of a juror by a wrong name (if there is no question as to identity) is not a cause of challenge either to the array or to the juror.

Informalities in summoning jurors.

(2.) A matter which might have been objected by way of challenge to the polls or to the array does not invalidate or affect any verdict in any case, civil or criminal, unless the objection is taken by way of challenge.

PART IX.—DISAGREEMENT.

48.—(1.) Where, upon the trial of a criminal issue—

- (a) a period of six hours has expired since the jury retired; and
- (b) it is found, after examination on oath of one or more of the jurors, that the jurors are not likely to agree,

Disagreement in criminal cases.

the Court may discharge the jury.

(2.) Where, upon the trial of a criminal issue—

- (a) a period of twelve hours has expired since the jury retired; and
- (b) the jurors are not unanimously agreed upon their verdict,

the Court shall, subject to the next succeeding sub-section, discharge the jury.

(3.) Except in the case of a capital offence, if nine of the jurors are agreed upon a verdict to be given, the decision of those jurors shall be taken and entered as the verdict of all.

(4.) This section has effect notwithstanding section three of the *Criminal Procedure Ordinance 1933-1961*.

Disagreement
in civil cases.

49.—(1.) Where, upon the trial of a civil issue—

- (a) the jury has remained for a period of six hours or more in deliberation;
- (b) the jurors are not unanimously agreed upon their verdict; and
- (c) three of the jurors are agreed upon the verdict to be given,

the decision of those three jurors shall be taken and entered as the verdict of all.

(2.) Where, upon the trial of a civil issue—

- (a) the jury has remained for twelve hours or more in deliberation; and
- (b) it is not possible to enter a verdict in accordance with the last preceding sub-section,

the Court shall discharge the jury and the cause may without new process be again set down for trial, either at the same or any subsequent sittings as the Court may order.

PART X.—OFFENCES.

Non-attendance of jurors.

50. A person, other than a person who is at the material time excused from attendance as a juror by or under this Ordinance, shall comply with a summons to attend as a juror served on him under this Ordinance.

Penalty: Fifty pounds.

Non-attendance of talesman.

51. A talesman shall not—

- (a) fail to appear when required so to do by the Judge;
- or
- (b) wilfully withdraw himself from the presence of the Court.

Penalty: Fifty pounds.

Summary imposition of penalties.

52. A penalty for an offence against section fifty or fifty-one of this Ordinance may be imposed summarily by the Court.

Enforcement of penalties.

53.—(1.) Whenever a fine is imposed on any person for an offence under section fifty or fifty-one of this Ordinance, the associate of the Judge imposing the fine shall forthwith advise the Master of the Supreme Court in accordance with Form 1 of the Fifth Schedule.

(2.) The Master of the Supreme Court shall thereupon prepare a summons in accordance with Form 2 of the Fifth Schedule, calling on the juror to show cause to the Court, on some day to be named, why execution should not issue for such fine.

(3.) The Judge may sign the summons forthwith or at any time afterwards.

(4.) Upon the Judge signing the summons, the Master shall deliver it to the Sheriff for service on the juror.

(5.) The summons shall be returnable before the Judge on the first convenient sitting day but not earlier than fourteen days after issue and shall be served not less than seven days before the return day.

(6.) Service of the summons shall be effected by leaving it with the juror or with some responsible person residing at his place of residence and the Sheriff shall after service file with the Master a sufficient affidavit of the date and mode of service.

(7.) To every such summons a note shall be sub-joined that cause may be shown by affidavit transmitted by post to the Master or the Judge.

(8.) When such an affidavit is transmitted to the Judge direct or through the Master, the Judge shall have power to remit or investigate the fine.

(9.) If the Judge remits the fine, it shall not be necessary to list the matter, but the Master shall advise the juror of the Judge's decision.

(10.) If the juror fails to show cause by affidavit within seven days from service of the summons, or the fine is not remitted, the summons shall be listed as provided in the summons and the Judge may remit or mitigate the fine or direct the Master to issue and deliver to the Sheriff a writ of execution in accordance with Form 3 of the Fifth Schedule.

(11.) The Sheriff shall advise the Master when he receives a sum levied under the writ.

(12.) Cause may be shown by a juror, whether by affidavit or at the hearing of the summons, on the following grounds:—

- (a) that he did not know that he had been summoned to attend or appointed to serve as a juror; or
- (b) that, by reason of illness or other sufficient cause, he was unable to attend as a juror.

54. Where a juror summoned, or a talesman appointed, for the trial of a civil issue or issues has attended for three consecutive days, he is excused from further attendance unless the Court otherwise orders.

Limit of
three days
in civil cases.

Personation
of jurors.

55. A person shall not personate, or attempt to personate, a juror whose name is on a panel of jurors for the purpose of sitting as that juror.

Penalty: Fifty pounds.

Excess of fees.

56. A juror shall not, under pretence of receiving fees or remuneration for attending a trial, receive or take from any person a sum in excess of the compensation which he is entitled to receive under this Ordinance for his attendance.

Penalty: Fifty pounds.

Corruptly
influencing a
juror.

57. A person who corruptly influences a juror, or a juror who consents to being corruptly influenced, is guilty of an offence punishable upon conviction by imprisonment for a period not exceeding five years.

PART XI.—MISCELLANEOUS.

Oath by
jurors.

58. Jurors shall be sworn in open court in accordance with the appropriate Form in the Sixth Schedule to this Ordinance.

Oath by
constable,
&c. in charge
of jury.

59. The constable or other person in charge of a jury shall make an oath in accordance with the appropriate Form in the Sixth Schedule to this Ordinance.

Payment of
jurors.

60. A juror summoned in pursuance of a precept, or a talesman who attends the Court, is, for each day during his attendance upon the Court, whether he has actually served upon a jury or not, entitled to receive payment for his attendance at the prescribed rate.

View during
trial.

61.—(1.) In the trial of a criminal or civil issue with a jury, the Judge may, at any time before the verdict of the jury, order a view of any place or property by the jury and may make all such orders upon the Sheriff or other person, and give such directions as the Judge thinks necessary, for the purposes of the view.

(2.) Upon a view being ordered, the constable or other person in charge of the jury and each person appointed by the Judge to conduct the view shall make an oath in accordance with the appropriate Form in the Sixth Schedule to this Ordinance.

(3.) When a view is ordered on the trial of a civil issue, the Judge may direct that the expenses of the view shall be paid to such extent and by such person, in the first instance, as the Judge orders.

Reduction of
jury.

62.—(1.) If in any trial other than a trial for a capital offence, the Court is satisfied that by reason of illness or a matter of special urgency or importance a juror should be

excused from further attendance, the Court may order that the juror be excused from further attendance during the trial and such further period as the Court specifies.

(2.) Where a juror dies or is excused under the last preceding sub-section, the Court may, if the number of jurors is reduced to not less than—

(a) in the case of a criminal issue—ten jurors; or

(b) in the case of civil issue—three jurors,

order that the trial shall proceed with the reduced number of jurors and the decision of those jurors or, in a case to which sub-section (3.) of section forty-nine of this Ordinance applies, the decision of nine of those jurors shall be taken and entered as the verdict of all.

63. In any trial, the Court may, at any time after the jury has been impanelled and sworn and whether or not it has retired to consider its verdict, order that the jury be supplied with such food and refreshment as the Court thinks fit and the Sheriff shall thereupon supply that food and refreshment at public expense.

Food and refreshment.

64. In the trial of a criminal issue other than a trial for a capital offence, the Court may, if it sees fit, at any time before the jury retires to consider its verdict, permit the jury to separate, subject to such conditions as the Court thinks fit.

Separation of jury in criminal cases.

65. Special juries and juries *de medietate lingue* are abolished.

Abolition of certain juries.

66. A person required by this Part to make an oath in accordance with a Form in the Sixth Schedule to this Ordinance may make an affirmation in accordance with that Form, with such alterations as are necessary, and a person so making an affirmation shall, for the purposes of this Part, be deemed to have been sworn.

Affirmations.

67. Subject to the next succeeding section, the power of the senior Judge to make Rules of Court under section fifty-five of the *Northern Territory Supreme Court Act 1961* extends to the making of Rules of Court, not inconsistent with this Ordinance, for prescribing all matters that are necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance.

Rules of Court.

68. The Administrator in Council may make regulations, not inconsistent with this Ordinance—

Regulations.

(a) prescribing the fees to be paid under section eight of this Ordinance; ~~and~~

(b) prescribing the rates of payment under section sixty of this Ordinance. *and*

(c) *60 of 1974 as 5(b)*

THE SCHEDULES.

FIRST SCHEDULE.

Section 4.

REPEAL.

PART I.

Number of Act.	Act.	Extent of Repeal.
No. 1 of 1862 ..	The Jury Act, 1862	The whole
No. 3 of 1865 ..	The Jury Amendment Act, 1865 ..	The whole
No. 7 of 1865-6 ..	An Act to amend the Jury Act, 1862 ..	The whole
No. 38 of 1876 ..	The Criminal Law Consolidation Act, 1876	Sections 365, 366 and 367, so far as they apply to fines imposed upon jurors
No. 116 of 1878 ..	Supreme Court Act, 1878	Sections 22, 23 and 24
No. 379 of 1886 ..	The Jury Act Amendment Act, 1886 ..	The whole
No. 511 of 1891 ..	The Criminal Jurors Payment Act ..	The whole
No. 564 of 1893 ..	An Act for the Continuance of Certain Juries and for other Purposes	The whole
No. 781 of 1902 ..	The Jury Act Amendment Act, 1902 ..	The whole
No. 878 of 1905 ..	The Jury Act Amendment Act, 1905 ..	The whole
No. 891 of 1905 ..	The Juries Separation Act, 1905 ..	The whole
No. 923 of 1907 ..	The Jury Act Further Amendment Act, 1907	The whole

PART II.

- Jury Ordinance 1912.*
- Jury Ordinance 1919.*
- Jury Ordinance (No. 2) 1919.*
- Jury Ordinance 1926.*
- Jury Ordinance 1936.*
- Jury Ordinance 1938.*
- Jury Ordinance 1952.*
- Jury Ordinance 1953.*
- Jury Ordinance 1954.*
- Jurors and Witnesses Payment Ordinance 1947.*
- Jurors and Witnesses Payment Ordinance 1952.*

SECOND SCHEDULE.

Section 21.

THE NORTHERN TERRITORY OF AUSTRALIA.

Juries Ordinance 1962.

**JURY LIST FOR DARWIN.
ALICE SPRINGS.**

Notice is hereby given that—

- (a) I have caused a list to be made out of persons residing within the jury district for Darwin Alice Springs liable to serve as jurors;
- (b) copies of the list have been posted up at all police stations and post offices within the jury district for Darwin Alice Springs; and
- (c) a Stipendiary Magistrate of a Court of Summary Jurisdiction will, at a special sitting of such a Court at the noon on the o'clock in day of

, 19 , at Darwin Alice Springs, proceed to

examine and correct the list when all persons having any objections to it may attend if they think fit.

Dated this

day of

, 19 .
Sheriff.

THIRD SCHEDULE.

Section 25.

THE NORTHERN TERRITORY OF AUSTRALIA.

Juries Ordinance 1962.

JURY PRECEPT.

To the Sheriff.

In pursuance of the Juries Ordinance 1962, I order you to summon before the Supreme Court of the Northern Territory of Australia to be held at the Court House at _____ on _____ the _____ day of _____, 19____, _____ persons of the Territory qualified by law as jurors to make a jury for all such matters as shall be required of them and to return into the Supreme Court on that date—

- (a) this precept;
- (b) the names of the jurors summoned;
- (c) proof of the service, and of the time and the manner of service, of a summons on each of those jurors; and
- (d) a statement showing the reason why each of the other jurors chosen to be summoned, but not summoned, were not served with a summons.

Given under my hand and seal at

this _____ day of _____, 19____. Judge.

FOURTH SCHEDULE.

Section 29.

THE NORTHERN TERRITORY OF AUSTRALIA.

Juries Ordinance 1962.

SUMMONS TO JUROR.

IN THE SUPREME COURT OF THE NORTHERN TERRITORY OF AUSTRALIA.

To—

.....
.....

You are hereby required to appear as a juror in the Supreme Court to be held at _____ on _____ the _____ day of _____, 19____, at _____ o'clock in the _____ noon, and you are there to attend from day to day until you are discharged by the Court.

Failure to attend in obedience to this summons is punishable by a fine not exceeding Fifty pounds.

Dated this _____ day of _____, 19____. Sheriff.

FIFTH SCHEDULE.

Section 53.

FORM 1.

THE NORTHERN TERRITORY OF AUSTRALIA.

Juries Ordinance 1962.

ADVICE BY ASSOCIATE OF IMPOSITION OF FINE.

Chambers.

His Honour Mr. Justice _____ this day imposed a fine of _____ on _____, a juror who failed to attend today.

Dated this _____ day of _____, 19____. Associate.

To the Master of the Supreme Court.

FORM 2.

Section 53.

THE NORTHERN TERRITORY OF AUSTRALIA.

Juries Ordinance 1962.

SUMMONS TO SHOW CAUSE.

IN THE SUPREME COURT OF
THE NORTHERN TERRITORY
OF AUSTRALIA.

ELIZABETH THE SECOND, by the Grace of God, of the United Kingdom, Australia and Her other Realms and Territories Queen, Head of the Commonwealth, Defender of the Faith:

To of

You are hereby summoned to appear before me at the Court House at _____, 19____, on the _____ day of _____, 19____, at the hour of _____ in the _____, to show cause why the fine of _____ pounds imposed on you by this Court held at _____ for your non-attendance on the Court as a juror on the _____ day of _____, 19____, pursuant to the summons duly served on that behalf appointment as talesman. should not be levied by process of this Court.

Given under my hand this _____ day of _____, 19____. Judge.

NOTICE.—Cause may be shown by affidavit forwarded by post to the Master of the Judge within seven days from the service of this summons.

FORM 3.

Section 53.

THE NORTHERN TERRITORY OF AUSTRALIA.

Juries Ordinance 1962.

WRIT OF EXECUTION AGAINST JUROR.

ELIZABETH THE SECOND, by the Grace of God, of the United Kingdom, Australia and Her other Realms and Territories Queen, Head of the Commonwealth, Defender of the Faith:

To our Sheriff of the Northern Territory,

WE command you that of the goods and chattels, moneys and securities for money, lands, tenements and hereditaments, equities of redemption and equitable interests, of and belonging to _____ of _____ (excepting the wearing apparel of him or his family, and the tools and implements of his trade, the whole not exceeding in value the sum of Twenty pounds, and any sewing-machine or typewriting machine, of and belonging to him) you cause to be made a levy of the sum of _____ recently imposed by His Honour Mr. Justice _____ upon the said _____ as a fine for non-attendance as a juror and that you do all such things as you are authorized and required to do in this behalf and that you have the said money before us in our Supreme Court of the Northern Territory of Australia immediately after the execution thereof to satisfy us for the said fines and that you have there then this writ.

WITNESS _____, Judge of the Supreme Court of the Northern Territory of Australia, at this _____ day of _____, 19____.

Levy £ _____ besides the Sheriff's Fee, Poundage and other expenses.

SIXTH SCHEDULE.

Sections 58, 59 and 61.

Section 58.

OATH BY JUROR IN A CRIMINAL TRIAL.

" I swear that I will faithfully try the several issues joined between our Sovereign Lady the Queen and the prisoner (s) at the bar and will give a true verdict according to the evidence.....So help me, God! "

OATH BY JUROR IN CIVIL TRIAL.

Section 58.

"I swear that I will faithfully try the issues and assess the damages in all causes that may be brought before me for trial or inquiry and will give a true verdict according to the evidence.....So help me, God!"

OATH BY JUROR IMPANELLED TO TRY WHETHER THE PRISONER IS INCAPABLE OF PLEADING TO THE INDICTMENT.

Section 58.

"I swear that I will diligently inquire whether A.B., the prisoner who stands indicted for....., is or is not capable of pleading to the indictment, and will give a true verdict according to the best of my understanding.....So help me, God!"

OATH BY CONSTABLE OR OTHER PERSON IN CHARGE OF JURY.

Section 59.

"I swear that I will keep this jury in my custody and will suffer no one to speak to them and that I will not speak to them myself except on some necessary occasion having reference to health, business or family affairs.....So help me, God!"

OATH BY CONSTABLE OR OTHER PERSON IN CHARGE OF JURORS ON A VIEW.

Section 61.

"I swear that I will faithfully attend this jury (or these jurors) to the place that they have been ordered by the Judge to view, and that I will not allow anyone to speak to them concerning the issue before the Court, other than the persons sworn and appointed to show that place to this jury (or these jurors), and that I will not speak to them myself (unless it is to request them to return with me into Court) without leave of the Court.....So help me, God!"

OATH BY PERSONS CONDUCTING A VIEW.

Section 61.

"I swear that I will attend this jury (or these jurors) and faithfully point out to them the place that they have been ordered by the Judge to view, and that I will not speak to them concerning the issue before the Court other than describe the place aforesaid.....So help me, God!"